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POLICY PAPER

RETURN OF FOREIGN UNACCOMPANIED MINORS

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Introduction

The protection of the rights of foreign unaccompanied children (FUM) constitutes an area of concern for Terre des hommes, as a child rights organization. While many issues arise in this context, any of them bearing its own complexity, the scope of the proposed Policy is limited to the involvement of the organization in issues related to the return, or not, of FUM in their countries of origin.

The Policy will provide a set of criteria and procedures to be respected within Terre des hommes in its recommendations to the authorities regarding the durable solution for a FUM. It also aims to serve Tdh as a framing tool in its activities for assisting FUM throughout the process.

The objective is to guarantee that the intervention of the organization serves the best interest of the child concerned and fully complies with the UN Convention on the Rights of the Child and other human rights instruments. The Policy summarizes the existing good practices and lessons learned by Tdh Delegations in South Eastern Europe, recommendations of international human rights bodies, as well as related good practices adopted by other organizations.

The Policy argues that Terre des hommes will seek to provide a durable solution for foreign unaccompanied minors. It will recommend return to the country of origin only after assessing that the criteria elaborated in this paper are satisfactorily met. Return to the country of origin is not considered per se as the most appropriate durable solution by Terre des hommes.

II Set of Principles and Criteria

II.1.a The Principle of durable solution

When an unaccompanied child is found in the territory of a State other than its own, according to Articles 2, 20 and 22 of the UN CRC, this State too becomes responsible for the protection of the rights of the child concerned. **This means that the host State has to draft a framework of actions through which the rights of this child are best guaranteed in a long term perspective. This framework of actions is referred to by Terre des hommes as “durable solution”.** This approach, also based on Article 3 UN CRC, is in conformity with the Unicef Guidelines for Protection of the Rights of Child Victims of Trafficking in South Eastern Europe¹ and the Statement of Good Practices by Separated Children in Europe Programme².

The durable solution should be taken for every FUM identified, regardless of whether his or her entry and residence in the country is illegal or not. The durable solution includes a decision on whether the child should return or not to the country of origin, but it should not limit itself to this issue. The design and planning of follow-up programs serving the protection of the rights of the FUM are inherent parts of the durable solution decision, regardless on whether the decision is in favor or not to the return in the country of origin.

II.1.b. General considerations in deciding in favor or against return

In its guidelines on foreign unaccompanied and separated children, the Committee on the Rights of the Child states that “following a right-based approach, the search for durable solution commences with analyzing the possibility to family reunification”³. Various articles of the UN CRC are based upon the principle that under ordinary circumstances children are best off with their parents.⁴ This principle is enshrined first in article 7 of the UN CRC (the right to registration, know and be cared by the parents), which should be considered in conjunction with article 8 (preservation of identity, including family relations), article 9 (separation from parents), article 10 (family reunification) and article 20 (continuity in upbringing children deprived of family environment).

However, the right to reunification with the parents should neither be constituted as an absolute obligation for the FUM nor as necessarily meaning return of the FUM to the country of origin.

Article 7 which recognizes the right of the child to be cared by the parents is limited by the term “as far as possible”. Article 9 too conditions the family reunification on the will

¹ Guidelines for Protection of the Rights of Child Victims of Trafficking in Southern Eastern Europe, Unicef (hereinafter: Unicef Guidelines), available at: <http://www.seerights.org>, see also Mike Dottridge, Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe, Unicef, available at: http://www.unicef.org/ceecis/protection_4440.html

² Separated Children in Europe Programme, (hereinafter: SCEP), Statement of Good Practices, 2004,

³ Committee on the Rights of the Child, General Comment no 6, Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6

⁴ R.Hodgkin & P.Newell, Implementation Handbook for the Convention on the Rights of the Child,(hereinafter: Unicef Implementation Handbook) , Unicef, 1998, p. 107

of the parents and the child together (*the right of the child not to be separated from the parents against their will*) and the best interest of the child (Article 3 CRC). In elaborating on Article 7 UN CRC, the Unicef Implementation Handbook states that the right to be cared by the parents “*may not be possible if the parents are dead or have repudiated the child. It also may not be possible when the State authorities have judged that parental care is not in the child’s best interest because the parents are abusive or neglectful*”.

In deciding on the durable solution, the protection of all the rights of the child should be considered, taking into account that they are indivisible and interdependent. Every decision should be made on its own merits. In order to guarantee the right based approach and the child’s best interest principle (article 3 UN CRC), the durable solution decision should fairly balance the rights of the child that are at stake.

In this view and depending on the circumstances of the case, other rights of the child might overweight the right to be reunited with the parents. **Thus the best interest of the child might require a different solution than return to the family in the country of origin.** The UN Convention on the Rights of the Child considers the cases when the parents themselves might endanger the life, well-being and development of the child. In such cases, it prescribes a duty for the States and every other institution which has endorsed the Convention to intervene and protect the child from the potential threat coming from the parents. Unicef Guidelines for Protecting Child Victims of Trafficking in South Eastern Europe states that “*Child victims of trafficking shall not be returned to their country of origin if, following a risk and security assessment, there are reasons to believe that the child’s safety or that of their family is in danger*”. This obligation applies also in decisions on durable solution for FUM, requiring as a minimum from those concerned, including the host country to refrain from placing the child in a situation exposing him or her to risks from the parents.

SCEP, in its Statement of Good Practices for FUM, includes as criteria to be considered regarding decision on durable solution:

“the potentiality of child-specific forms of persecution, including trafficking and the situation of the child’s family in their country of origin and, where known the wishes of parents who have sent the child out of the country in order to protect him or her”.

There are also occasions when the situation in the country of origin, rather than the reunification with the parents might pose threats to the life, well-being and development of the child. Under such conditions, other ways than return to the country of origin ought to be explored aiming to guarantee the reunification of the FUM with her or his parents.

In conclusions, in deciding on whether reunification with the family serves the best interest of the child, it is necessary to consider:

- The parents' will to take care of the child upon potential return (article 9 UN CRC);
- The child's opinion on the durable solution (article 12 UN CRC);
- The child best interest, requiring therefore a careful assessment of the relation child-family, situation in the country of origin and the overall level of child's rights guarantee in this country as compared to the host country (articles 3 and 9 UN CRC).

II.2 Steps to be followed

II.2.a. Interviewing the child, documenting information and tracing the family

The process of providing a durable solution commences from the tracing of the family of the child. This responsibility should be assumed by a State structure in the host country which can then delegate the mandate to partner organizations on the field. Even though tracing the parents comes first, tracing and approaching close relatives (grandparents, uncles, aunts, etc) should not be neglected. The results of the process depend on the information coming from the child, who is in the host country. Thus, it is necessary to link organizations and institutions working directly with FUM in host countries throughout Europe with those present in countries of origin (SEE, the Newly Independent States, Africa, South America, etc). The increased involvement of child rights organizations in countries hosting FUM on issues regarding the protection of the rights of FUM is also to be pursued, especially in advocating good practices towards state institutions and authorities.

In the host country, FUM should be interviewed from experienced social workers, in the language the child knows better, which is usually the language of the country of origin.⁵ The interviewer should describe to the child according to his/her age and level of maturity the purpose of the interview and of the specific questions. (S)he should be sensible to the situation of the child (possible trauma) and the difficulty experienced by children to provide accurate information, in particular about past events.

Every information given by the child should be properly registered. The standardization of recording files should be pursued since often the tracing is conducted by a different organization than the one interviewing the child. The involvement of organizations working in the country of origin in the drafting of standardized files is a must. It is generally accepted that the picture of the child is necessary to be recorded.

⁵ A different situation can however occur when the child belong to a minority group other than the main group in the country of origin as often the case with Roma children. The duration of the child's presence in the host country and his or her contacts with the country of origin in the mean time can also influence the decision for communicating in another language.

Organizations working in the host country should however comply with national legislation on data protection. They need to know under which conditions they are entitled to record personal data, what personal data, how and with whom they can share the data across the border.

Even though the term FUM, implies that the parents of the child –if still alive- are in the country of origin or in a third country, this is not always the case. Children found as illegally residing in a foreign country may claim to be unaccompanied to avoid that the migration authorities trace their parents. In the event that child rights organisations face a situation where the parents of the child are also in the host country, they should share this information with the authorities, only when proven to serve the best interest of the child. National legislation should foresee for such a choice by the organization.

Verification of information provided by the child is necessary in all case. For FUM, verification of information and family tracing are cross-border processes. They do not occur only in the country of origin. While all the information received should immediately be transmitted to the country of origin, social workers in host countries should take time to talk again to the respective child and other children or adults who know him/her. Clear and standardized procedures and tools (as the record file) are necessary to facilitate the cross-border processes. **However, the case per case approach requires a strong initiative and experience in both sides of the border and trust across them.**

II.2.b. Assessment in the country of origin

When the parents of the child are however in the country of origin, the assessment of the situation commences in view of the possibility of the child's return. The first consideration is the assessment of the safety level. Organizations working in the countries of origin pay attention to elements such as protection against armed violence, trafficking, abuse, exploitation, etc.

In addition, the safety level within the family is also very important in order to guarantee the respect of the child's rights upon the potential return. In this regard attention is paid not only to the possibility of abusive relations within the family, but also to the State's potential to intervene adequately in such circumstances. The child might have left his or her own country unaccompanied to escape the reality of abuse faced at home and the neglect shown by the authorities.

Whilst general assessment on the safety level of the origin country are usually already available to organizations working in the country of origin, in order to determine the safety level within the family it is required to conduct various visits to the family as well as discussions with local stakeholders (teachers, representatives of social services and health institutions, neighbors, etc). These visits enable also the assessment of whether the parents are willing to take care of the FUM upon his or her potential return. Often the parents send the children deliberately abroad in the conviction the children would be better off abroad.

The parents should understand their parental responsibilities. But under no circumstances should the social workers compel them to express themselves in favor of the return of the child. Unless the parents are willing themselves to provide the care to the child, it will be impossible for the State and any other structure or organization, to force them to do so. However, there are cases when parents' will is hindered by their conviction that they are unable to care for their children. The organization should pay due attention to such concern and seek to provide to the parents that social assistance (including counseling, assistance in accessing resources, administrative assistance *vis a vis* the authorities, etc.) which would enable them to care for the child.

Terre des hommes social workers discuss with the parents of the child seeking to understand their concerns related to potential durable solutions for the child. The social workers do not judge the parent's views, they provide information on the situation of the child, options for the future and services available to the child both in the host country and the country of origin. They do not raise false expectations but clearly inform the parents when the only legal solution for the child recognized in the host country is return.

Recently, it can also be argued in favor of a need for a shift in the factors considered while assessing a durable solution for the child. The assessment of safety level in the country of origin continues to remain of crucial importance, in particular for children *prima facie* entitled to asylum and refugee protection. **In addition, in the case of many FUM, there is an increasing need to carefully assess the level of guarantee in the origin country and within the family of the rather more comprehensive right of development of the child.** Many children leave their country of origin unaccompanied in search for better possibilities to develop. In this respect particular attention should be paid to the conditions enabling the child to enforce rights such as the right to care, protection from abuse, education and its quality as well as standard of health care. Social and economical rights, including the right to shelter, food provision, possibilities for employment, including youth employment, etc are also very important at present.

The assessment is reflected in a detailed report coming from the country of origin, which provides information on the will of the parents and the level of child rights protection (including economical rights) upon the potential return of the child. The report is concluded with a "country of origin" recommendation on whether the return to the country of origin would serve the best interest of the child and a plan for potential follow-up assistance to the child and family.

II.2.c. Assessment in the host country

The level of child right's protection in the host country would also need to be assessed, so that a comparison can be made aiming at finding the environment which serves best the protection of the rights of the concerned FUM.

Unfortunately, very often, no assessment at all is conducted in the host country. This is either because the subject is considered from a strict migration perspective, leaving no space for child rights considerations or because of the generalist and unfounded argument that return serves the best interest of the child per se. Moreover, even when accessing national child rights protection mechanisms in the host country, because of their status as foreigners, these children are still subject to discriminatory treatment as compared to national unaccompanied children. Thus, it is crucial for child rights organizations working in countries which serve as host countries for FUM to develop an in depth understanding of the set of rights the FUM are legally entitled to as compared to the country own nationals who are under 18 years old. This includes analysis of areas such as asylum and refugee law, foreigners, victims, witnesses and child protection legislation. It also requires analysis of the practice of the authorities in the implementation of this legal framework. Taking the UN CRC as the benchmark this analysis ought to be followed up by concrete and joint actions aiming at addressing the existing gaps, both in legal and policy framework and its implementation. Child rights protection mechanisms ought to be enforced throughout Europe, by ensuring in particular that they are accessible to all children regardless of their nationality.

Terre des hommes will continue to advocate for the abolishment of discriminatory treatment of FUM because of their status as foreigners. However, any communication to the FUM and assessment regarding the level of child's right protection within the host country will be based on the legal framework in place. No false expectations should be given to the children, but they should be advised to invoke that regime which better complies with their situation and expectations. In this regard it can also be argued that asylum and refugee regimes might not any longer be the most suitable regimes to refer FUM to. The UN CRC provides a solid legal ground for the comprehensive protection of the right of FUM. Stronger efforts would be needed to ensure UN CRC enforcement at the national level, by increasing the understanding of the Convention, its use in front of national courts and denouncing national legislation which infringe UN CRC provisions.

In addition to the possibilities and services legally available to the FUM in the host country, a crucial element to be considered is the level of integration and connection of the child with the host country. **The duration of the child's absence from the country of origin, the level of contacts the child has maintained during this period and languages proficiency are factors to be duly considered in any recommendation on durable solution for the child.**

Terre des hommes advocates for a durable solution serving the best interest of the person throughout his/her child- and adulthood. It stands against those policies obligating the person to return only because the person has reached adult age.

II.2.d. The FUM's opinion

In addition to the tracing of the family, the FUM should be involved throughout the assessment as well. The assessments in the origin and the host countries are objective assessments conducted by independent organization(s) with understanding and experience in child rights. However, they should pay attention to the subjectivity coming from the child's perspective. In accordance with their age and maturity, children are able to make their own assessment and seek to balance their own rights and interest. This needs to be duly considered. **The recommendation on durable solution should reflect the view of the FUM.** This is a clear obligation deriving from the UN CRC.

The role of State structures and child rights organizations consists in assisting the FUM to make his or her own assessment and find that balance which serves his or her best interest. To achieve this, a set of information needs to be provided to the child. The child should be informed on the legally available options and their consequences, the steps undertaken by the authorities in the host country as well as the steps undertaken by the organization and the motives behind. Moreover, unless the child disagrees, the child should be assisted in communicating with the family regardless on whether they are in the origin country or not. However, in doing so, measures should be undertaken to protect the child during the communication process, depending on the level of family involvement in the exploitation/ trafficking of the child.

It should be kept in mind that often the parents have deliberately send the children abroad in the conviction the children would find better opportunities than back home. To arrange the child's travel, the parents might have indebted themselves placing thereby a great responsibility on the child. In this sense, return might be perceived as failure by the child while it might also factually marginalize him or her within the family and narrow community. Consequently, the child might be willing to return only when a real perspective for employment is guaranteed to him/her back in the origin country. This is a very legitimate concern by the child and should be respected by the organizations conducting the assessment.

All communication to every FUM should be according to his or her age and level of maturity. It should however be pointed out that most of FUM belong to a group age of 15-18 years old. Due also to their experiences in the past, these children usually show a high level of maturity and empowerment. This means that the social workers can have in depth and detailed discussions with the FUM. On the other hand, this makes their position even more demanding. From social workers in charge of assisting FUM it is required a high level of knowledge and understanding of the situation and existing possibilities.

The necessity of having a social worker communicating in the language of the child commences from the first interview of the child and it serves the identification/registration and tracing process (see supra under I.2.a). It remains a requirement throughout the process of decision making on a durable solution and in preparing the child for its implementation. During these phases it is necessary that the

FUM is in regular contact with experienced social workers operating in the same origin country with the child. They are in a favorable position to assist the child not only because of the language, but also because they understand better the situation in the country of origin and can realistically exchange on this with the FUM. However, the involvement of social workers from the host country remains necessary too. They ensure the quality of the assessment of options in the host country and the correctness of information about the host country communicated to the child. The contacts with the host authorities can also be easier when conducted by social workers of the same nationality of the authorities.

In providing a recommendation on the durable solution for FUM, the involvement of a team comprising social workers operating both in the country of origin and the host country is a must. The final recommendation should balance the perspectives of social workers from the origin and host country together with the opinion of the FUM concerned. Moreover, the recommendation should be based not only on social workers views, but also that of child rights experts.

The assessment as prescribed above and the view of the FUM are two required preconditions in weighting the rights involved and finding the fair balance between them, recommending thereby a solution to the best interest of the child.

Only when the return of the FUM is the result of the above-mentioned situation assessment, will of the child, fair balance of the rights involved and it is also in addition prepared and adopted to the conditions of the child, Terre des hommes would recognize the case as an assisted voluntary return.

III. Framework for Terre des hommes actions

Bearing in mind the above-mentioned principles and criteria, this chapter seeks to elaborate on concrete actions to be undertaken by Tdh and aiming to assist the FUM in the specific issue of durable solution. It targets in specific program managers while designing and adopting the activities and might serve as a guide in the evaluation process. It can also serve as a tool for other child rights organizations which endorse the general principles and criteria elaborated above. It is however drafted in the consideration that existing national legislation and policies do not fully respect the rights of FUM as children.⁶

III.1. Advocacy and Networking

Terre des hommes, being an international organization working in countries of origin and in host countries might be in a suitable situation to play a leading role in improving the protection of the rights of FUM. Decision-makers in host countries are often not aware of the situation of the children in the country of origin and unable to know what happens to the child for whom they have decided to return.

To address this, organizations working in the country of origin can play a substantial role, by networking with organizations working directly with FUM in host countries. By combining the information on the child's story in the origin, host country and then back again in the origin country they can demonstrate to the decision makers the consequences of the policies in place. This has already given positive results in the field of anti-trafficking. Different organizations working in this field have demonstrated to decision-makers what was occurring with the trafficked persons across the borders, what could be done to assist him/her and the necessary legal framework to enable such actions. These advocacy messages based on concrete facts gained public support even in the host countries. Despite the still remaining problems, the legal framework for child victims of trafficking has improved in these last years, both in origin and host countries. Moreover, a certain level of contacts between the authorities in origin and host countries has been established. Terre des hommes can seek to extend such relations also in the context of FUM, but being careful so that consequences are in favor and not against the interest of the FUM.

Tdh should play a more active role in evidencing the alleged link between migration of unaccompanied minors- exploitation/trafficking and children in conflict with the law. A positive initiative was the research on Romanian unaccompanied children in Italy. However, this research served as a general study and needs to be followed up by more in depth researches and investigations. While the Foundation in Lausanne can take such initiatives, it is necessary for Delegations operating in countries where a substantial number of children migrate unaccompanied to take initiatives for investigating through links with civil society in countries hosting these children what occurs to the children while abroad. The information need to be documented and consolidated. Its use should more directly target protection of FUM, drawing on the link with anti-trafficking and juvenile justice.

⁶ Annex 1 provides a summary analysis of 5 countries legislation and policies on FUM. The countries covered are Greece, Italy, Spain, Switzerland and Russia.

At the country level (both origin and host), Tdh Delegations should be strongly linked to organizations focusing on the right of migrants. The added value of Terre des hommes participation would be the perspective of the children, who are increasingly migrating in search for a better future or seeking to join their migrant parents abroad. For the organization, the primary source of information and the guidance in its policies remain the children concerned. **The view of the child should be more directly present in the advocacy activities of Terre des hommes on FUM.**

Using the above mentioned tools, Terre des hommes will pursue the improvement of legislation and policies at national, bilateral, regional and international level on durable solution for FUM.

Legislation and practices in host countries should:

- Guarantee that a number of options would be available to all FUM rather than only return to the country of origin. The legislation should entitle FUM to remain in the host country when this is considered as the durable solution serving the child's best interest;
- Guarantee that the durable solution is sought on a case per case basis for every foreign unaccompanied minor rather than on generalized policies prescribing one option: either return or integration in host country;
- Guarantee that every FUM is informed throughout the process, encouraged to express her or his views and have them duly taken into account;
- Guarantee that this durable solution is the result of a careful and comprehensive assessment as described above, also duly weighting the consequences for the protection of the rights of the child. Independent and experienced professionals of various backgrounds ought to be involved;

Links should be established between origin and host countries, so that:

- The decision on durable solution and its implementation should be conducted in close collaboration with the country of origin, regardless of whether the durable solution would be return or not to this country;
- Whether the durable solution would be integration in the host country, return to the country of origin or any third option (integration in a third country), the necessary follow-up assistance is provided to the child in accordance with her or his needs and under joint monitoring of both countries.

III.2. Field activities of Tdh and/or partners

III.2.a. Durable solution

Terre des hommes remains committed to assist every child in being cared by his or her parents. Existing cross-border anti-trafficking projects provide a framework under which the organization can assist in a durable solution for FUM. With the experience gained in assisting child victims of trafficking, the organization and its partners can also be involved in family tracing of FUM, facilitation of relations child-parents, assistance to the child in expressing his/her view and assessment in origin and/or host country. The principles and criteria set forth in chapter I of this Policy shall be duly respected. Every step undertaken and findings results will be duly recorded.

Pilot project between host and origin countries of a minimum length of 12 months can also be supported aiming at providing a durable solution for the FUM (durable solution versus return per se). The implementation of these projects will further increase the understanding, expertise and legitimacy of Tdh position on durable solution for FUM. When it is established that it is in the best interest of the child to return to the home country, six criteria can serve to monitor the process whether it is assisted and voluntary. The six criteria are: 1.legal, 2.safe, 3. prepared with the child, 4. prepared with the family, 5. adopted to the conditions and necessities of the child and 6. quickly arranged following the decision on durable solution.

III.2.b. Enforcement of return decisions

A principle question for Terre des hommes raises when the host country authorities decide on the return of the FUM, without duly considering if the return constitutes a durable solution in the child's best interest. Terre des hommes involvement in the enforcement of such decisions might be interpreted as support to a decision against the rights of the child. On the other hand, on specific cases, enforcing return decisions without Tdh involvement might further harm the rights of the child.

Albania has recently improved its procedures on receipt of FUM. Before, the Albanian authorities would not even pay attention to whether the child returning was accompanied or alone. The child had to return back home on his/her own. This often did not occur, since the child was approached instead by traffickers and “assisted” in crossing the border again.

Against such background, Terre des hommes might also intervene during the enforcement phase but based on a case per case decision and the needs of the child. It will refrain from concluding any agreement with origin/host countries, based on which Tdh will facilitate returns of FUM, unless the return constitutes a durable solution and is decided according to the criteria and principles elaborated in this Policy.

The involvement of Terre des hommes in specific case of return's enforcement, deriving from the needs of the child rather than an agreement with the host country authorities, will not hinder Tdh from denouncing the decision on return as a violation of the rights of the child. While recognizing that the decision is against the rights of the child, Terre des hommes' intervention would seek that at least the return as a process, is secure and child friendly. The intervention will take place only when it is suspected that without the organization's intervention the child's rights will be further violated. The involvement will limit itself to prevent such further violations.

Very often FUM, placed in a plane to their country of origin or left to the border of this country have to find on their own a way of reaching home. No family is waiting for them and they lack the means for the necessary food and transportation until home.

A common practice followed by some host countries is to hand over FUM to local police in countries of origin. Cases of corrupted police officers in countries of SEE have been reported in the past, while at present similar reports come from countries in other regions. The police capacities throughout SEE remain weak from a child rights perspective and the FUM should not be handed over to them without further safeguards.

The assistance that the organization can provide to the FUM during the enforcement of return decision may consist in:

- approaching the family back in the origin country to inform about return;
- assisting them to meet the child upon return;
- providing first aid assistance to the child (medical, food, clothing) and rapid social counseling
- assisting with a legal representative and/or social worker the child in police interviews upon return (and when foreseen by the law);
- providing rapid counseling and first aid support and the family, etc.

Only upon explicit request by the child, Terre des hommes might get also more substantially involved (as for example accepting to cover the costs of the return of the child). In any event, during the assistance to the child and family, their views about the return should be duly considered by the organization and its partners and reflected in the advocacy activities on durable solutions for FUM.

All children regardless on whether their return to the country of origin was or not the result of a decision on durable solution may benefit from follow-up services offered by the organization and its partners. In the context of existing projects, the FUM may be integrated to schools and vocational trainings. Tdh Project Managers in origin countries are encouraged to establish links with the business sector aiming at stimulating youth employment opportunities.

III.3. Capacity building

In order for Tdh to undertake all the above-mentioned activities, the capacity building of its staff as well as that of institutions and professionals in contact with FUM remains crucial. Particularly, the social workers take over a large number of important duties and responsibilities. Thus their ongoing training is a necessity. Some identified areas, where there still exists a need for training, not only of social workers but also Tdh Child Protection Officers include:

- general principles and criteria for deciding on a durable solution: the right based approach
- the right to family unification and what does it entail;
- the obligation to listen to the child and the skills of the social worker;
- national legislation and regional regulations on FUM and the different categories among them (asylum seekers, victims of trafficking, refugee, etc)
- guardianship on a FUM, etc.

At the host country level, as experienced in Switzerland, where the care of FUM is decentralized in the 23 cantons without any coordination, it is more than necessary to conduct regular meetings and exchanges among the different actors in the country. The establishment of national networks analyzing the situation of FUM and seeking to provide assistance to them can be initiated by Tdh and partners. Moreover and as already sought by Terre des hommes, the social workers of residential centers and child protection authorities in the host countries should also be linked to experienced social workers in the countries of origin. The social workers in the countries of origin would need training on the above-mentioned topics, so that they have the same perspective on what is durable solution for a FUM and which is their role. Mixed training between social workers of origin and host countries should be sought. They could be organized together with FUM national networks, if existing in the countries involved. Some good practices developed by Tdh can be shared with the training participants; however, the experience of other organizations would be necessary. A very useful training tool can be the "Action for the Rights of Children (ARC) Resource Pack", Separated Children in Europe Programme.

BIBLIOGRAPHY

1. United Nations Convention on the Rights of the Child, available at: <http://www.ohchr.org/english/law/crc.htm>
2. Committee on the Rights of the Child, General Comment No.6, *Treatment of unaccompanied and separated children outside their country of origin*, CRC/GC/2005/6, available at: <http://www.ohchr.org/english/bodies/crc/docs/GC6.pdf>
3. Unicef, *Guidelines for Protection of the Rights of Child Victims of Trafficking in Southern Eastern Europe*, available at: <http://www.seerights.org>
4. Mike Dottridge, *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, Unicef, available at: http://www.unicef.org/ceecis/protection_4440.html
5. R.Hodgkin & P.Newell, *Implementation Handbook for the Convention on the Rights of the Child*, Unicef, 1998
6. Separated Children in Europe Programme, *Statement of Good Practices*, 2004, available at: [separated children/good practice/SGP_3ed front.pdf](http://www.savethechildren.net/arc/files/c_sepchil.pdf)
7. Separated Children in Europe Programme, *Action for the Rights of Children (ARC) Resource Pack*, available at: http://www.savethechildren.net/arc/files/c_sepchil.pdf
8. Save the Children and The Separated Children in Europe Programme, *Position Paper on Returns and Separated Children*, available at: http://www.savethechildren.net/separated_children/publications/reports/return_paper_final.pdf
9. Save the Children UK, *Working with Separated Children: Field guide, training manual and training exercises*, to be ordered online at: <http://www.savethechildren.org.uk/scuk/jsp/resources/details.jsp?id=613&group=resources%C2%A7ion=publication&subsection=details>
10. UNHCR, *Guidelines on Formal Determination of the Best Interest of the Child*, 2006, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RSDLEGAL&id=447d5bf24>

11. ICRC, International Rescue Committee, Save the Children UK, Unicef, UNHCR, World Vision, *Inter Agency Guiding Principles on Unaccompanied and Separated Children*, 2004, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=4098b3172>
12. EU, Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries, Official Journal C 221, 19/07/1997 P. 0023 – 0027, available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997Y0719\(02\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997Y0719(02):EN:HTML)
13. Council of Europe, *Twenty Guidelines on Forced Return*, 2005, available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/foreigners_and_citizens/asylum_refugees_and_stateless_persons/texts_and_documents/2005/Twenty%20Guidelines%20on%20forced%20return%202005.pdf#search=%22Council%20of%20Europe%2C%20Twenty%20Guidelines%20on%20Forced%20Return%22