

## UNICEF Comments on Draft Report of EU Experts Group on Trafficking in Human Beings

### General comments:

UNICEF would hereby like to share its appreciation for the Draft report of EU Experts Group on trafficking in Human beings and in particular for the fact that special attention has been paid to protection of children, including child victims of trafficking.

In order to strengthen the importance of the rights of children to special protection measures, it would be useful to include the child rights perspective from the beginning of the report (in the current draft the first mention is made only on p. 21).

Furthermore, it is very much commendable to note that the Draft Report has made use of the UNICEF Guidelines for the Protection of the Rights of Child Victims of Trafficking and in this context it would be desirable to make specific reference to the Guidelines.

### Specific comments:

#### a. Chapter 2 - THB: Definition and current context

- The human rights approach is the framework that has been used to analyse and recommend counter-trafficking responses. In this context reference could also be made to a child rights approach as this will inform the overall analysis related to children and the recommendation made (e.g. on p. 16 - 'The human rights dimension');
- The issue of 'consent' is not raised as a specific topic in this chapter, although it is relevant both for trafficking in adults and particularly in the case of children.
- In the first set of recommendations in section 2.1 (p. 18) it would be important to clearly identify a child's right to special protection measures as an over-arching principle.

#### b. Chapter 3 - Guiding principles and cross-cutting themes

- Section 3.6 - 'Specific position, rights and needs of children':
  - This section makes no difference between child victims of domestic trafficking and child victims trafficked across an international border;
  - More attention could be paid to the specifics of domestic trafficking, particularly as it regards certain minority groups (e.g. patterns of movement of Roma families/communities). Recent research on child trafficking in BiH could be useful here (particularly the analysis on p. 41 in the published version of that report);
  - No reference is made to the protection of children of trafficked women;
  - Reference is made at the end of p. 31 to "children's empowerment is crucial both for the prevention of trafficking and for their recovery and reintegration." The reference to 'children's empowerment' should preferably be replaced with "strengthening of the protective environment";

- Even though the UNICEF Guidelines are non-binding, reference should be made to it in the section on 'Legal frameworks' in section 3.6;
- The fourth recommendation in section 3.6 (p. 33-34) would benefit from a more specific language - e.g. "Policies and measures concerning trafficking in children should be implemented from a human rights/child rights approach taking into account the right of a child to special protection measures. Strengthening the protective factors in any country will necessarily benefit efforts to prevent child trafficking, as well as to provide assistance and support for identified, returned and reintegrated child victims. Cooperation between agencies and strong referral mechanisms at both the national and community levels are crucial to the provision of adequate protection for child victims of trafficking." In addition, this section could also mention some specific minimum standards for protection of child victims, such as proactive identification of child victims, assumption of age pending verification, appointment of a guardian, etc. as outlined in the UNICEF Guidelines;
- The final recommendation in section 3.6 (p. 34) could be made clearer - e.g. "The European Union should allocate resources to finance actions specifically addressed to combating child trafficking both in the EU external relations and within the EU."

c. Chapter 4 - Prevention

- Section 4.7 is focused on the prevention of child trafficking. While specific section on this topic is appreciated, this aspect should not be excluded from other parts of this chapter. In section 4.2, for example, the root causes of trafficking in women for sexual exploitation are discussed without further references being made to any other purposes for trafficking (e.g. begging or forced labour) or to other groups of victims;
- The last recommendation in section 4.2 suggests that countries should "ensure that specific consideration is given to the root causes that affect children" and then references section 4.7. It might be better to integrate the special attention to children victims of trafficking as one of central concerns within the whole Report;
- All awareness raising campaigns should be pre-tested with focus groups and evaluated afterwards. This would avoid inappropriate messages that have the opposite effect as was intended. Some lessons on awareness raising for prevention have been learned already in the South eastern Europe context;
- Section 4.7:
  - First paragraph - "Any comprehensive prevention strategy...whereby the latter should be in accordance with the former." - delete "increasingly";
  - The reference to the lack of status of "foreign or migrant children" in paragraph 2 is reasonable but introduces a "new" concept in the Report and as such it does not add to the focus. It might be better to delete;
  - The reference to the 'girl child' a bit problematic. In this context it should be made clear that not only girl children are trafficked and it would be useful to make reference to the sources that are quoted;

- More attention could be given to the root causes of trafficking in children, including institutionalisation and the corresponding need for alternative forms of care for children in need of special protection measures;
- The issue of awareness raising amongst children and families in prevention of trafficking is more complex than described and this should be acknowledged. In some contexts parents traffic their own children knowingly (such as the case of Albania). The abuse of trust is often the reason why also people who know about the risks of trafficking still end up being trafficked;
- The issue of Roma children should be given higher attention since it is a very specific problem in some of the countries of origin;
- Reference should be made to the UNICEF Guidelines in the Recommendations, in particular in bullet point 1 on p. 61;
- It is recommended that 'best practices on the prevention of child trafficking should be developed, implemented and disseminated'. However, such work has been done already, such as on "life skills education" and "prevention in residential care institutions". This work should be acknowledged and built upon. In the same context but from a protection perspective, the UNICEF Guidelines are built on best practices and lessons learned;
- There seems to be a word missing on the second to last point in the 3<sup>rd</sup> bullet on p. 61 - "improvement of the system for birth registration".
- The last bullet point on p. 61 refers to the problem of children who disappear from accommodation centres, but does not state that these centres should not house children with adults and should have appropriate, effective support services for child victims.

d. Chapter 5 – Recovery, assistance and protection of trafficked persons

- > p. 67 refers to the 'Identification of trafficked children', but there is no reference made to the appointment of a guardian or other responsible adult, which should be done immediately following identification of the victim. This specific protection measure for child victims should be included here;
- > This Chapter includes recommendations for a minimum 3 month reflection period and a variety of criteria under which an individual would be granted a temporary residence permit. These are good recommendations, the question remains how they will be put in practice in light of the EU Directive on Residence Permits for 3<sup>rd</sup> country individuals, which is very restrictive for victims of trafficking;
- > It is positive that there is a section devoted to 'Family members and children of trafficked person'. However, reference should also be made to the case where a trafficked woman has had a child during the time that she was trafficked and/or has left children at home;
- > The second bullet point on p. 71 refers to 'best interest' rather than 'best interests'. This is a good point and needs repeating in section 5.6;
- > The Recommendation in section 5.4 states that "specialised services should be provided to trafficked children to meet their specific needs, including their linguistic and cultural needs, and protect their rights." Reference is made to

the appointment of a legal guardian once a child victim has been identified and an explanation is made in footnote 101. A distinction should be made between the right that the child victim has to legal representation vs. the need for someone to act in his/her best interests throughout the entire process. The specific role of the Guardian, as listed in the UNICEF Guidelines, includes:

- i) to ensure that all decisions taken are in the child's best interests;
  - ii) to ensure that the child victim has appropriate care, accommodation, health care provisions, psycho-social support, education and language support;
  - iii) to ensure that the child victim has access to legal and other representation where necessary;
  - iv) to consult with, advise and keep the child victim informed of his/her rights;
  - v) to contribute to identification of a durable solution in the child's best interests;
  - vi) to provide a link between the child victim and various organisations who may provide services to the child;
  - vii) to assist the child victim in family tracing; and,
  - viii) to ensure that if repatriation or family reunification is carried out, it is done in the best interests of the child victim.
- The UNICEF Guidelines make a number of suggestions regarding questioning, interviews and initial action with child victims, as well as access to justice and victim/witness security and protection. These should be referred to more fully in section 5.5 on 'children';
- The last line of the first paragraph on p. 75 should read, "The guardian should have the right to refuse to have the child give testimony if it is not in the child's best interests to do so";
- Section 5.6 on 'Return and long-term assistance' should make reference to the need for a risk and security assessment to be carried out prior to the return of any child to its country of origin;
- Last bullet point on p. 79 should state 'best interests of the child'.

e. Explanatory Papers

- Explanatory Paper 3 - as stated at the outset, a child rights framework/perspective should be included in the discussion of a human rights based approach;
- References to child victims of trafficking are made in various Explanatory Papers, as in the text of the report. Comments made in the text hold also for the Explanatory Reports. It might be useful to call for special Explanatory paper on children in addition to the centrality of children's rights in the Report.