

Towards Global EU Action Against Trafficking in Human Beings

Collaboration between countries of destination and origin

Providing adequate assistance to child victims of trafficking

***in contribution to the EU Ministerial Conference
19-20 October 2009, Brussels***

Introduction

Terre des Hommes, as child focused development NGO, runs field programmes against specific forms of child rights violations. Various Tdh projects worldwide contribute to the fight against child trafficking and protection of trafficked and at risk children. In countries of origin, in addition to direct support to the children, Tdh works with the authorities in enforcing the national child protection mechanism as a strategy aiming at preventing trafficking and other severe forms of child abuse. In countries of destination, the organisation seeks adequate assistance for trafficked children as well as children who due to their particular status are at risk of exploitation and trafficking (i.e. foreign unaccompanied children).

As draft input for the Ministerial Conference "Towards global EU-Action against Trafficking in Human Beings", Brussels, 19-20 October 2009, **this paper elaborates on the collaboration required between countries of destination and origin to ensure that every step undertaken serves the best interest of the child.** For the purpose of this paper the perspective of the countries of destination will be limited to EU Member States. Based on the field experience of the organisation, the paper will highlight the existing practices in the implementation of relevant EU legislation and policies by confronting it to what should occur from the perspective of ensuring the protection of child rights. The expectation is that the paper will serve also as recommendations to all actors involved both within EU Member States, but also in third countries, where the children are trafficked from.

1. Collaboration with countries of origin in EU policy

The necessity of collaboration with countries of origin is recognised in EU legislation and policies aiming at tackling trafficking in human beings, including in children. Whilst previously it was entirely up to Member States to consider collaboration with third countries of origin, the evolvement of an EU approach to human trafficking brought a new dimension to the collaboration with these countries. EU anti-trafficking legislation and policies not only seek

harmonisation of legislation and policies in the Member States, but they also added EU and its institutions as such to all efforts done, including in relations with countries of origin.

The EU Action Plan¹ calls for a coordinated policy response in different areas including external relations. It engages the Commission and the Member States in addressing the phenomenon's root causes, including those related to the countries of origin. In specific about children, the Council Directive 2004/81/EC² states in its article 10 that "in the case of third-country nationals who are unaccompanied minors, Member States shall take the necessary steps to establish their identity, nationality and the fact that they are unaccompanied. They shall make every effort to locate their families as quickly as possible..". In addition, the Action Plan foresees mapping "available schemes and processes and scope possibilities for coordinating post-return assistance in third countries of origin".

Despite the emphasis the EU gives to the necessity for collaboration with countries of origin, the present situation remains less than satisfactory. It is difficult to substantiate an increased involvement of the EU and Member States in addressing root causes such as lack of employment opportunities and migration possibilities, social exclusion, lack of education, etc. in countries of origins. Moreover, EU instruments place cross-border collaboration in the context of Member States with third countries, whilst increasingly children are trafficked from within EU Member States. In addition whilst substantial efforts are placed in increasing collaboration in tackling illegal migration, the every day situations of child exploitation still meet indifference, lack of collaboration with the countries the children come from and even lack of investigation and protection measures for the children within the countries of destination.

Regarding specific cases of trafficking, most of the existing practices of collaboration are between law enforcement which exchange information and data with third countries of origin for the purpose of investigations and prosecution. This has resulted to the imprisonment of a number of perpetrators, but it has also led traffickers to resolve to more hidden and sophisticated forms of engagement across the borders. Sexual exploitation and exploitation for forced labour of foreign nationals including children within the EU has not decreased. The law enforcement collaboration as it stands at present, on itself does not provide any guarantee on the safety and well-being of the persons trafficked. The current practices of collaboration with countries of origin fail to place the rights of the (presumed) victim at the centre of intervention. The protection of the rights of the trafficked person is in most of the cases considered a prerogative either of the country of destination or of the country of origin when the person is returned. This results very often in lack of identification of victims, inadequate protection and instrumentalisation of the victims to the interest of the State being it a country of destination or origin.

2. Chaining the collaboration

Identification

To ensure cross-border protection of children at risk or victims of trafficking, a country of destination should intensify the collaboration with the country of origin once it receives

¹ Council, EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings, 2005/C 311/01

² Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

allegations of exploitation of children from that country within its territory. This collaboration should not limit itself to law enforcement authorities, but include social actors and services across the borders.

Investigating allegations of trafficking, routes and tactics used by the traffickers implies understanding the context in the country of origin. It is within this context and its social factors that the child makes his/her choices from which profit the traffickers. In addition to the context in the country of origin, the situation of the children in countries of destination needs to be analysed from a social perspective too. An in depth understanding of the past and present situation of the children is necessary in receiving their trust. Very often the children are reluctant to ask for help not only because of fear from traffickers, but also because they recognise the existing services in countries of destination would not be able to understand and respond to their needs. In many cases, children, under pressure and lack of confidence have provided false names and information on residence places and countries of origin. The majority of such information has remained unnoticed by the services in countries of destination. Neither assistance has been provided to the child concerned, nor have there been investigations against the traffickers. As long as collaboration across the border remains non-existing or limited only to law enforcement, trafficking will not be tackled. Traffickers will adapt and move from one destination country to another.

France faced the first allegations on exploitation of a large number of Romanian children within its territory a couple of years ago. The intervention was multi-sectorial and across the borders resulting in the minimization of the phenomenon.

However, pretty soon, allegations on exploitation of a large number of Romanian children would be concerning for another Member State, namely Italy. Despite the law enforcement investigations conducted by Italian authorities throughout these years, there is evidence that Romanian children continue to be exploited in Italian territory. In addition, today that Romania is EU Member State allegations on similar situation of Romanian children come also from Spain and very recently from UK.

It is necessary to accompany law enforcement investigation with social work aiming at the assessing the situation of the children allegedly exploited. Social workers in destination countries should be more involved in the identification of children allegedly trafficked. For them it is necessary to better understand the situation in countries of origin through visits and exchanges with professionals in these countries. Moreover, the involvement of social workers from the countries of origin is a must both in conducting the assessment in countries of origin and in destination countries. Social workers from the country of origin of the child are often in a better position to exchange with the child and establish a trust relationship.

Protection

A proper assessment of situation of the child contributes not only to the investigation of the case but it is also a necessity in ensuring the protection of the child. One of the major improvements in current anti-trafficking efforts is the recognition that protection goes beyond the mandate of law enforcement and there is referral of cases to social services. However, in most of the cases this referral does not reach across the border. It is usually the law enforcement authorities and the social services in countries of destinations which decide on protective measures for the child including the decision on return or not of the child.

At the end of the '90s a large number of Albanian children were identified trafficked in Greece. Without any assessment in Albania and in absence of collaboration with the Albanian service providers, it was decided for some of these children that it was safer for them to remain in Greece. They were placed in Greek institutions resulting either in their disappearance or institutionalisation and lack of skills for an independent life either in Greece or Albania

Permanent links are necessary between social services in countries of destination and origin. Child protection systems are gradually established in countries of origin of the children and they should be further supported. Destination countries need to be familiar with such protection system in countries of origin and have the confidence to refer the case to them.

The security assessment in countries of origin, including the family assessment and assessment of possibilities of reintegration of the child should and can only be conducted by social service providers active in the country of origin of the child. Social workers from the country of origin might also be necessary part to the team assisting the child in understanding the options available and making his/her respective decisions.

EU legislation recognises the reflection period, but this remains an empty principle if during this period the child does not receive information and support from experienced social workers whom (s)he trusts. Even strictly law enforcement decisions, such as granting a temporary residence permit to the child willing to testify against his/her traffickers should occur in collaboration with the country of origin. If the child wishes to return home, and according to the country of origin assessment, this does not threaten the safety and well-being of the child, obligating the child to remain in the destination country constitutes a violation of the rights of the child. The EU legislation recognises certain rights of victims, including children, but this should not be implemented to result in obligations for the victims. In the above-mentioned cases, law enforcement and social services should collaborate across the border to assist the child willing to return. Thereafter the collaboration should seek to ensure the safety of the child in country of origin as well as to obtain further evidences that might be required during the court proceedings. Only through a multi-sectorial collaboration across the borders, the child can benefit from a durable and adequate protection.

Follow-up

There is a considerable number of children who have been re-trafficked to EU. There are allegations that this number is even larger but remains difficult to be established due to the different identities the children are provided with or the fact that they get trafficked to a different country every time. In very few cases, authorities in countries of destination have accurate information on trafficked children who have returned to their countries of origin. On the other side, countries of origin complain often that their children "are kept hidden" in countries of destination.

Polish NGOs providing assistance to the increasingly number of foreign unaccompanied children identified as such in Poland complain not only that the decision on return of the children is taken without due consideration of safety and protection from harm guarantee in countries of origin, but also that it is impossible for them to track back the child and assess his/her situation upon the return.

As in any case of child protection intervention, assistance to children victims of trafficking requires follow-up monitoring, that in its side, might lead to adjustments' needs. **In cases of cross border trafficking, the monitoring and assessment of adjustments' needs should involve both country of destination and origin. Regardless of whether the child has stayed in the destination country or returned back home, both countries remain responsible on the well-being of the child. Monitoring reports should be exchanged between countries and there should also be opportunities foreseen for service providers' discussions and meetings with the child. This does not only work at the benefit of the child, but it also serves the confidence of the relations and improved collaboration between the two involved countries.**

3. Conclusions

The collaboration as described above is already working in a number of cases of children identified trafficked within EU Member States. The Italian legislation, despite the difficulties in its implementation prescribes strong collaboration with the countries of origin not only for child victims of trafficking but for every foreign unaccompanied child identified in its territory. Many organisations providing services to victims of trafficking operate both in countries of destination and origin, or have strong links with partner organisations in countries of origin.

International Campaign against Child Trafficking; an example of intervention

At the European level...

TDH engagement against Child Trafficking in Europe started in late 90's with a field investigation and pilot project in Albania-Greece called "**TACT-Transnational Action against Child Trafficking**". This intervention was the result of the appeal of Albanian NGO partners, which alerted on the increasing phenomenon of Albanian children "missing" from their communities.

Whilst in Albania prevention activities are organised by TDH in collaboration with local partners, in Greece, ARSIS, a Greek NGO seeks the identification and assistance of exploited and trafficked children. The identification and protection offered to the children is facilitated by short-term engagements of social workers from Tdh in Albania at ARSIS activities in Greece as well as continues flow of information between the two organisations. Together, the organisations seek the empowerment of the children under exploitation/trafficking and assisting them and their families towards choices which withdraw the children from the exploitative/trafficking situation.

During these years of TACT implementation, the main achievements consist in the substantially decreased number of Albanian trafficked children in Greece and the signature of a bilateral agreement between both Governments on the protection of trafficked children. (TACT obtained the Human Rights Award of the French Republic in 2002). Moreover, based on the TACT model, Tdh is developing a more strategic and regional approach focusing on exploitation of children within their home country, as well as their trafficking and exploitation in foreign countries (Romania vs. Italy and Spain, Moldova vs. Russia).

...and International level

Similar with the intervention in Europe, IFTDH has implemented activities also in other areas of the world. A specific focus is placed on the fight against child trafficking as one of the

worst forms of child rights violations. Today, the IFTDH implements and supports 73 child anti-trafficking projects in 38 countries in 4 continents. The projects are developed along one or more of the axes of prevention, protection, assisted voluntary return and reintegration. This field experience led in 2001 to launch the **International Campaign against Child Trafficking**, through which the IFTDH seeks an integrated approach of field activities, awareness raising activities and advocacy towards relevant institutional and governmental actors.

In 2006, Greece in response to trafficking of Albanian children to Greece signed a bilateral agreement with the Government of Albania prescribing the collaboration between the two countries in ensuring the protection of the rights of trafficked and at risk children. Whilst pending the ratification of this agreement by the Greek Parliament, the Albanian Government is intensifying its exchanges with other neighbour countries aiming at the same result.

These existing good practices should be better translated into EU legislation and policies, guiding any harmonisation process in the field of anti-trafficking within EU. The collaboration should not be endorsed only in relation EU Member State and third countries of origin but also between those EU Member States which serve respectively as destination and origin country. The well-being of the child should become the heart of all collaboration between countries of destination and origin. Mechanism should be in place to ensure the adequate protection of the children throughout their movements across the border. The EU should politically support this process as well practically facilitate it by establishing exchanges between social workers and other professional involved in front line in the transnational protection of the children.

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