
GUIDELINES AND CHECKLISTS FOR PROFESSIONALS

Check list for immigration officers (border officials) to assess whether a child is 'at risk' of being trafficked

Indicators that a child might be at risk of being trafficked

1. The child does not appear to be the age given in the passport (i.e., appears older or younger);
2. The child says she or he has a different name or other personal details to those in the passport;
3. A teenager is travelling on someone else's passport, e.g., parents or relatives;
4. A child arriving in an EU state for the first time is unaccompanied and has a non-EU passport;
5. A child is unaccompanied and is not participating in a group visit organized by a recognized school, church or sporting organization;
6. When asked whether she or he is being met on arrival, the child says she or he has to make a telephone call;
7. A young person is unable to produce their passport.

What to do when such indicators are recognised?

1. Record data on the child

1. Record biological data, including information on family and individual name, names of father and mother (or guardian if relevant), normal place of residence of the child, date and place of birth of the child, etc...;
2. Record data on the child's travel route and destination;
3. If the child is unaccompanied, record data on the person who is to meet the child;
4. Assign a reference number to the child that will enable the authorities to track migrant children once they leave the border point;
5. Take a photo of the child so the child can be identified in future even if their name is changed.

2. Assess the young person's age

Traffickers often provide a trafficked child with a passport or identity document which has been forged or altered to present the child as an adult when they are, in fact, under age 18 and as such entitled to the special protection due to a child. To assess whether a young person might be a child rather than a young adult and may be a victim of trafficking or exploitation, check for the following indicators:

1. physical appearance and his or her psychological maturity;
2. the young person's statements;
3. the documentation she or he is carrying, or lack of a passport or other documentation.

If a border officer is still not sure of the young person's age, the next two checks will be:

4. a medical examination – only with the young person's consent – and the consequent judgement of a professional health worker;
5. contact an embassy or other relevant authorities in the young person's apparent country of origin.

Before proceeding with these checks, **a guardian should be appointed for the young person involved, precisely because she or he may be a child** and, as a child, requires the presence of an adult whose responsibility is to ensure that the best interests of the child are upheld.

Age assessment requires physical, developmental, psychological and cultural factors to be taken into account. It is best carried out by independent professionals with appropriate expertise as well as a familiarity with the child's ethnic or cultural background.

If, after all checks are carried out, there is still some doubt as to whether the young person is under age 18, **the young person must be given the benefit of the doubt and presumed to be under age 18 and consequently entitled to be protected as a child.**

3. Ensure that a child suspected of being a victim of trafficking is questioned in private and is questioned in a language that she or he understands

When there is a suspicion that a child accompanied by an adult may be a victim of trafficking, the child should not be questioned further in the presence of any adult accompanying them who could be a trafficker. A trafficking victim is unlikely to divulge accurate information in the presence of a trafficker. An initial conversation in private can be used both to check on the young person's circumstances and to give her or him information. For example, check if they have a photocopy of their passport in their possession: if not, urge them to make one soon.

It is essential to have an interpreter or person that speaks the same language as the child to verify the information given by the child.

4. What to do when suspicions prove to be substantial

When suspicions of trafficking are shown to be substantial or if the border officer still has doubts, he or she should refer the child for a further assessment. The official should do the following.

1. Apply for a guardian to be appointed to represent the child (before going any further);
2. If there is an emergency telephone helpline available for children or adults who are subjected to exploitation or abuse, provide the child or young person with the telephone number;
3. Refer the child to an appropriate temporary or permanent reception facility where the child can receive appropriate care.

Check list for guardians: roles and responsibilities

Role of a Guardian

The role of a guardian is to be an advocate for the child in a wide range of discussions and decisions about what should happen to the child, in particular to ensure that the decision-making process involves giving primary consideration **to the best interests of the child**. The role is also to be a link between the child and the various agencies the child comes into contact with, and to accompany the child concerned in a physical way, in particular when she or he is moved between various places.

A guardian should accompany the child throughout the entire process until a durable solution in the best interests of the child has been identified and implemented. During that time, the child shall remain a ward of state in *ex officio* guardianship of the appointed guardian.

Responsibilities of a Guardian

The guardian of separated children in general and a trafficked child in particular has the following responsibilities:

1. Ensure that all decisions taken are in the child's best interest;
2. Ensure that the child victim has appropriate care, accommodation, health care provisions, psycho-social support, education and language support;
3. Check that the child has a valid identity document and legal entitlement to be in the country concerned and to request renewals if these expire;
4. Ensure that the child victim has access to legal and other representation where necessary;
5. Consult with, advise and keep the child victim informed of his/her rights; this will require that they are up-to-date on all relevant laws and procedures;
6. Contribute to identification of a durable solution in the child's best interests;
7. Provide a link between the child victim and various organizations who may provide services to the child;
8. Assist the child victim in family tracing and in establishing contact with his or her family (if the child so wishes);
9. Ensure that if repatriation or family reunification is carried out, this is done in the best interests of the child concerned.

In the specific case of trafficked children, the guardian has additional responsibilities:

10. Attend all police interviews conducted with the child when investigating abuse committed against the child or seeking information about traffickers or others who have abused the child, with a view to possible prosecution. This presence is mandatory. If the guardian feels at any time during these interviews that the child should have the benefit of legal counsel, he/she has the right and responsibility to inform the police of the need to terminate the interview until legal counsel may be present.
11. Accompany the child to appropriate accommodation or shelter, both following initial questioning by law enforcement officials and whenever the child moves subsequently.

If the **durable solution** involves either return to the child's country of origin or transfer to a third country, the guardian is responsible for:

12. Safeguarding and upholding the best interests of the child victim until the child is ready to leave the country. At this point the child is transferred to the custody of either an international organization, such as the International Organization for Migration (IOM) or to the custody of the Ministry of the Interior or another competent organization responsible for the repatriation process.

13. Safeguarding and upholding the best interests of the child victim until the child is returned to her or his parents or legal guardian.
14. Ensuring that the relevant paperwork is completed that temporarily places the child in the custody of the Ministry of Interior when repatriation is about to occur.

Things to remember

- The guardian has the right to refuse to allow a child to give testimony in criminal and civil (judicial) proceedings (and also the right to refuse to give testimony himself or herself, if called to do so), if this is in the best interests of the child.
- Guardians should be guided by the principle that they must 'do no harm' to the child for whom they are responsible, either by their actions or by any decisions they are involved in taking on the child's behalf.
- The role of a guardian is not the same as that of a legal representative.
- The guardian is accountable to the guardianship service (or other child welfare service) for his/her performance in upholding the child's best interests, as well as in carrying out each of the responsibilities listed above. The guardian *cannot* be made accountable directly to other government ministries or law enforcement agencies that have different priorities and policies to implement.

Guidelines for professionals conducting interviews with child victims of trafficking about possible crimes committed against them (forensic interviews)¹⁰³

A variety of professionals may be involved in forensic interviews with children who are believed to have been trafficked: police officers, social workers and health professionals. These guidelines are intended for all those who are involved in such interviews.

The different reasons for interviewing children who may have been trafficked and registering information about them

The different people who may interview children believed to have been trafficked have different goals and thus seek different types of information. It is, however, prudent to be aware of the main types of information needed to address a suspected case of trafficking, as outlined below. It is, therefore, important for interviewers to listen not just for the information they seek but for other types of crucial information. It is just as important to listen carefully to the child's views or expressed needs on any aspect of their life or circumstances. In each and every interview, the best interests of the child must be a primary consideration.

The five main goals of interviewing are to:

1. find out who the child is – basic biodata;
2. find out what the child's legal status is in the country where she or he is located in order to inform others (police, immigration service, social workers) about how they should assist the child;
3. find out what has happened to the child in order to refer the child to appropriate services for care and possible treatment and assistance, including whether the child is in need of international protection as a refugee;
4. find out what has happened to the child in order to assess whether a crime has been committed and to gather evidence about the crime – i.e., a *forensic* interview; and
5. help the child come to terms with her or his experience – therapeutic interviews.

These information-gathering goals are described below in more detail.

Basic personal information (biodata)

This key personal information includes:

- family and individual name;
- names of father and mother (or, if relevant, guardian);
- normal place of residence of the child;
- date and place of birth of the child;
- marital status of older children.

¹⁰³ Many of the comments in this appendix come from a UNICEF handbook which focuses specifically on how to cope with the challenges of communicating with children who have been trafficked or subjected to sexual abuse. The handbook, prepared by Barbara Mitchels, is entitled *Let's Talk. Developing effective communication with child victims of abuse and human trafficking. Practical handbook for social workers, police and other professionals* (UNICEF and UNMIK/Government of the UN Administered Province of Kosovo Ministry of Labour and Social Welfare, 66 pages, September 2004). The handbook was prepared in the UN Administered Province of Kosovo, but the methods suggested are universally applicable. The handbook is found at: <http://www.childtrafficking.org/eng/publication.html>

Information about the child's legal status

This is information to seek if a child is not accompanied by a parent or guardian and not near to home:

- Is the child in possession of a passport or identity card?
- Is the child's identity verified by appropriate and correct papers or documents?
- Does the child have an identifiable family who is responsible for their care?
- If the child has no identified family, is he or she in the care of an organization?

In the case of children who are questioned once in a foreign country, rather than at a border:

- What is the child's nationality?
- Given the child's age and ability, can she or he speak, at an age-appropriate level, the language of the country they are in?
- If of school age, is the child attending school?
- Is the child known to the local social services?

The answers should indicate whether the child's legal status is irregular in any way and whether the child is an 'unaccompanied child'. However, they will not necessarily provide conclusive evidence about whether the child has been trafficked.

Information needed in order to refer the child to others for services and assistance

Once a child is identified as a possible victim of trafficking or a young person suspected of being trafficked is considered to be possibly under 18, law enforcement officials or others talking to the child are responsible for referring the child to other agencies for services and assistance, including accommodation and the appointment of a guardian. At this point specific information concerning the child's well-being and social history is needed in order to work out which services the child needs and the priority which should be given to each of these.

Information about a crime

There are key differences between interviewing children to get information about a possible crime (i.e. for forensic purposes) and interviewing them to find out if they need assistance or therapy.

Interviews that seek information about a crime do not automatically or even necessarily have the child's welfare or best interests at their heart (particularly if the child is suspected of having committed a crime). Its purpose is to gain information or evidence for legal proceedings, either for the prosecution of offenders or for immigration purposes. A forensic interview might have the child's welfare at its heart if one result is to provide protection to the child, but this is often an indirect result. Nevertheless, officials investigating an offence which may have been committed by a child still have an obligation to take the child's best interests into consideration.

As a matter of principle, children who have been trafficked should not be prosecuted, detained or punished for the illegality of their entrance into a country or residence there, or for the activities they are involved in as a direct consequence of their situation as a victim of trafficking.¹⁰⁴ In practice the circumstances in which a child has committed a crime (or is suspected of committing a crime) may result in the child being interviewed about an alleged offence without the interviewer being aware that the child has been trafficked or that the child committed a crime while under the control of another person. An important purpose of such interviews, particularly with young children who appear

¹⁰⁴ The UN High Commissioner for Human Rights has emphasised that: "Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons" (. Principle 7 in the High Commissioner's 'Recommended Principles and Guidelines on Human Rights and Human Trafficking', Addendum to the Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, UN document E/2002/68/Add.1, 20 May 2002).

to be unaccompanied non-nationals, is to find out if they *have* been trafficked. If there are indications that they may have been trafficked, they should not be treated as offenders but as presumed victims of crime.

When a child has been trafficked and is the victim of or witness to a crime, the courts require the best evidence possible (if they are to be able to convict anyone of trafficking or other offences). These means the accuracy of the child's memory and recall is important. In forensic interviews, information must be gathered in a way that enables it to be used as evidence in legal proceedings or in court. In particular, the child's account must:

- be given freely;
- be clear and recorded accurately; and
- what the child says must not be influenced in any way by the interviewer.

A child who agrees to become a witness in a court case needs particular attention. The child should, if possible, be jointly interviewed by a specially trained police officer and social worker. The interview should ideally be audio-recorded or video-recorded. This ensures that the court knows that the procedures for the protection of the child have been followed. Work can also be done to prepare a child for a legal statement or for trial. The child may require emotional support or professional counselling before, during and after any legal proceedings (see Chapter 12, "Access to Justice").

Therapeutic interviews

If a child is suffering from post-traumatic stress or other psychological illness following experiences of trafficking and/or exploitation, they need to be referred for therapy. Several forms of treatment are described in Chapter 8, "Interim Care and Protection." They may also need therapy if they participate in legal proceedings, whether by being present in court or recounting their experience in a more confidential environment.

General principles about communicating with children, including trafficked children

General guidelines for interviewing children who have been trafficked

These general guidelines apply to *all* interviews with children who may have been trafficked:

- Interviews should take place as soon as possible after the allegation or suspicion of abuse emerges.
- The child should feel safe and supported during the interview.
- Girls and younger boys should be interviewed by female interviewers. Older boys can be interviewed by male interviewers.
- An adult that the child trusts should generally be present during the interview. This person's responsibility is to look after the child's best interests. It could be a guardian, a legal representative or, if neither has been appointed, a teacher or social worker.
- Interviews should take place in an informal setting and be conducted by interviewers trained to talk with children.
- Interviews should be in the child's own language. If this is impossible to organize, considerable care must be taken in arranging interpretation (see page 125, "Communicating with children via an interpreter").
- If possible, interviews should not be too long to avoid tiring the child.
- The child's developmental stage and needs should be considered in planning the interview.
- The characteristics of the child, the child's family background and the interviewer should be considered in planning the interview.

- The children should be given an opportunity to tell their story in their own way, before they are asked explicit questions.
- The questions should begin with open questions and direct or leading questions should be reserved for the later part of the interview.
- Props and cues may be used, but only with caution.

In practice, many circumstantial factors affect the content of an interview. For example, a police interview with a child who has been trafficked abroad and has just been rescued may be quite different to a police interview after the child has returned to their country of origin.

Factors to take into account when interviewing children who are traumatised or who have been abused

There are many different factors that will affect the interview of a child and influence the responses that a child gives.¹⁰⁵ Some concern the child herself or himself; others concern their experiences, particularly any experience of abuse; and others concern the circumstances of the interview and the interviewer.

An interviewer can modify some factors but others will remain outside of her or his control. The following lists identify factors that a competent interviewer should be aware of and consider in the interview.

Basic facts about the individual child:

- developmental stage, i.e., age and maturity;
- level of understanding;
- memory and the way the child responds to suggestions, i.e., 'suggestibility';
- knowledge and use of language;
- social, cultural and religious background;
- educational level;
- capacity to see the events that happened to her/him in the context of wider events;
- psychological state;
- personality and behaviour;
- level of resources and support available for the child.

Key aspects of the child's recent and current experience:

- life experiences, especially since leaving home and while being trafficked and exploited;
- state of physical and mental health, especially where there is physical or psychological trauma associated with being trafficked or exploited (which may result in difficulties recounting painful incidents or disclosing sensitive information, i.e., about sexual abuse);
- being taught a story to tell investigators or police or being influenced by fear or coercion;
- his or her expectations of the interview and awareness of his or her options;
- feelings of insecurity due to fear of repatriation or return to the control of traffickers;
- current care arrangements, living conditions, and the general atmosphere in the shelter or accommodation.

¹⁰⁵ The factors mentioned here are taken from: (1) Sources: Barbara Mitchels, "Let's Talk.: Developing effective communication with child victims of abuse and human trafficking. Practical: a practical handbook for social workers, police and other professionals," 2004; (2). UNHCR, "Working with Unaccompanied Children: A Community Based Approach," 1996; and (3). Save the Children and UNHCR, "Separated Children in Europe Programme Training Guide," 2002.

So, if a child does not reveal any information in initial interviews about abuse or coercion, this does not necessarily mean no abuse has occurred. Similarly children may not be forthcoming if they are asked to talk in the presence of individuals with whom they do not feel at ease (e.g., persons in uniform or, in the case of sexual exploitation, adult men) or in a setting with which they do not feel comfortable. For these reasons, children should generally be interviewed by persons of the same sex, except in the case of pre-pubescent boys who are believed to have been abused by men.

The circumstances of the interview:

- presence and use of an interpreter;
- location;
- timing;
- place where the interview is conducted;
- privacy (i.e., a space where others do not incidentally overhear or enter);
- previous interviews.

Characteristics of the interviewer:

- sex, including whether the same sex as the child;
- dress, especially if the interviewer is wearing a uniform;
- language/s spoken;
- professional experience;
- interviewing and listening skills;
- objectivity and sensitivity;
- rapport with the child and with the interpreter;
- knowledge of the child's options;
- familiarity with or knowledge of the child being interviewed;
- knowledge of the child's country of origin;
- personal life experience;
- social and cultural background, including religious beliefs.

Practical considerations

a) Choosing an appropriate venue for an interview

- Allow the child to have some control over when and where the interview takes place.
- Make sure that the child is fully at ease with the venue of the interview. Make sure that the child knows and feels comfortable in the premises and the interview room, and that they feel at ease.
- Provide, as a minimum, at least comfortable seating, toilet facilities nearby, and water to drink. Paper, with writing and drawing materials may be provided. Refreshments may be available for the end of the interview.
- The interview room should be as private as possible. Others who are not involved in the interview process, should not be able to stare in through windows, or to overhear the conversation in the interview.
- There should not be interruptions during the interview, and others should not be coming and going in and out of the interview room whilst the interview is taking place.

b) Providing child-specific materials (toys, drawing materials, etc)

The materials provided to the child depend on their age and maturity. Generally, toys and play facilities are more appropriate for therapy than for interviews. However, some children find it easier to

communicate by drawing and others may have formed an emotional attachment to a toy and speak more freely while holding it.

In interviews, writing or drawing materials may help the child express a relevant part of their experience in an alternative way if they wish to do so. Adolescents may prefer to write an account in their own words if it is for a specific purpose, e.g., a letter to the court. Others may prefer to tell their account orally.

Children can usually find a way to explain to a good interviewer what has happened to them, provided that the child is allowed to take their time and to explain things in their own way.

c) Who should interview a child who may have been trafficked?

In general, children who have been trafficked should be questioned by people who are the same gender (sex) as themselves. One exception is the case of pre-pubescent boys who are believed to have been abused by men; in such cases it may be appropriate for the boys to be interviewed by women.

If the child has strong feelings about not wishing any specific person to be present at an interview, explore the reasons why, and respect the child's wishes and feelings.

d) Who else should be present?

The child's guardian should be present during interviews. When a child is interviewed early on, before a guardian is appointed, the interview should be limited to bare essentials, rather than going in depth.

Conduct of interviews

a) Getting the pace right

To keep the interview at a suitably slow pace, it is advisable to:

- slow down the rate of speaking;
- allow time for the child to understand what has been said;
- leave enough time for the child to consider their response;
- be patient if the child replies slowly or remains silent for periods;
- avoid following up with another question too soon;
- refrain from interrupting if the child hesitates – he or she may be taking time to think.

Remember that the child may have been traumatized and that psychological reactions to the trauma may influence responses to questioning. Recalling traumatic events may also have a psychological impact on the child. The interviewer should be aware of this and empathic and responsive to the needs of the child.

If the interview becomes too emotionally painful for the child, it should stop. Following any interview, appropriate psychological and social support and/or therapy should be offered by a suitably trained person.

b) Providing age-appropriate information at the beginning of an interview

Know in advance the age and level of understanding of the child to be interviewed. Make sure that the interview will be conducted in words that they will understand. Pre-interview information should also be age-appropriate and include:

- purpose of the interview;
- anticipated outcome of the interview, i.e., what is likely to happen next;
- explanation of issues of confidentiality.

Never falsely encourage or mislead the child. Specifically, never promise something that you or others involved may not be able to deliver, e.g., a guarantee of total confidentiality, provision of scarce resources, location of family members.

c) Checking the child understands terms being used

This sounds obvious but it is surprising how many interviewers do not think to make sure that the child understands fully the language or terminology used in the interview.

Children have their own way of describing things and they may use a word that means something specifically to them. For example, they may use a word or a phrase in a way that does not quite make sense to the interviewer – the expression ‘going for a walk’ may not refer to a casual stroll but, in the trafficked or exploited experience, means going unwillingly with someone to do something that was abusive or unpleasant.

Children typically want to please and they may give the appearance of understanding when they, in fact, do not.

Ask a few general test questions to see if the child fully understands what is being asked. Try to get the child to speak a little early on about a pleasant and non-threatening topic. Simple ‘yes’ and ‘no’ answers from a child might suggest to the interviewer that the child is not understanding properly.

d) Communicating with children via an interpreter

Children who do not speak fluently the language in which they are to be questioned must be provided with suitable interpreters who speak their mother tongue or preferred language whenever they are interviewed, as well as when they require access to services.

Interviewers must take into account that the child will be affected by the presence of an interpreter. They must also be aware that an interpreter may translate something incorrectly due to their own preconceptions, particularly if the interpreter is not a professional. If the interpreter is from the same country or culture as a child who has been trafficked across borders, the child may fear their complicity with traffickers or may be more reserved about revealing intimate details to them than to someone whom the child regards as an independent outsider.

If interpreters are used, make sure that certain basic safeguards are in place:

- Try to use independent interpreters who are already known to the law enforcement agency or other service, are specifically trained and who are trusted.
- If there is no agency interpreter, make sure that anyone else offering to interpret is not perceived by the child to be a threat.
- Check the background of anyone else who offers to interpret to make sure that they are not associated with traffickers or others making money out of children, who might be trying to silence the child.
- Make sure that the interpreter has no control or influence over the child.
- Interpreters should be asked (and required) to work in the following ways:
 - They must translate what the child actually says, adding nothing, and leaving nothing out;
 - They should not change the child’s answer when interpreting, for example to improve grammar or to add detail;
 - They should not be allowed to take over the interview and to ask questions themselves; their role should be neutral;
 - They should not show shock, fear, or other strong emotional reactions, which may influence the child;
 - They should remain calm and professional and also be warm, non-judgmental and open in their attitude to the child.

Key points for interviewers to remember

a) The ability of abused children to remember events

The amount and accuracy of children's memories of events ('free recall') increases as they reach adulthood. Younger children aged 3 to 6 appear to remember less than adults and forget more rapidly, but what they do remember is usually just as accurate. Sometimes young children may introduce fantastical elements into their accounts, but this is exceptional and does not invalidate the rest of their account.

With questioning, most witnesses find that they know more than they were able to spontaneously recall. However, questioning can also make memories less accurate. Leading questions are answered less accurately than specific questions. Open-ended questions generate the most accurate answers.

b) The risk of introducing false memories – 'suggestibility'

A 'false memory' occurs when the memory of a witness or subject is influenced by the ideas, attitude or wishes of another person. It is particularly relevant for young children under six years old. Children and vulnerable witnesses may be influenced by the questions they are asked or by the circumstances of the interview. Examples are:

- When the child perceives that the interviewer or others judge an action negatively, e.g., as suspicious or wrong, the child feels less inclined to talk about it.
- Repeated interviews with leading questions that imply a misleading account of events or other forms of suggestion or prompting may induce a young child to comply with the questioner, thus affecting their free recall of the event.
- Misleading information provided after the event may affect free and prompt recall of the event, especially in children aged 4 to 6 years;
- People may try to implant false memories in children by repeatedly telling the child that a certain event happened. This may affect a child's recall, but only if it is compatible with the child's previous experience and beliefs. This is particularly relevant for children under six who have been given a new (and false) identity by traffickers.

c) Risks of deception

As a general rule, it can be difficult to tell if a child – or any person – is telling the truth. Even trained police officers find it hard to tell when someone is lying. Remember that:

- Body language and behaviour *cannot* be interpreted as an accurate indicator of either deceptive or truthful statements. For example, some people believe that eye contact means that the speaker is telling the truth, but a good liar can take advantage of this popular belief. Furthermore, in some cultures children may look down or avoid eye contact as a sign of respect for someone older.
- There are *no* particular behaviours or words that identify deception. For example, covering the mouth, touching the face, blinking or looking at the ground while speaking are not always indicators of lying.
- Some behaviour linked to stress may be confused with behaviour associated with deception, such as sweating, wringing hands, or fiddling with hair or a pen.
- Remember that even if a child sets out to deceive an interviewer, this is not necessarily an indicator that the child has committed an offence or feels guilt; it may be a sign that the child is acting under duress (and still feels that she or he is under the control of her or his trafficker or at risk of being returned to them).

d) Never interview a child in the presence of someone who may have trafficked or abused her or him**e) Once a guardian has been appointed, refer to the guardian for basic information**

Children suffer if asked repeatedly to describe incidents which have caused them distress. Once a guardian has been appointed to accompany a child victim, the interviewer should try to get basic information from this adult and avoid unnecessary questioning of the subject child. This may not be relevant the first time the child is interviewed, but may be relevant if she or he has already spoken to others about her or his experiences.

The interviewer should also defer to the guardian for information that does not legally require the first-person testimony of the child.

At the same time, the interviewer should check that the child's guardian has understood correctly what has happened to the child and is not misinterpreting events in the light of his or her own pre-conceptions.

Initial interviews and priority actions

The first priority is to discover whether the child has suffered any physical or psychological harm that requires urgent treatment and to assess the child's other immediate needs.

In addition to basic personal information, immigration or law enforcement officials should ask the child about her or his:

- current physical and mental condition – particularly any pain, discomfort or stress – as well as general health and past medical history;
- special needs of any type;
- account of events since they have been away from their family;
- knowledge of details that may help to establish links with other abused children.

In addition, interviewers should be looking out for the following:

- Does the child have bruises or other evidence of abuse?
- Does the child have any unexplained or untreated illness?
- Does the child have unexplained fear, depression, or anxiety?
- Is the child kept away from children of the same age in the area that they live in?
- Are adults with the child unwilling to allow social workers to see the child alone?

Interviewers should also record details of the individual's social history, not just in cases of children believed to have been trafficked but of *all* unaccompanied children.¹⁰⁶ Those details should include:

- assessment of the child's age;
- preliminary assessment of the child's mental and emotional development;
- current care arrangements;
- educational background (formal and informal);
- ethnicity as well as nationality;
- circumstances around when and where the child was found or identified;
- circumstances of the child's departure from home or separation from family;
- experiences and quality of life before and since leaving home;

¹⁰⁶ United Nations High Commissioner for Refugees (UNHCR), "Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum," 1997.

- data about parents, siblings and wider family in the country of origin and elsewhere;
- status and quality of the child's relationships with other members of her or his family;
- information on non-family members who are important to the child; and
- the child's aspirations and plans for the future.

Once some or all of the child's needs have been identified, the child should be referred to other services or agencies for care (see Chapter 7). The process for appointing someone to act as the child's guardian should be started without delay (see Chapter 5).

Forensic interviews with trafficked children about their experience

Once basic personal information and other details required for referrals have been collected, it is appropriate to arrange an interview to find out more about the child's experiences. In addition to looking for evidence that a crime has been committed, the aims of more detailed interviews are to:

- find out whether an individual child has been trafficked or subjected to any other abuse which requires that she or he be given special protection;
- collect specific information that may be used to prosecute criminals; and
- collect general information about patterns of trafficking and exploitation for intelligence use and to inform other efforts to prevent trafficking and to protect potential victims.

The circumstances in which immigration or law enforcement officials come into contact with a child usually make it clear what line of questioning is most likely to produce useful information.

Interviews seeking evidence about crime

a) Things to remember

- »» As the consent of the child (to be trafficked or exploited) should not be relevant for legal purposes, law enforcement authorities should use such information for general investigative purposes only.
- »» The apparent consent of a child victim to the intended exploitation must not be used:
 - as evidence of the child's possible guilt in committing an offence related to the child's status as a victim of trafficking or situation as a child;
 - as the *sole* basis for retaining the child in police custody for further questioning – whether related or unrelated to this exploitation.
- »» The child should be accompanied by a legal representative if being questioned about possible offences which the child herself or himself may have committed.

b) Factors relating to the child's age and type of exploitation experienced

Teenagers aged 16 or 17, who are old enough to have left school and to be working, may well have been deceived about the nature and conditions of work for which they were recruited. In these cases, as in the cases of young adults, it is appropriate to focus on the occupation, working conditions and forms of coercion to which a young person has been subjected (see sample questions page 130 below).

In contrast, children under age 14 are likely to have been dependent on an older person who was trafficking or exploiting them: the younger they are, the less coercion is required to make children remain with the person they depend on, even if that person is abusing them. Children under 14 are not old enough to be in full-time employment in European countries (although those aged 13 or 14 may be considered old enough in countries of origin outside Europe to have left school and to be working there). Consequently, it may be sufficient to establish that the child has been working full time or has been required to work regularly, even if still attending school, to reach the conclusion that the child has been exploited.

Development of the interview

a) Introductions

To put the child at ease make sure that the child knows in advance who will be present at the interview and why they are there. If the child has strong feelings about not wishing a specific person to be present, explore the reasons why and respect the child's wishes and feelings. At the interview introduce yourself, the interpreter if there is one, and any other person present.

b) Establishing trust and rapport

After introducing everyone explain to the child what will happen in the interview. Tell the child why you are interviewing her or him and make sure that the child understands in a way that is appropriate for their age and ability. Clearly state how the information the child provides will be used. Never lie to the child or avoid the truth. If the information from the interview might result in legal action against an offender, then the child concerned has the right to know this is a possibility.

Confirm that the child consents to being interviewed. Children should never be forced into giving an interview for the purposes of collecting evidence about crime. They should be given an explanation, which is appropriate to their age and understanding, and allowed to make a choice about whether they will give an interview. Evidence should never be gained by duress or by coercion. If a child who has a clear understanding of the situation refuses to participate in the interview, their decision must be respected. No child should be forced to answer questions. There should be breaks for comfort or refreshments, but refreshments should not be used as a reward for disclosure or cooperation or withheld in the absence of cooperation. Emotional safety is established through trust, honesty, clarity and openness.

Spend time at the beginning of an interview establishing rapport with the child by discussing some neutral subjects which allow you to assess the child's level of understanding and linguistic competence.

Remember that children are easily intimidated and may start with some assumptions that you need an opportunity to correct. For example, they may assume that every question has a right and wrong answer; that all questions must be answered, even if the child has not understood or does not know the answer; that the interviewer already knows what happened; and that it is not acceptable to say "I don't know."

The initial period of establishing rapport in an interview is also an opportunity to make sure that the child understands the importance of telling the truth.

Second stage of interviews with trafficked children about their experience

a) Open questions

The interviewer should gradually move from the general discussion that establishes rapport to open questioning that moves towards those issues that have given rise to a concern about trafficking and/or exploitation. It is important to move at the child's pace.

The task is to gradually build up a picture of what might have happened to the child.

The following are examples of general questions, gradually moving towards specific events:

- "Tell me what you think has brought you here today?"
- "My job is to talk with children about things that may be troubling them. If there is something troubling you, I would like to understand what it is, so that we can try to help you. Can you tell me about anything that worries you?"
- "I heard that you have just come back from (name location). Will you tell me what happened to you there?"

- “Can you tell me about what happened to you before you came here?”
- “Tell me about what happened to you when...”
- “What happened next?”
- “What did you do?”

Once a child has started to tell their story, listen carefully and demonstrate that you understand and are open to what they say. Do not interrupt but focus instead on gathering the child’s answers into a picture of the child’s experiences. Once the child has come to a natural stop in his or her telling, then specific questions may be asked to elicit more details.

b) Specific questions

There is no standard list of questions to ask children who may have been trafficked. They must be adapted to the age and circumstances of each child. Many of the children trafficked to and from South Eastern Europe are older teenagers (16- and 17-year-olds) who are legally allowed to work. The following sample questions could be used with this age group.¹⁰⁷

Recruitment

- What kind of job was offered to you and by whom?
- How much money was offered to you and how were you told you would be paid?
- Did you sign a contract? Do you have the original contract or a copy of it?
- Were you forced to leave your country? How? By whom?

Migration

- Did you obtain documents for travel? How?
- Which documents were obtained?
- How did you travel to the country of destination?
- Do you still have your documents?
- What happened to your documents when you arrived?
- Were you instructed to give information to immigration officials? What information?

Working conditions

- What happened when you arrived in the country of destination?
- Where did you work?
- Were you able to leave your place of work? If not, why not?
- Where did you live when you were not working?
- How did you obtain food and other items?
- Were you paid for your work? How much? How often? How did you receive the money?
- How many hours a day did you work? Did you have time off?
- Were you able to communicate with your family? Other workers? Make friends?
- Were you able to quit working for your employer and get a job somewhere else? If not, why not?

¹⁰⁷

Based on a set of questions developed by Jennifer Stanger and Sari Yoshioki, members of the Coalition to Abolish Slavery and Trafficking (CAST), and published in: A. Boak, A. Boldosser and O. Biu, “Smooth Flight: A Guide to Preventing Youth Trafficking,” International Organization of Adolescents (IOFA), New York, 2003, <http://www.seerights.org>.

Physical and psychological coercion

- Were you afraid of your employer? Why?
- Were you ever harmed by anyone? How? By whom?
- What happened if you were sick or injured?
- Did you ever try to leave your job? Why? What happened?
- Were you ever threatened? How? By whom?
- Was anyone else ever threatened? How? By whom?
- Are you afraid that your family might be in danger? Why?
- How were you treated by your employer?
- Did you ask your employer if you could leave? Why? Why not?
- What did you think would happen if you left your job? Why?

Closing the Interview

The closing part of the interview is as important as the opening. If the child has been trusting and has spoken of many things, it may be the first time that the child has felt that an adult has listened to them. If the things talked about have been painful and difficult, the child may feel relieved to have told someone about them, perhaps for the first time, but the child may also feel sad and upset by the memories. It is very important to make sure that the child has a person to be with after the interview (a guardian, carer, therapist, or other safe adult) who will offer them appropriate support and help.

Closure is also an important part of the interview process because it provides an opportunity to thank the child for sharing their experience and knowledge – and to acknowledge that it is an important and brave act that can help themselves and other children. The child should be invited to add anything they wish, correct anything they have said, or ask any question they want answered. The interviewer can leave the child with advice on seeking help as well as contact information, e.g., names and telephone numbers.

The interview should not be prolonged so as not to tire the child. However, it also should not feel rushed: a sense of hurry can make the child feel pressured or that the interview is not sincere, thus compromising the information elicited. The ending of the interview should ensure that the child witness leaves the room feeling confident, safe and supported.

Factors which help or hinder listening to children

Skills and qualities of an interviewer

Every person who might interview a child who may have or has been trafficked should have training in interviewing children. There are many training manuals that address how to communicate with children, including interviewing techniques.

UNHCR has identified the following characteristics as helpful for interviewing children:¹⁰⁸

- warmth; sincerity; empathy; understanding; acceptance; concern; respect; tact; sensitivity; flexibility; responsiveness;
- knowledge of human behaviour; clarity of thinking; analytical ability; perceptiveness;
- listening skills; questioning skills; recording skills; a sense of humour;
- control of aggression and other inappropriate behaviour.

Many factors which help or hinder good communication with children are also listed in UNICEF's handbook, 'Let's talk' (Mitchels, 2004).

¹⁰⁸ UNHCR, "Working with Unaccompanied Children: a community-based approach," 1996.

Other factors which inhibit children from talking freely

It is important to bear in mind that cultural, religious or other societal taboos inhibit children from mentioning some subjects. This means that children find it difficult to talk about some things to adults. In some cultures, girls in particular find it difficult to admit that they have been sexually abused. Boys, too, may find it very hard to admit that they have been abused or raped. They may feel that they are not as strong as men are expected to be in their culture.

There are techniques that can be used to reduce the child's inhibitions. The interviewer should be of the same sex as the child if the child may find it easier to talk to someone of their own sex about what happened. The interviewer should express no judgment of the child.

Factors to take into account concerning adolescents

The age of a child being interviewed should make a big difference to the way an interview is conducted. As many children who are trafficked are adolescents, particularly girls, it is important to take into account that adolescents are at a time of life when rapid change is happening. They are making the transition from child to adult. This has numerous influences on *their* behaviour and needs to be taken into account by an interviewer.

a) Seeking approval or disapproval

Younger children seek approval from their parents and good deeds usually win parental favour. However, adolescents seek approval from their peer group. Consequently:

- Adolescents may try to win approval of their peers by anti-social actions of which their parents disapprove.
- Adolescents may be concerned about the perceptions of others, and feel both judged and judgmental. This could sometimes result in arrogance and sometimes in a sense of uncertainty.
- Adolescents are trying to become adults and to find their sense of self. This may be the time when they challenge their parents' authority.
- Adolescents may try to behave as adults and take on too much responsibility. They need to be allowed to develop gradually, and to accept adult duties and responsibilities gradually.

b) Emotions

Emotions in adolescence may be volatile as adolescents experience hormonal changes. This may be compounded by stress and traumatic memories.

c) The effects of sexual abuse

- Sexual abuse may affect an adolescent's self-esteem and perception of self. The violation of their body has a profound effect on self-esteem and also destroys the child's normal belief system, i.e., that the world is a safe place and that adults can usually be trusted.
- Sexually abused boys may find it very hard to admit what has happened to them and feel ashamed, as though somehow they should have been able to prevent it happening. Here, reassurance and support, particularly by those to whom they look for respect, and from their peer group, is helpful.
- Adolescent girls who have been sexually abused may be very afraid of the response of their family and friends to their experiences, and afraid of rejection. If the girl has become pregnant, this may be perceived as shameful. In some cases, the girl and her child may be rejected by her family and community.
- A girl who is pregnant as a result of sexual abuse faces a particularly difficult situation. She may have very mixed feelings and find decisions hard to make, including whether to terminate the pregnancy. She may even feel suicidal, thinking that death is the only way to solve her problems.

- Adolescent girls who have been sexually abused may feel that they should have prevented the abuse somehow and feel that they are to blame. The attitudes of family and society can also be shaming and even punitive rather than supportive.
- Some girls who have been sexually abused may be left vulnerable and unable to protect themselves from further harm and abuse. They may need to learn strategies to protect themselves in future and to develop appropriate boundaries, along with their self-respect, so that they say 'no' to others who perceive and prey upon their vulnerability.
- In responding to these many factors, interviewers need to show an understanding of the impact of gender differences in adolescence – and in the circumstances of being trafficked and/or exploited.

Guidelines on determining whether a return to family and/or country of origin is in the child's best interests

Introduction

The Committee on the Rights of the Child¹⁰⁹ has outlined the factors that decision makers must take into account when considering whether a child should return to their country of origin:

Return to the country of origin is not an option if it would lead to a 'real [reasonable] risk' that such return would result in the violation of fundamental human rights of the child, and in particular, if the principle of *non-refoulement* applies. Return to the country of origin shall in principle only be arranged if such return is in the best interests of the child. Such a determination shall *inter alia* take into account the:

- safety, security and conditions, including socio-economic conditions awaiting the child upon return;
- availability of care arrangements for that particular child;
- views of the child expressed in exercise of his or her right to participation and those of the caretakers; and
- child's level of integration in the host country and the duration of absence from the home country.
- The child's right 'to preserve his or her identity, including nationality, name and family relations' (art. 8).
- The "desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background" (art. 20).

In the absence of the availability of care provided by parents or members of the extended family, return to the country of origin should, in principle, not take place without advance secure and concrete arrangements of care and custodial responsibilities upon return in the country of origin.¹¹⁰

In order to assess and uphold these factors, it is necessary to trace a trafficked child's parents or relatives and assess whether there would be unacceptable risks if the child returns to her or his country of origin and/or to the family.

Tracing

The tracing process is intended to discover whether the child has a suitable caregiver (parents, guardians, or other adult carer) or a government agency that is able to provide adequate care and protection for the child. Before starting the tracing process, it is important for the child's assigned guardian and the social services authority to find out, first, whether a trafficked child wants their family alerted to their whereabouts or indeed wants any contact with them and, second, to discover and investigate their reasons. Children of any age may have left home or been vulnerable to trafficking because they were being abused by members of their own family. In such cases it may be in the child's best interests to return to their country of origin, but not to their family.

It is important for the guardian and social services authority to ascertain whether there are sufficient reasons why the authorities of a trafficked child's country of origin should *not* be informed of the child's presence abroad or asked for information on the child's family. For example, there may be evidence that the authorities in a particular country have not respected the confidentiality of inquiries

¹⁰⁹ The UN Committee was formed in 1991 to monitor implementation of the Convention on the Rights of the Child (1989).

¹¹⁰ Committee on the Rights of the Child, General Comment No. 6, "Treatment of unaccompanied and separated children outside their country of origin", adopted during the Committee's 39th session, 17 May to 3 June 2005, paragraph 85. General Comment No. 6 can be found at: <http://www.ohchr.org/english/bodies/crc/docs/GC6.pdf>

about victims of trafficking, causing them or their relatives prejudice or difficulties. There may also be evidence of collusion between the authorities and traffickers.

The child's guardian has particular responsibility for keeping the child informed of efforts to trace her or his relatives and of any progress made.

Preventing further harm to the child

The basic principle of information sharing is that the maximum information necessary for tracing should be shared at the minimum risk to the child and the family.

It may, therefore, be necessary to trace the trafficked child's family without letting the family know where the child is or that they have been trafficked, abused or exploited. For example, when girls have been subjected to commercial sexual exploitation, any information about this abuse may prejudice members of her own family and community against her.

In some cases, traffickers or their associates may present a palpable threat to the life or integrity of the child or their relatives. Great care must then be taken to ensure that the collection, processing and circulation of information concerning the child are kept confidential.

Once the family of a trafficked child have been located, the sensitive process of assessing whether return to this family home is in the child's best interests can start.

Risk and security assessments

The UNICEF Guidelines call for a 'risk and security assessment'. In practice, this translates into two separate but connected assessments.

The security assessment focuses primarily on possible threats from the traffickers and their associates to the child or her or his relatives. Such threats may take various forms: trying to regain control of the child; pressuring the child or relatives to pay a 'debt' the trafficker claims is still owed to him; or taking reprisals against the child or his or her relatives.

The assessment must also consider other security threats that are specific to the child in question as well as those which affect any child returning to that particular country of origin.

The security of the trafficked child in question can be threatened simply due to home knowledge of their situation or experience. For example, girls who have been subjected to commercial sexual exploitation are commonly stigmatized. This reproach is often more severe in the child's home community and the child may even be physically attacked after arriving back home.

A more general security threat can also exist in countries that are affected by armed conflict or where the rule of law is not upheld. Threats to children, including a trafficked child who is returning home, can come from law enforcement officials and members of other security forces as well as from members of militias and armed groups that are not run by the State. For example:

- a child may be arrested on return to her or his country on suspicion of leaving the country illegally;
- a child may be arrested on return in relation to other offences committed in the process of being trafficked, e.g., obtaining or possessing false documents;
- a child may be arrested on return due to the activities in which she or he has been involved in order to earn money for a trafficker;
- a child may be arrested on return because of corruption or abuse of power by law enforcement officials; or
- the child, in the case of arrest, may be at risk of prolonged detention without charge or trial, or of torture.

The precise nature and likely incidence of any threat must be evaluated. If a child is likely to be detained for a few hours and then released uncharged, it may be reasonable to proceed with repatriation. At the other extreme, if there is even the slightest possibility that a returning child may be tortured, either by law enforcement officials or by criminals or non-State actors, it is out of the question to proceed.¹¹¹

The risk assessment is more general in nature than the security assessment. It looks at the circumstances of the home and community to which the child is likely to return in order to assess whether it is in the child's best interests to return there.

The socio-economic circumstances of both the family and the wider community need to be assessed. This involves factors such as resources, attitudes and capacities.

In terms of the family, it means finding out the financial position of the child's parents or carers and whether they can provide adequately for the child, including food, clothing and other forms of material need. It also means exploring the relationships among members of the household as well as their attitudes towards child trafficking, child exploitation and child rights. Any evidence of abuse within the family, such as domestic violence, or of specific discrimination against the trafficked child, e.g., related to their status as a stepchild, may be a sufficient reason to oppose family reunification. The status of the family may also vary in relation to their community and it is important to take that into account, e.g., the family may be poor, from an ethnic minority, a single-parent household, well established, with a large kinship network, etc.

In terms of the community itself, it is important to assess whether the child would have adequate access to food, housing, clothing, health care, social security, education, vocational training and employment opportunities. It means assessing whether the child may face discrimination in getting access to any of these goods or services, either related to the fact of being trafficked or exploited or related to the child's original status in their community. However, if the child expresses a wish to return home, the fact that conditions there are difficult is not automatically a barrier to that return.¹¹²

While communities can embrace young people who have suffered mishaps, this is not always the case as far as trafficked children are concerned. Too often child victims of trafficking are blamed by relatives or neighbours for 'bringing it on themselves' and especially stigmatized for the manner in which they have been exploited, e.g., activities such as commercial sexual exploitation and begging are viewed as having low status or being socially unacceptable.

A security assessment requires information from law enforcement officials or an intelligence agency involved in law enforcement in the child's country of origin, or from an international police organization.

A risk assessment requires information from an agency which is familiar with the child's family or the home of the person who is going to take responsibility for the child or the institution which is going to do so, and the surrounding community.

In Romania, for example, the National Authority for Child Rights Protection takes requests for information from child protection agencies in EU countries about Romanian children believed to have been trafficked into EU countries as well as about other unaccompanied Romanian children. To complicate things, however, NGOs that care for Romanian children in EU countries also address informal inquiries to NGOs operating in the region of Romania from where a child originates.

¹¹¹ Repatriating a child who faces a risk of torture would violate the European Convention on Human Rights and the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In the case of EU member states, it would also violate the EU Charter of Fundamental Rights.

¹¹² Save the Children and the Separated Children in Europe Programme, "Position Paper on Returns and Separated Children," September 2004.

The risk and security assessments are not in themselves assessments of what is in the child's best interests. They involve collecting evidence about risks or threats. In a risk assessment the fact that the child's parents are poor does not in itself constitute a risk to the child. However, if they are so poor that they cannot afford food for their children and there is evidence that they are likely to send a child of compulsory school age out to work or to beg – this constitutes a risk. On the other hand, if an adequate income supplement is given to the child's family, the risks for the child returning home are also likely to be reduced.

Responding to information requests in the country of origin

In the child's country of origin, the authority receiving an inquiry is responsible for initiating security and risk assessments in that country. This means contacting an appropriate law enforcement agency to assess the risk from traffickers and the national authority responsible for social services or child welfare to assess the family's situation. In the absence of parents or other family members, other options can be investigated depending on the child's age. For children of school age, the suitability of child-care agencies should be investigated. For older teenagers, the feasibility of living in a small group home should be investigated.

Steps to take in the destination country

The Liaison Officer of the Ministry of the Interior in the country of destination is responsible for initiating inquiries in the child's country of origin. There are several authorities who can be contacted in the child's country of origin.

The authorities at national level in a country which is used to receiving such inquiries may respond promptly with accurate information. However, this is by no means certain. If discreet inquiries with a national-level authority responsible for social services or child welfare in the child's country of origin produce no reply, efforts can be made to identify representatives of this authority at the local level. It may eventually be necessary to ask for the assistance of NGOs in obtaining information from NGOs in the child's country of origin. The coordination and cooperation ensured by a functioning National Referral Mechanism (NRM) is intended to facilitate these contacts.

Once a decision on a durable solution for the child is made, this information should be communicated to the authorities who have been contacted in the child's country of origin to obtain information during the determination process. The child protection authorities in one South Eastern European country commented in 2005 that they provided information about hundreds of national children to child protection authorities in EU countries, but were never told what decision had been made or what had happened to the children concerned.

Guidelines for law enforcement and justice officials on involving trafficked children in legal proceedings

Child friendly procedures in the course of legal proceedings

Unless the procedures followed by police, investigating magistrates and prosecutors, and the courts are specially adapted to children, it is unlikely that either teenagers or younger children will be able to make use of legal procedures to remedy the wrongs to which they have been subjected. As the legal procedures – both criminal and civil – in many countries are not child friendly currently, trafficked children are in some ways prevented from having adequate access to the law. As a result such countries are not fulfilling their obligations under the CRC.

It is important that the views, needs and concerns of children who have been trafficked be presented and considered in proceedings where their personal interests are affected. As this must be done in a manner consistent with the procedural rules of national law, amendments to the law may be necessary to ensure this.

Some of the specific ways in which children's rights and interests can be protected are outlined in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (see Box 17).

Police, prosecutors, judges and magistrates should seek to employ child-friendly practices and adapt existing procedures to recognize the special needs of children, including their special needs as witnesses. These include, among other things, videotaping the child's testimony and presenting the videotaped testimony in court as official evidence, rather than requiring a child to testify in person.

Whether the child concerned wants to return to her or his country of origin or not, it is important in cases involving children to avoid unnecessary delays in bringing cases to court.

Box 1

Seven measures listed in Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

- (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
- (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
- (d) Providing appropriate support services to child victims throughout the legal process;
- (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
- (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
- (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

Arrangements concerning the safety of children

The police, courts or others who want a trafficked child to remain in their country to take part in legal proceedings have a responsibility to make suitable arrangements to enable the child to do so safely. If children are asked to testify in criminal proceedings, the authority bringing the prosecution must warn both the child and her or his legal representative and guardian about the real difficulties in shielding the child's identity. It is important these real risks not be minimized or dismissed. The child, their guardian and legal representative are entitled to know the risks so they can make a fully informed decision about whether to testify or take part in any legal proceedings.

Interpretation and translation

Children involved in legal proceedings are entitled to the services of an interpreter at all stages in the proceedings. They are also entitled to have important documents translated into their own language. It is up to the authority responsible for the administration of justice to make an interpreter and translator available.

The interpreter should be competent and qualified to interpret from the language being used in legal proceedings into the child's own language. The authority employing the interpreter is responsible for ensuring the person is independent and could not be acting directly or indirectly for organized criminals in the country from which both the child and the interpreter may come. It is important that this interpreter should not be the same person as the interpreter who acts in the same or related case for a defendant accused of trafficking.

Respecting the child's privacy

It is important to avoid the inappropriate dissemination of information that could lead to the identification of child victims or witnesses. Judges and court officials should make use of measures available under national law to protect the privacy and identity of children who have been trafficked and to prevent the identity of children from being revealed, giving instructions to journalists and others as appropriate.

Avoiding procedures which cause further harm to a child

The judicial authority responsible for a particular investigation or trial has a responsibility to ensure that these legal proceedings do not cause harm to children. This would include prejudicing their rights, undermining their dignity, or harming their physical or psychological well-being. For example, a child who is confronted in court or at a pre-trial hearing with someone who has abused them or controlled them may well cause further trauma.

Direct contact should, therefore, be avoided as much as possible between the child victim and the defendant during investigation, prosecution and trial proceedings. Similarly, direct contact should also be avoided between the child victim and witnesses appearing for the defence, as people attending the trial who may be associates of the defendant. This may require specific in-court arrangements, e.g., ensure a child victim/witness is not obliged to wait outside a courtroom or judge's chamber in the same waiting area as defence witnesses.

Providing children with up-to-date news of legal proceedings

Police, prosecutors or court authorities should pass information to the child, his or her guardian and legal representative about the following developments:

1. any decision whether or not to refer a trafficker for trial, together with details of the charges against the person;
2. the arrest or imprisonment of a person suspected of trafficking or committing an offence against the child, along with their release on bail;

3. information about whether the child will be or might be called to give evidence during the trial;
4. any information about when a trial may take place;
5. notice of when the trial begins and ends; and
6. the outcome of the trial, including details of the sentence, the likelihood of an appeal and whether the child may be requested to give evidence at the appeal.

Children and their legal representatives should also be provided with information when a person convicted of trafficking them or committing an offence against them is released from prison. This is important even if the child has returned to her or his country of origin, as the released trafficker may pose a threat. The mere sight of the offender may cause a child fear and anxiety, so it is important they be aware of any such possibility.

Therapy

Vulnerable or intimidated witnesses should be provided with the emotional support or professional counselling they may need before, during and after any legal proceedings. Child-care professionals and police must make sure that, wherever possible, professionals who provide therapy for children prior to a criminal trial are aware of the needs of the child as well as the needs of the courts.

Compensation

In some countries, victims of crime are entitled to lodge a formal request for compensation in the course of a criminal trial. In this case, the judge is required to take into account the harm and economic losses experienced by the child. In other countries, child victims may be awarded compensation at the court's discretion. In either case, the authority responsible for executing the court's orders should ensure that any compensation payment is made as promptly as possible to the child concerned.

Of course, awarding compensation is made more complicated by the fact that some or all the activities which a child was undertaking in order to earn money for a trafficker or exploiter were illegal, such as prostitution, begging or stealing. The idea of awarding compensation to someone who has been carrying out illegal activities is alien to most justice systems. However, consideration needs to be given to the child's loss of earnings. Economic disadvantage or deprivation is a key factor in making children and adolescents vulnerable to trafficking and exploitation; without compensation these victims may remain vulnerable to being re-trafficked.

Procedures during civil proceedings

Many of the issues concerning civil proceedings are the same as for criminal proceedings, in particular concerning:

- arrangements for the child's safety;
- interpretation and translation;
- respecting the child's privacy; and
- avoiding procedures which cause further harm to the child.

However, civil proceedings are likely to focus on the child's right to some form of compensation for the abuse or damages suffered. In criminal proceedings the child's legal representative and guardian would give top priority to ensuring the child's best interests are upheld in the face of attendant pressures to secure a trafficker's conviction. In civil proceedings, however, the child's representatives may find that the police and others in authority have no direct – and, therefore, little – interest in the proceedings and consequently they may have to be pressed to cooperate or participate convincingly in the civil case.

