

## Chapter 7 Referral and Coordination/Cooperation

### 7.1 General principles

#### Referral to appropriate services

- Child victims shall be referred expeditiously to appropriate services.
- The state, through relevant ministries, shall assist law enforcement authorities, social service authorities, relevant administrative bodies, international organizations and NGOs/civil society organizations in the establishment of an efficient referral mechanism for child victims.

#### Inter-agency cooperation

- All relevant ministries and government bodies (including police, social service authorities, Ministries of the Interior) involved in the referral and assistance to child victims should adopt policies and procedures which favour information-sharing and networking between agencies and individuals working with child victims in order to ensure an effective continuum of care and protection for child victims.
- The Ministry of the Interior shall actually designate 'liaison officers' as responsible for liaison with the social services authorities/guardianship service, and in particular, the guardian of the child victim.
- In order to assist the relevant judicial and administrative bodies in the acquisition of information and documentation necessary to arrive at an informed decision regarding the disposition of the child, the Ministry of the Interior shall assist in contacts with the corresponding authorities in the child's country of origin. Such assistance will also be afforded to the relevant authorities in the form of support to and coordination with their dealings with the Ministry of Foreign Affairs, and, where appropriate, their contacts with representatives of the embassies of the child's country of origin.
- Liaison officers shall also liaise with members of the relevant law enforcement agencies dealing with child victims.
- Liaison officers (along with, where appropriate, legal counsel for the Ministry,) shall be responsible for representing the Ministry of the Interior, in meetings in which the final disposition of the child is decided in conjunction with the other relevant administrative and judicial bodies.

### 7.2 Implications of the principles

Many different organizations are likely to be involved in the process of identifying and protecting a child who has been trafficked. If two or more countries are involved, as they are in cases of cross-border trafficking, the authorities of several different countries need to coordinate their activities and to exchange information.

It is important that different organizations within a single country, which have a role in protecting and assisting children who have been trafficked, coordinate their actions and cooperate to ensure timely and efficient referral of victims to appropriate services. Cooperation is essential to ensure that trafficked children receive appropriate services and that appropriate decisions are taken with regard to their cases. Cooperation is also required if efforts to prevent child trafficking are to be effective.

Coordination and cooperation either require the establishment of a special coordination mechanism at national level or can be based on an existing cooperation mechanism. One argument for establishing a special mechanism for coordinating trafficking cases is the variety and particular mix of organizations with a role to play, e.g., law enforcement authorities, social service authorities, administrative bodies, international organizations, NGOs and civil society organizations.

The same coordination mechanism can be used for cases of both trafficked adults and children. However, trafficked children do have characteristics different from trafficked adults, so the coordination and referral processes must be designed to take the specific needs of children into account.

At national level, coordination is required between different law enforcement services (such as police with specific responsibilities for borders, or police dealing with offences committed by children, police intelligence services and other branches of the police), the immigration service, statutory agencies responsible for child protection (i.e. government organized and financed ones, whether they deal with social welfare issues in general or child welfare in particular) and NGOs involved in anti-trafficking activities or related work concerning children. In the case of agencies belonging to the State, it may be appropriate to ensure coordination at ministerial level or to involve representatives of each of the agencies involved. Part of the coordination process involves ensuring clear lines of coordination, setting up principles and procedures for information exchange and joint actions, and appointing a person in each organization as a 'liaison officer' for others to contact.

It is unlikely to be enough to establish good coordination only at national level, for law enforcement agencies, statutory agencies and NGOs also need local level coordination of both their activities on behalf of individuals who have been trafficked (whether they have been trafficked into the country concerned or repatriated back to their country of origin) and their activities to prevent the trafficking of individual children who are assessed as at risk (of being trafficked).

At local level, the agencies and services involved are likely to include: police, social services or child protection service, education service or schools, and NGOs. The level at which regular communication or coordination should be established is bound to depend on the nature of the cases of trafficking reported to be occurring.

When it comes to coordination between countries, the process is different. It concerns both intelligence-sharing activities, requesting and providing information about individuals who have been trafficked and arranging the return to their own country (or their normal country of residence) of children who have been trafficked abroad and whose safe return can be guaranteed.

### 7.3 Who has responsibility to take action?

The Government is responsible for ensuring the establishment of an efficient referral mechanism for children who have been trafficked.

*The Ministry of the Interior* is responsible for designating 'liaison officers' to liaise in general with social services, child welfare services and the guardianship service, and in particular with the guardian of the child victim. Such liaison officers also liaise with members of relevant law enforcement agencies which come into contact with child victims. It should be clear to a trafficked child's guardian and representatives of all the agencies investigating the child's case or providing care, whom to contact in the Ministry of the Interior (i.e. precisely which liaison officer is responsible for a particular child's case).

*The Ministry of the Interior liaison officer* (along with, where appropriate, legal counsel for the Ministry) is also responsible for representing the Ministry of the Interior at meetings where decisions are made with the other relevant administrative and judicial bodies about which durable solution is appropriate for a child. However, no decision by these bodies to repatriate a child victim to her or his country of origin may be executed without the authority responsible for child welfare being satisfied that this would not place the child in danger or at risk.

Furthermore, all organizations involved in the referral and assistance to children who have been trafficked (social services, other service providers, police, immigration authorities, etc.) should adopt policies and procedures which favour information-sharing and networking between agencies and individuals working with child victims in order to ensure an effective continuum of care and protection for child victims.

The Ministry of the Interior is responsible for assisting in contacts with the corresponding authorities in the child's country of origin, coordinating with and channelling contacts through the Ministry of Foreign Affairs as appropriate. However, in cases where a child requests asylum or gives any indication that she or he is considering requesting asylum, no contact should be initiated with the authorities in the child's country of origin.

As far as coordination and links between countries are concerned, the UN Trafficking Protocol (Article 8) requires the authorities of a country which receives a request for information to verify “without undue or unreasonable delay” whether a child or adult who has been trafficked to another country “is its national or had the right of permanent residence in its territory” at the time they were trafficked.

## 7.4 Who else may take action?

NGOs and civil society organizations which provide services of any sort to children who have been trafficked have a responsibility to coordinate their activities with others, when this is in the best interests of the child. This includes taking part in any referral mechanism established to coordinate actions on behalf of children who have been trafficked. The NGOs involved may be part of national civil society or be international NGOs which focus either specifically on trafficking or on a wider range of child rights or child welfare issues.

## 7.5 Key challenges and examples of good/bad practices

### 7.5.1 A model for ensuring coordination at national level – the National Referral Mechanism recommended by the OSCE

The Organization for Security and Co-operation in Europe (OSCE) has urged governments to set up a National Referral Mechanism to provide coordination,<sup>52</sup> describing this as “a co-operative framework within which participating States fulfil their obligations to protect and promote the human rights of the victims of trafficking in human beings in co-ordination and strategic partnership with civil society and other actors working in this field.”<sup>53</sup>

The OSCE handbook about national referral mechanisms describes their objectives as follows:

The basic aims of a ‘National Referral System’ or NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help improve national policy and procedures on a broad range of victim-related issues such as residence and repatriation regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met.

The structure of an NRM will vary in each country; however, NRMs should be designed to formalise co-operation among government agencies and NGOs dealing with trafficked persons. An NRM usually includes a national co-ordinator, who is often a high-level government official, and a roundtable made up of senior representatives of government agencies and civil society who develop recommendations for national policy and procedures regarding victims of trafficking. NRMs also often include ad hoc working groups that deal with specific issues relating to victims. NRMs are likely to be most effective if they are founded on a formal co-operation agreement among the participants – for example, a memorandum of understanding – that sets out the specific role and duties of each participant.<sup>54</sup>

<sup>52</sup> The OSCE Action Plan to Combat Trafficking in Human Beings (July 2003) proposed the establishment of a ‘National Referral System’ in every State (in section V of the Plan, under article 3 on ‘Protection and assistance’). The Action Plan was endorsed at the December 2003 Maastricht OSCE Ministerial Council meeting (OSCE Ministerial Council Decision No. 2/03, “Combating Trafficking in Human Beings”). Part of the text of the Plan can be found in Annex 2, ‘Selected excerpts from European regional instruments’.

<sup>53</sup> Details of the steps suggested to set up a National Referral Mechanism can be found in a handbook published by the OSCE/ODIHR (Office for Democratic Institutions and Human Rights) in 2004: National Referral Mechanisms. Joining Efforts to protect the Rights of Trafficked Persons. A Practical Handbook. This can be found in English, Russian and Albanian at <http://www.osce.org/odihr/documents.html>

<sup>54</sup> OSCE/ODIHR, op. cit., page 15.

According to the OSCE/ODIHR Handbook, an NRM should incorporate:

- Guidance on how to identify and appropriately treat trafficked persons while respecting their rights and giving them power over decisions that affect their lives;
- A system to refer trafficked persons to specialised agencies offering shelter and protection from physical and psychological harm, as well as support services. Such shelter entails medical, social, and psychological support; legal services; and assistance in acquiring identification documents, as well as the facilitation of voluntary repatriation or resettlement;
- The establishment of appropriate, officially binding mechanisms designed to harmonize victim assistance with investigative and crime-prosecution efforts;
- An institutional anti-trafficking framework of multidisciplinary and cross-sector participation that enables an appropriate response to the complex nature of human trafficking and allows its monitoring and evaluation.

The way to set up co-operation structures among governmental organizations and service providers from civil society is the other central component of an NRM. This cooperation can reconcile what at the outset may appear to be conflicting legal positions (see Annex 3, “Standard Operating Procedures in the UN Administered Province of Kosovo” for an example of a formal agreement that specifies the roles of various government ministries and intergovernmental organizations).

Cooperation among different actors is most effective when there is an exact delineation of their competencies and responsibilities. A comprehensive structure involving differing approaches, goals, and mandates can only be effective over the long term where this structure is clearly defined and accepted by everyone involved.

The OSCE/ODIHR handbook outlines the following steps to establish an NRM:

1. Carry out a comprehensive assessment of the nature and extent of trafficking in the country. This includes an assessment of the relevant laws that are in place (and their adequacy for punishing traffickers, providing protection to victims, compensating them, etc), and an analysis of which individuals and organizations are involved in counter-trafficking work.
2. Set up a coordinating structure, an NRM, or improve existing coordination at the national level up to the standard required by an NRM.
3. Set up a ‘Roundtable for Combating Trafficking in Human Beings’, bringing together all major national actors involved in responding to trafficking (See Box 13).

Establishing an NRM is a dynamic process; all the components do not necessarily have to be in place at once but can be developed in stages. The OSCE/ODIHR handbook identifies five essential ingredients of an NRM. These are:

1. Identification of Presumed Trafficked Persons
2. Basic Principles of Co-operation Agreements
3. Support and Protection Services
4. Repatriation and Social Inclusion
5. Specific Legal Provisions

## Box 13

**A Roundtable for Combating Trafficking in Human Beings – structure and role**

The Roundtable established at national level should include representatives of appropriate federal and/or state ministries, such as Interior, Foreign Affairs, Social Affairs, Labour and Health, as well as any other government offices that have a role in combating trafficking, national and international NGOs, and international organizations.

The Roundtable can be chaired by a National Coordinator, usually a high-ranking national official and representative of a national-level ministry. This position could be responsible for the regular functioning of the roundtable and for convening regular status meetings. The National Coordinator should be able to give sufficient time to this post to carry out the responsibilities (i.e. should not be preoccupied by numerous other responsibilities).

The OSCE/ODIHR Handbook recommends that a formal co-operation agreement – such as a memorandum of understanding – be signed between the government agencies and NGOs most heavily involved in the referral process. Such an agreement will set out clearly the specific responsibilities of each actor (e.g. police, shelter operators, etc.) and make clear how the referral process will work in practice.

While many of the organizations coordinating their activities in the case of trafficked children may be the same as those involved in action concerning adults who are trafficked, organizations which focus on children should be included in a roundtable which is convened with the specific purpose of focusing on children. This can identify procedures for children which need to be different to those designed to meet the needs of adults and can also facilitate the exchange of information about trafficked children.

**7.5.2 Other models for ensuring coordination and cooperation at national level**

Other forms of coordination can be achieved when the government adopts a plan which specifies what actions are to be undertaken, by which organisation(s) and when. A plan can potentially specify what the role and responsibilities of different organizations involved in referrals are expected to be. However, the problem is that, in contrast to a national referral mechanism, a plan does not ensure the pooling or exchange of information about reported patterns of trafficking on an ongoing basis.

Plans have been adopted on overlapping issues: a national plan of action to combat trafficking in human beings; a national plan to combat trafficking in children; a national plan to combat the worst forms of child labour; and a national plan to combat the commercial sexual exploitation of children.

For example, at the request of the National Committee on Combating Trafficking in Human Beings of the Republic of Moldova, in January 2004 the country's Ministry of Health issued a Plan of Action on Combating Trafficking in Children and Illegal Transportation of Children out of the Country. The plan stipulated a series of activities to be carried out during one year and was 'time bound'; that is to say, it set a time-table, indicating by what date specific activities were to be carried out, as well as the ministries or organizations which were to be involved. Although the Plan involved intergovernmental organizations such as UNICEF, the IOM and the OSCE, it was predominantly addressed to government ministries and the immigration service (border guard).

Two European countries have appointed national 'rapporteurs' on trafficking in persons for purposes of sexual exploitation, the Netherlands and Sweden.<sup>55</sup> They do not coordinate action on trafficking in human beings, but report on action already taken.

<sup>55</sup> In pursuit of section III.1.4 ('National Rapporteurs') of the Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (26 April 1997), which called on EU Member States to "Provide or explore the possibilities for the appointment of national rapporteurs, who report to Governments on the scale, the prevention and combating of trafficking in women".

### 7.5.3 Coordination for prevention purposes

In most countries where trafficked children are found, it is likely that some organizations will also be undertaking activities to **prevent** child trafficking. In this case, it is not sufficient just to coordinate protection activities. Coordination is also required between those responsible for protection and those involved in prevention, particularly when prevention activities include action to prevent individual children from being trafficked or re-trafficked.

### 7.5.4 Models for ensuring coordination and cooperation between countries

Bilateral agreements have been adopted by countries in order to agree on procedures to follow with respect to both unaccompanied children and trafficked children. For example, France and Romania adopted a bilateral treaty in 2002, while Albania and Greece adopted one in February 2006.<sup>56</sup> However, the problem is that bilateral agreements potentially take such a long time to draft and agree that the pattern of child migration or trafficking which it is intended to address may have changed by the time it comes into effect. To help address this, in one region of the world UNICEF has prepared a Model Bilateral Agreement On Cooperation And Mutual Legal Assistance In Protecting Children From Trans-Border Trafficking.<sup>57</sup>

Regional inter-governmental organizations have the potential to facilitate coordination and cooperation between countries. A group of experts on trafficking in human beings, convened by the European Commission, recommended the establishment of a European Anti-Trafficking Network to facilitate co-operation, contacts and exchange of information and experience between all involved agencies and stakeholders of EU Member States – governmental and non-governmental.<sup>58</sup> No such network has yet been set up.

### 7.5.5 Ensuring the confidentiality of personal data which is shared with others

The previous chapter mentioned the importance of respecting a child's right to privacy and ensuring information remains confidential (Chapter 6, section 6.5.2). As coordination between different organizations may include sharing information about individual children who are considered to be at risk of being trafficked, as well as information about others who have already been trafficked and general intelligence about patterns of trafficking, it is important that appropriate regulations should be adopted and implemented to protect personal data. It is important to protect personal information about a trafficked child both in her or his country of origin and in the country to which the child has been trafficked.

In order to minimize the risk that personal information is used inappropriately, it should not be reproduced or shared unnecessarily.

Both the EU and other inter-governmental organizations have adopted standards concerning data protection. For example, Article 8 of the Charter of Fundamental Rights of the European Union on 'Protection of personal data' stipulates that:

- Everyone has the right to the protection of personal data concerning them.
- Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.<sup>59</sup>

<sup>56</sup> For full text of the bilateral agreement between Albania and Greece, see Annex 4.

<sup>57</sup> UNICEF Regional Office West and Central Africa, August 2004.

<sup>58</sup> European Commission Directorate-General Justice, Freedom and Security, Report of the Experts Group on Trafficking in Human Beings, Brussels, 22 December 2004, page 74. The Report is found at: [http://europa.eu.int/comm/justice\\_home/doc\\_centre/crime/trafficking/doc/report\\_expert\\_group\\_1204\\_en.pdf](http://europa.eu.int/comm/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1204_en.pdf)

<sup>59</sup> The EU Charter of Fundamental Rights is found at: [http://www.europarl.eu.int/charter/default\\_en.htm](http://www.europarl.eu.int/charter/default_en.htm)