

Majorie Kaandorp and Mirjam Blaak

Child Trafficking in the Netherlands

Combating child trafficking
and protecting child victims
in the Netherlands

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Summary

This report is an update of the report *Investigating Exploitation, Research into trafficking in children in the Netherlands* by Defence for Children-ECPAT Netherlands and UNICEF Netherlands, which was published in 2005. It provides a picture of the current state of affairs concerning the combat of child trafficking and the protection of child victims in the Netherlands in 2013.

International standards

An important guiding principle in the fight against trafficking in minors and the protection of victims, are the provisions stipulated in the UN Convention on the Rights of the Child (the CRC), and the correlating Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The Palermo Protocol which is part of the UN Convention against Transnational Organized Crime, the Council of Europe Trafficking Convention and the EU Directive on preventing and combating trafficking in human beings and protecting its victims, together provide legal frameworks for combating human trafficking. The Netherlands has committed itself to these regulations.

Scope of child trafficking worldwide and in the Netherlands.

Almost every country in the world has to do with trafficking in human beings, either as country of origin, destination or transit country. Domestic trafficking in human beings also occurs. Worldwide, between 2007 and 2010, 27 percent of the registered victims of human trafficking appeared to be children. In the Netherlands trafficking in children also occurs. Although since 2005 there has been much improvement in the field of signalling, still not all cases of trafficking in children are reported. Moreover, the registration figures for identified victims are not complete. The coordination centre for trafficking in human beings, CoMensha, registers child victims, but it depends on reports of investigative services and care organizations. The latter group has no obligation to notify and its reports are incomplete. There is therefore no view on the full extent of child trafficking in the Netherlands. It is clear that the number of registered child victims is increasing: from 104 victims in 2006 to 223 victims in 2012.

Exploitation of children in the Netherlands

In the Netherlands, there is both domestic trafficking, of which mainly Dutch minors are victims, as well as cross-border trafficking involving foreign minors being trafficked to the Netherlands. The following forms of exploitation occur in the Netherlands:

- Exploitation of Dutch girls through the loverboy method for sexual (prostitution), financial and/or criminal purposes (sign telephone contracts, fraud with debit and credit cards, and encouraging other criminal activities);
- Exploitation of foreign girls in prostitution;
- Child pornography;
- Economic exploitation;
- Exploitation in domestic services;
- Deployment of minors in crime.

Combating human trafficking and the protection of child victims in the Netherlands

Since 2005, the Netherlands has invested in improving the investigation and prosecution of

human trafficking and has been working on enhancing cooperation between stakeholders. Presently however, it appears that in these developments the protection of the (child) victims has received less attention. The Dutch approach to human trafficking shows limited attention to the special situation of child victims.

In recent years, various parties, including the National Rapporteur, have expressed their concerns about the reception and assistance to child victims of trafficking. Child victims end up in various care institutions, most of which are not specialized in the care of these victims. There is no adequate provision of expert assistance to child victims of trafficking. This applies to all groups of victims. Moreover, there is little research on what works and what does not.

To obtain a residence permit specially for victims of cross-border trafficking (the B9 regulation¹), the victim must cooperate in the criminal investigation by reporting to the police or making a statement. If the police and the Public Prosecution Service decide not to pursue the criminal investigation, the special residence permit will be withdrawn and the specific relief and assistance to the victim will stop. For child victims, this means protection becomes very uncertain. In exceptional cases, victims do not have to report and they still get a temporary residence permit. This is rare. Only few child victims make use of the B9 regulation but instead apply for an asylum residence permit. Care and assistance to the victim and detection of the perpetrator(s) do not benefit from this.

Combating human trafficking has become a priority, which is most evident in the increase of the penalty. The number of registered child victims is increasing, but the number of cases with an underage victim at the Public Prosecution Service (PPS) has not significantly increased in recent years. In 2006, the PPS recorded 25 cases and 38 cases in 2010. The current situation shows that allocating sufficient capacity (specialized staff and financial resources) to detection remains a problem. Among child victims, willingness to report is low, making investigation and prosecution difficult.

During criminal proceedings, police, Public Prosecutor and care and assistance organizations have the additional task of protecting the child victims. The need of special attention is laid down in various instructions and directives, but in practice, it is still not adequately reflected.

Conclusion and recommendations

Combating human trafficking has priority for the Dutch government, but its human trafficking policy does not specifically take into account the interests and needs of child victims.

In summary, there are four basic points of the Dutch policy regarding the trafficking of children that need improvement:

- Policy on prevention;
- Reporting and registering of child victims;
- Shelter and assistance to child victims;
- Protection of child victims during investigation and prosecution.

This study contains more than thirty recommendations, which can be summarized by the following five key recommendations:

- Provide a policy on prevention with specific attention to the position of child (potential) victims of trafficking. Focus on both domestic and cross-border trafficking in human beings;
- Ensure that child victims of trafficking are in the picture. Reporting and registering of child

¹ As from 1 June 2013 B9 will be renumbered to B8/3.

victims should be well organized;

- Make sure that care and assistance to child victims of cross-border trafficking is not dependent on their cooperation with the criminal investigation and on whether or not they obtain a (temporary) residence permit;
- Provide adequate shelter for all child victims of trafficking and ensure specialized care that works;
- Develop special procedures for law enforcement to protect child victims during the investigation and prosecution and provide sufficient capacity.

Preface

Trafficking of children exists in the Netherlands, but is not easy to detect. Much is still unknown about child trafficking. Exact figures on the extent are not available, nor do we know enough about the background of perpetrators and the situation of its victims. What is clear, however, is that all fundamental rights of children who are trafficked and exploited are violated. UNICEF Netherlands and Defence for Children-ECPAT Netherlands, who both base their work on the UN Convention on the Rights of the Child, have decided for the third time to join hands to investigate the trafficking of children in the Netherlands as well as the protection of child victims.

In 2004 and 2005 UNICEF Netherlands and Defence for Children-ECPAT first published an exploratory and later on an extensive research into the trafficking of children in the Netherlands. The third study, that lies in front of you now, gives a picture of the present state of affairs with regard to combating child trafficking and the protection of child victims in the Netherlands. This study is an update of the two previous studies.

In recent years, a lot has happened in the fight against human trafficking. It has become possible to impose higher sentences and several partnerships were created to prevent and combat human trafficking. Also, a considerable number of reports and studies have been published. However, the position of child victims remains underexposed. To be trafficked and exploited is a degrading and terrible experience for all human trafficking victims. For children this is even more true. Because of their minority and their dependence on others, children are more vulnerable to becoming victims of trafficking and exploitation. Trafficking of children is a gross violation of the rights of the child. Therefore, children who are victims of trafficking, or who are at risk of becoming a victim deserve our attention.

The provisions of the UN Children's Rights Convention, by which the Netherlands knows itself bound, must be central to addressing child trafficking and the protection of child victims. The EU Directive on Human Trafficking, which will be reflected in legislation and policy in the Netherlands in 2013, involves obligations for the protection of victims of trafficking. The most notable provision indicates that help and support to a victim should not depend on her or his willingness to cooperate in the criminal investigation into the perpetrators. In its policy, the Netherlands will constantly have to bear this Directive in mind.

This research would not have been possible without the help of many organizations and experts who are committed to combating human trafficking and the protection of child victims in the Netherlands. Many thanks.

Majorie Kaandorp
Mirjam Blaak

1 Introduction

On October 15, 2012 the Arnhem court sentenced two men to prison sentences of three and a half years for human trafficking. Their victim was a fourteen year old girl with a mild intellectual disability who had run away from the institution where she was placed by the Council for Child Protection. The girl had come into contact with these men and they had forced her into prostitution. The men managed to keep hold of the girl for at least two weeks. The events took place in February and March 2010.²

On October 21, 2011 the Haarlem court sentenced a man to two years and two months' imprisonment for trafficking. His victims were two Romanian girls of fifteen and seventeen years old. In the summer of 2004 the girls were picked up at a gas station in Germany and brought to the Netherlands in a van by a Dutchman and a Romanian. The girls thought they were going to do cleaning work. They gave their passports to the driver of the van. In the Netherlands, they soon found out that they had to work as prostitutes. The girls resisted and were threatened and abused. With the use of violence they were forced to have sex with the two men, so as to learn how they could serve customers. For the fifteen year old girl it was the first time that she had sex³.

Child trafficking is lucrative and it often is linked to criminal activities and corruption. It takes place in secret and is difficult to tackle. Child trafficking is a crime and above all a very serious violation of the rights of the child. Children have the right to grow up in a safe family environment. Contrary to this, victims of child trafficking are faced with danger and violence.

1.1 Understanding exploitation

In 2004, Defence for Children-ECPAT Netherlands in cooperation with UNICEF Netherlands did a first exploratory analysis of the phenomenon of child trafficking in the Netherlands⁴. Then, in 2005, UNICEF Netherlands together with Defence for Children-ECPAT Netherlands and Plan Nederland conducted a comprehensive study on child trafficking in the Netherlands. Especially this second study gives a clear picture of child trafficking in the Netherlands at that time.⁵ For this research, a database was set up with details of 230 victims over the period 2003-2005. Conclusion of the study was that the fight against trafficking and in particular that of trafficking of children in practice was not given the priority it deserved. Attention to trafficking of children was deficient in all phases of the approach: prevention, identification, protection, detection, prosecution, care, support and guidance in returning to the country of origin.

This report is an update of the 2005 report, but it does not attempt to describe the extent of child trafficking in the Netherlands, as was the case in the 2005 study. UNICEF Netherlands and Defence for Children-ECPAT Netherlands with this report aim to provide a picture of the present state of affairs concerning combating child trafficking and the protection of child victims in the Netherlands.

² LJN: BY0081.

³ LJN: BU5455.

⁴ UNICEF Nederland in collaboration with ECPAT Nederland (2004).

⁵ Borne, A . van den & Kloosterboer, K. (2005).

1.2 Research questions

This report addresses the following questions:

- What developments have taken place legally, politically and in the field of policy and practice after 2005?
- Does current Dutch legislation, its policy and practice meet international standards and provisions for addressing the trafficking of children?

1.3 Definitions

In this report the following definitions will be used:

Child

A child is a person under the age of eighteen. In this report the terms child, youth and minor will be used interchangeably. Unless indicated otherwise these terms in this report have the same meaning.

Trafficking of children and child trafficking:

In Dutch law, trafficking in children is defined as: *'the recruiting, transportation, harbouring, or subsequent reception of a person with an aim to exploit a person or make their organs available for remuneration, when that person has not yet reached the age of eighteen years. Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory work or services, slavery, slavery-like practice or servitude'* (article 273f of the Dutch Criminal Code, *the Wetboek van Strafrecht*, or WvSr). In this report the terms trafficking of children and child trafficking will be used interchangeably.

1.4 Research methods

This report consists of a desk research carried out by UNICEF Netherlands, supplemented by interviews with experts and a case study conducted by Defence for Children-ECPAT Netherlands.

Desk research

Through desk research we studied the current developments in the field of child trafficking in the Netherlands as well as Dutch and international legislation on human trafficking. Mainly, we made use of sources from after 2005, including research and policy reports on child and human trafficking in the Netherlands. For this study, information and reports were gathered from the Bureau of the National Rapporteur on Trafficking in Human Beings (BNRM), the national coordination center for human trafficking (CoMensha), Defence for Children - ECPAT Netherlands, UNICEF, the United Nations Office on Drugs and Crime (UNODC) and the European Commission (EU). Mid-2012, in the framework of the international project GATE (Guardians against Child Trafficking and Exploitation), Defence for Children completed an investigation into the role of guardians in the protection of child victims of trafficking. Interviews were conducted with several guardians who work for guardianship institution Nidos, with mentors of unaccompanied minor foreigners (amv's) and with young people themselves. The information collected for the GATE research, has also been used for this study into child trafficking.

The desk research is supplemented by information obtained from interviews with key figures in the field. Interviews were conducted with CoMensha, Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, (Youth Care) institutions, Protected Shelter, Nidos, Legal Profession, Public Prosecution Service (PPS or Dutch OM) and police.

Case study

In addition to desk research and additional interviews with key persons from the field, Defence for Children - ECPAT performed a case study. More than thirty cases were collected from in-depth interviews with employees of CoMensha and various (youth care) institutions that provide care for child victims of trafficking. They described specific experiences of a number of trafficked minors with whom they had come into contact. One particular case is recorded after a victim of child trafficking herself wrote down what happened to her. Ultimately, fifteen cases proved to contain sufficient basis to be developed further, which was done in close consultation with victims and institutions. A selection of these cases ended up as a case study in the report. To ultimately use a case in this report permission was asked from the victim concerned and from the institution or the social worker whose case was obtained. All case studies are made anonymous. If nevertheless, the case study could be traced back to the victim, it was not used.

Through this case study insight has been gained, both in the current forms of child trafficking in the Netherlands, as in the bottlenecks in combating child trafficking and in its significance for the children concerned. The case studies make clear that trafficking in children also occurs in the Netherlands and illustrate that the situation of child victims in many cases is distressing and a serious violation of the rights of the child.

1.5 The content of this report

This report begins with an overview of international laws and regulations on combating child trafficking for the areas of prevention, protection, detection and prosecution and cooperation. Subsequent chapters describe current Dutch legislation, policy and practice in the field of child trafficking. Each chapter provides an overview of the developments that have taken place in the relevant area, since 2005, legally, politically and on policy level and its obstacles. The last chapter contains conclusions, issues of concern and recommendations for improvement of the Dutch policy on child trafficking.

1.6 Accountability

It is difficult to get a picture of human trafficking (including trafficking of children). Traffickers respond quickly to new developments in countries of origin, transit and destination (such as regulations and border controls), making it difficult to get a current picture of the problem. Trafficking also takes place in illegal spheres and the victims are afraid of the consequences if they go to official authorities.

Internationally as well as at European and Dutch level, more is known about adult victims of trafficking than about the trafficking of children. It is often difficult to distinguish between adult and child victims. Throughout the research we have tried as much as possible to indicate whether the information applied to all victims of human trafficking or to minors only. In some cases no specific information on child trafficking existed, then we did supply only information about human trafficking in general. Although this information cannot automatically be applied to the situation of children, it does provide insight into the state of affairs of child trafficking in the Netherlands and how it is tackled.

Another point that should be considered when one reads this report or any other report on child trafficking in the Netherlands, is the fact that until January 1, 2005, solely exploitation

in prostitution was punishable in the Netherlands. Only then, exploitation in other sectors and organ trafficking became punishable (in line with the international conventions). This means that for a long time emphasis has been on exploitation in prostitution and therefore a lot of much information only relates to this. For a long period prostitution victims were the only victims registered.

This report is based on information and data known to official sources. Mainly, we have used existing reports, when necessary, additional information was requested from agencies involved in combating human trafficking. The report as it stands is a report of the findings on child trafficking. It does not pretend to give a complete picture.

2 International legal framework to protect children against human trafficking

2.1 Introduction

After drug and arms trafficking, human trafficking is the largest and fastest growing form of crime in the world. Traffickers make together about 32 billion dollars annually.⁶ Estimates of the number of victims, as reported by different organizations vary widely. The International Labour Organisation (ILO) said in 2012 that at any time between 2002 and 2011 around 20.9 million people worldwide were victims of forced labour.⁷ Among them were 5.5 million children. According to the ILO, this is a conservative estimate. The United Nations Office on Drugs and Crime (UNODC) holds the number at 2.4 million registered victims of human trafficking.

Exact figures are difficult to obtain because human trafficking is a hidden phenomenon and in many countries the identification and registration of victims is not in order. Almost every country in the world has to do with human trafficking, either as country of origin or as destination or transit country. Victims of human trafficking may be from abroad or from the Netherlands itself. Victims are mostly exploited in prostitution, but this is not the only sector where exploitation takes place. The majority of the victims are adult and woman. Children come in second place, followed by men.

Worldwide, the number of child victims appears to be increasing in recent years.⁸ Research by UNODC shows that worldwide 27 percent of all registered victims of trafficking are children in the period 2007-2010. Most victims are girls. Specifically for Europe, sixteen percent are children. Since 2005, focus on human trafficking and child trafficking has increased greatly, nationally and internationally. From the UN, UNODC, the EU and the Council of Europe since then came a large amount of treaties, guidelines and action plans to ensure a targeted approach to human and child trafficking.

The fight against human trafficking requires a comprehensive package of legislation and policy measurements and stands or falls with the actual implementation. Internationally, convictions tend increasingly towards implementation that is based on international human rights standards.⁹ Consequently, this means that the rights and protection of victims should be central to policy development.

This chapter deals with the international and European legal framework in the field of child trafficking. An overview of the various provisions has been included in Appendix 1. The UN CRC (CRC, 1989) and the Optional Protocol on the sale of children, child prostitution and child pornography (OP-34, 2000) are important guidelines for combating trafficking in minors

⁶ www.unodc.org Speech Yuri Fedotov Executive Director UNODC, 3 April 2012.

⁷ International Labour Organization (2012), p 13 in the *EU strategy towards Eradiction of Trafficking of Human Beings 2012-2016*. ILO regards human trafficking as forced labour. So this figure includes the number of victims of human trafficking as well as of sexual exploitation. This figure consists of the estimated number of victims registered and a *dark number*. For detailed information on the calculation method used by ILO, see: Nationaal Rapporteur Mensenhandel (2012), *Mensenhandel in en uit beeld*, pp 36-37

⁸ United Nations Office on Drugs and Crime (2012), p. 10

⁹ Dottridge, M. (2007), p. 14

and protection of victims. These are discussed first. Then follows a list of other treaties and guidelines and the definition of child and human trafficking will be discussed. The next sections describe what has been included in the international regulations and in the various guidelines about:

- The prevention of human trafficking and child trafficking (section 2.5).
- The protection of child victims (Section 2.6).
- The investigation and prosecution of offenders and in particular the role of child victims and witnesses in such proceedings (section 2.7).
- Cooperation (section 2.8).

2.2 UN Convention on the Rights of the Child (CRC)

Combating child trafficking and exploitation and the reception and care of child victims should be guided by the four basic principles that derive from the UN CRC:

- No child shall be discriminated against (Article 2 CRC);
- All actions concerning children, should be taken in the best interest of the child (Article 3 CRC);
- Every child has the right to life and development (Article 6 CRC);
- Participation of children is paramount (Article 12 CRC).

Child trafficking and exploitation are specifically named in the CRC. Article 35 CRC obliges states that are party to the Convention to take measures to prevent abduction, sale or trafficking of children. Subsequently, a number of articles included in the CRC protect children against specific forms of exploitation. Article 32 prohibits economic exploitation, Article 34 prohibits sexual exploitation and Article 36 prohibits all other forms of exploitation. Article 39 obliges Member States to arrange special care for children who are victims of exploitation.

In 2000, two optional protocols were added to the CRC. The first is the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The second is the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Both protocols have been ratified by the Netherlands. These protocols work out the protection of children against sexual exploitation and sale and in armed conflicts in further detail. Also, the protocols provide a definition of the sale of children, child prostitution, child pornography and the exploitation of child soldiers and include provisions to protect children against trafficking and exploitation.

2.3 Other legal instruments to combat child trafficking

The past few years, in addition to the CRC and its Optional Protocols, other important measures have been taken to combat human trafficking. In these legal instruments combating child trafficking and care for the victims is outlined further. The treaties describe general provisions that also apply to trafficking in children. Some contain specific provisions for child victims. The Netherlands is bound to most of these treaties.

It involves the following international legal instruments:

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol, 2000);
- The Council of Europe Convention against trafficking in human beings (European Trafficking Convention, 2005);

- The Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention, 2007);
- International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the worst forms of child labour (ILO Convention 182, 1999).

The Netherlands has not (yet) ratified the ILO Convention 189 to protect domestic workers (Convention on Domestic Workers). This convention is important because children who have household jobs are difficult to track, although they often are victims of abuse and exploitation. The Convention provides protection to working children and specially emphasizes the rights of these children to education.

The United Nations has a Special Rapporteur on the sale of children, child prostitution and child pornography, as well as a Special Rapporteur on human trafficking. There is also a Special Representative on Violence against Children who reports to the Secretary General of the UN. The special rapporteurs and representative write reports on the trafficking and exploitation of children. In 2010, the *United Nations Global Plan of Action to Combat Trafficking in Persons* was published.

In addition to the global and European treaties, the European Union (EU) established a number of directives. The Netherlands, as a Member State of the European Union, is bound to adapt national law in accordance with these directives within the specified implementation period:

- Directive on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Directive human trafficking 2011/36/EU - 2011, implementation deadline passed on April 6, 2013);¹⁰
- Directive on combating sexual abuse, sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (Directive 2011/92/EU - 2011, implementation deadline expires on December 18, 2013);
- Directive on temporary residence permits for victims of trafficking who cooperate with authorities (Directive 2004/81/EC right of residence victims of human trafficking - 2004);
- Directive laying down minimum standards for the reception of asylum seekers (Reception Directive 2003/9/EC - 2003);
- Directive on common standards and procedures in Member States for returning subjects of a third country illegally staying on their territory (Return Directive 2008/115/EC - 2008).

In addition, on 19 June 2012, the European Union adopted the *EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016*.

'The implementation of the EU legislation is crucial to better protect those who are exposed to trafficking and especially children, who are more vulnerable than adults and therefore at greater risk of becoming victims. It is urgent that each EU country implements the new EU trafficking legislation, and prioritises investigations and legal action against these crimes.'

Cecilia Malmström, EU Commissioner for Home Affairs

¹⁰ Implementation by the Netherlands, see Staatscourant nr. 13358, 3 July 2012; *Implementatie van de richtlijn 2011/36/EU van het Europees parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/BZ van de Raad.*

2.4 Defining human trafficking

Internationally, the most accepted definition of human trafficking is described in Article 3 of the Protocol to Prevent, Suppress and Punish the Trafficking in Persons, especially Women and Children (2000 - Palermo Protocol):

"[...] the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, or fraud, deception, abuse of power or abuse of a position of vulnerability or of giving or receiving of payments or benefits to achieve consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. "

It is a matter of child trafficking when it concerns a person under 18 years of age. In child trafficking there need not be the occurrence of threats or coercion. The fact that there is recruitment, transportation, transfer, coupled with the purpose of exploitation is sufficient.¹¹

The concept of exploitation

The Palermo Protocol is ratified by nearly two-thirds of the countries in the world, including the Netherlands. However, there are large differences between countries in how they interpret and apply the definition of human trafficking.¹² The protocol does not define exactly what is meant by exploitation and particularly exploitation in sectors other than the sex industry. The term "victim of trafficking" is therefore not further defined. If it is not exactly clear who the victim is of human trafficking, it becomes difficult to determine what kind of assistance and care the victim needs. How a child got in a situation of exploitation (the presence or absence of factors such as recruitment, transportation, transfer, harbouring or receipt) is less important for the care of the victim, then the question what kind of exploitation took place, exactly, what effect this has (had) on the child and what the child's needs are at this time. The protocol focuses on defining human trafficking as a crime. It is therefore useful in the prosecution and punishment of perpetrators. As a tool to provide structure to the protection of victims, it is less useful.¹³

Definition human trafficking and exploitation in European legislation

In 2008 the first European treaty in the field of human trafficking came into operation: the Council of Europe Convention against human trafficking. This Convention uses the same definition as the Palermo Protocol. The European Convention pays special attention to the position of minors.

The EU Directive to prevent and combat trafficking in human beings and to protect its victims (April 2011) provides a broad definition of human trafficking. For instance, the definition includes other forms of exploitation, such as forced begging and being forced into criminal activities such as pick pocketing, shoplifting, drug trafficking and related offences which imply financial gain. According to the directives '....other behaviour such as illegal

¹¹ Article 3 (c) and (d) of the Palermo Protocol.

¹² UNICEF (2012). Technical Note on terms and Concepts around Trafficking in Persons and Children in Migration.

¹³ UNICEF Innocent Research Centre (2011), pp. 5-9.

adoption or forced marriage, to the extent that these include constitutive elements of trafficking', also are a form of exploitation.¹⁴

Sexual exploitation is specifically defined in various European regulations. An important convention was established on 25 October 2007 in Lanzarote, the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse. It stipulates in articles 19-23 a number of specific behaviours as a criminal offence and defines them clearly. They include sexual abuse, child prostitution, child pornography, corruption of children and grooming.

Economic exploitation

Economic exploitation of minors is further specified in ILO Convention 182. Article 3 paragraph b ILO 182 calls all forms of slavery or practices similar to slavery, such as the sale of children and child trafficking, as one of the worst forms of child labour.

Sale of children

In international law, a distinction is made between the sale of children and child trafficking. Article 35 of the UN CRC speaks of sale and trafficking of children. The Optional Protocol to the UN CRC is about the sale of children, child prostitution and child pornography. There is a Special Rapporteur who reports on the sale of children, but also a Special Rapporteur who reports on human trafficking, including child trafficking.

In national laws and regulations, governments often do not distinguish between the sale of children and child trafficking.¹⁵ Many governments have banned child trafficking, but not the sale of children. According to the Special Rapporteur on the sale of children, child prostitution and child pornography, we should distinguish child trafficking from the sale of children, but also realise there is lot of overlap between the two concepts. Selling children involves the transfer of a child for a fee. The intention of exploiting the child does not have to be present. However, with child trafficking this is the case, according to the definition in the Palermo Protocol. Children can be traded without being sold. On the other hand, children can be sold at various times during the trafficking process, for example by their parents or guardians to a trafficker, or by the trafficker to the final 'buyer'.¹⁶

Both the sale of children and child trafficking is a crime. Important is, according to the Special Rapporteur, how the government ensures that children be protected from these crimes and whether the prosecution of the perpetrators is conducted appropriately, in accordance with international laws and regulations.¹⁷

2.5 Prevention of human trafficking and child trafficking

Prevention is an important part of the fight against human trafficking. Prevention includes education, awareness, empowerment of potential victims of trafficking, but also acquiring knowledge about the phenomenon of human trafficking, such as research on the perpetrators and the 'users'.

¹⁴ Directive 2011/36/EU of European Parliament and the Council on preventing and combating trafficking in human beings and protecting its victims, 5 April 2011 and replacing Council Framework Decision 2002/629/JHA

¹⁵ UNICEF Innocenti Research Centre (2009), p. 9.

¹⁶ Ditto, p.10

¹⁷ UN Document A/65/221, pp. 6-9.

International and European legislation on trafficking indicate what preventive measures should be taken by the government.¹⁸ Important starting points are that the country of origin as well as transit and destination countries take preventive measures, that information is provided to a wide audience, but at the same time special attention is paid to specific vulnerable groups who may become victims, such as children.

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 considers taking preventive measures and improving them as one of the five priorities. Important activities include research into the demand for exploitation and human trafficking (no supply without demand), collaboration with the industry to eliminate the demand for human trafficking in the manufacturing chain and research into which preventive activities may or may not work. Through the EU Strategy, the European Commission provides support, but above all guidance to national authorities on measures to be taken in the area of prevention.

The international legal framework includes (among others) the following key points:

- Governments provide a prevention policy that addresses the root causes of human trafficking;
- Public awareness campaigns on child trafficking and sexual exploitation;
- Schools pay attention to the subject of child trafficking and sexual exploitation;
- Minors are involved in the development of preventive programs;
- Special focus on vulnerable groups that may become victims, such as minors;
- Professionals should have expert knowledge of child trafficking.

2.6 Protection of child victims

Protection should come first for victims of human trafficking. It includes both safe shelter and appropriate care. In August 2006, UNICEF published guidelines on the protection of child victims of trafficking.¹⁹ These guidelines apply (among others) to the identification and registration of victims, to appointing a guardian, to the right of residence, to care and finding a sustainable solution for the child victim. These guidelines were then processed into international and European laws and regulations and result in various provisions on the protection of victims of trafficking. A detailed overview of these provisions is given in Appendix 1 of this report.

A child victim should first and foremost be treated as a child, only thereafter as a victim of human trafficking. This follows from the UN CRC which states that a child always has the right to special protection and care on account of its being a child, and not just on the basis of a recognized status as a victim of human trafficking. According to the UN CRC, all children who are victims of exploitation, regardless of the context in which the exploitation took place, have the same rights of protection and care. This is also reflected in the European Convention on Action against trafficking in human beings, which also provides potential victims the right to shelter and assistance, hereby meaning people whom authorities on reasonable grounds believe they are victims of trafficking.²⁰ This should be an important guiding principle in the reception and care of child victims.

¹⁸ For a list of provisions of European laws and regulations, see Appendix 1.

¹⁹ UNICEF (2006). *Guidelines on the protection of child victims of trafficking*.

²⁰ Article 10, Council of Europe Convention on Action Against Trafficking in Human Beings (2005).

Another important guideline follows from Article 4 of the European Convention on Human Rights. This article prohibits slavery and forced labour. In 2005, the European Court of Human Rights (ECHR) ruled for a country in which a person is a victim of trafficking on the basis of this Article, to be obliged to protect victims against the acts that led to human trafficking.²¹

According to international regulations and guidelines, the protection of child victims should in any case meet the following conditions:²²

- Help and support is available immediately as a victim is detected. This help is available before, during and after criminal proceedings, for an appropriate period;
- Help and support is also readily available to persons of whom authorities assume on reasonable grounds that they may be victims of trafficking;
- When the age of a victim of trafficking is uncertain and there are reasons to believe that it is a child, the victim should be regarded as a child and receive immediate access to assistance, support and protection;
- The assistance and support to child victims is tailored to the individual situation and is aimed at a sustainable solution;
- Unaccompanied underage victims will have a guardian or other authority assigned to act in the best interest of the child;
- There are interpreters and translators available;
- Help and support does not depend on the willingness of the victim to cooperate in the criminal investigation, prosecution or trial;
- A residence permit for child victims will be issued in accordance with the best interest of the child and shall be extended under the same conditions;
- Child victims will be prepared for their return to society and adequate care in the country of origin will be ensured;
- A child victim will not be sent back, if there are indications, after a risk- and safety assessment, that return is not in the interest of the child;
- People who work with child victims of sexual exploitation and child trafficking receive specialized training;
- Child victims have access to education.

2.7 Investigation and prosecution

International and European legislation on human trafficking and exploitation contains extensive chapters with instructions for substantive criminal law (punishment, aggravating circumstances, jurisdiction and international cooperation in tracing), protection of witnesses and victims and procedural instructions. This research focuses on the child victims of human trafficking. Therefore this section is limited to the position of child victims of trafficking in relation to detection and prosecution of the perpetrator(s).

The *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*, published in 2005, describe the rights of child victims and witnesses in the criminal justice system. These rights also apply to children who are victims of trafficking and

²¹ EHRM, 26 July 2005, Siliadin against France. This case was about a 15-year-old Togolese girl that had come to work with a couple, Mr. and Mrs. D. in Paris. The couple took away her passport and had her work against her will and without payment for years.

²² For a complete list of provisions of international and European legislation, see Appendix 1

exploitation.²³ The Guidelines call for criminal proceedings involving minors, to create a child-friendly environment, for example by limiting the number of interviews, by using special child-friendly interview rooms and the possibility to capture on film the statements of children, so that they no longer have to be physically present in court for witness examination.

In 2010 the Council of Europe published *Guidelines on child friendly justice*, which provides guidelines for the position of children within the justice system. Legal systems are child friendly if legal procedures are accessible to children and adapted to the age, development and the needs of the child.

Other treaties, directives and the Optional Protocol on the sale of children, child prostitution and child pornography as well contain guidelines on how to protect underage victims of trafficking during criminal investigation and procedure. An important principle is that trafficked persons are not prosecuted for a crime they committed as a result of the fact that they were traded (non-punishment principle).²⁴ This applies to situations in which (child) victims illegally enter the country, have no residence permit and were illegally employed or situations in which victims are forced to commit crimes such as drug trafficking. Appendix 1 contains the main stipulations of international law.

In accordance with international law and guidelines, the following points should be central to the investigation and prosecution of human trafficking cases concerning child victims:

- Human trafficking is punishable by law and penalties will be imposed;
- Human trafficking concerning child victims means an aggravating circumstance in criminal procedure;
- If there is uncertainty about the minority of a victim, minority will initially be assumed;
- During criminal proceedings the vulnerability, special needs and rights of child victims shall be taken into account;
- Child victims are informed of their rights, role, scope, schedule, progress of the process, options for appeal and compensation by the offender(s);
- Child victims are allowed to express their views;
- Procedures are quick;
- Child victims and their families are protected from intimidation and retaliation;
- The identity and privacy of the child victim shall be protected;
- Child victims are entitled to free legal aid;
- The court may decide to hold the criminal case behind closed doors;
- A child victim may be heard without being present in the courtroom;
- Hearing of child victims is done in a room specially equipped for this purpose;
- Hearing of child victims happens every time by the same specially trained professionals;
- The number of interviews is limited;
- The victim may be assisted during questioning by a legal representative or other person of their choice;
- Each hearing shall be recorded on video that can serve as evidence in the trial.

²³ United Nations Economic and Social Council (2005)

²⁴ Article 26 among others, Council of Europe Convention on Action Against Trafficking in Human Beings (2005).

2.8 Cooperation

International regulations and guidelines stipulate that cooperation between and within countries is of great importance for the prevention and combat of human trafficking. Collaboration is important in all aspects of human trafficking policy: prevention, protection, detection and prosecution.

The Palermo Protocol of 2000, among other things, aims to promote cooperation between countries in the fight against human trafficking and the protection and support of its victims. For instance, by looking for joint measures to eliminate certain factors that make people an easy victim for human trafficking. Think of the fight against underdevelopment, poverty and inequality.

International and European laws and regulations include the following key provisions:

- Tackling child trafficking at local and national level requires a coordinated multidisciplinary approach;
- Countries work together to protect, prevent and combat trafficking and to help its victims. Countries also cooperate in the prosecution or criminal proceedings;
- The government is working with other organizations of civil society to establish information and awareness campaigns and programs for training and research.

2.9 Conclusion

Worldwide, human trafficking is a fast-growing sector of crime. According to the UNODC, more than a quarter of the registered victims of trafficking is underage. At an international and European level, several treaties, guidelines and action plans have been designed to combat human trafficking. International and European legislation indicate that the position of child victims must receive special attention.

In the following chapters, Dutch policy on human trafficking and child trafficking is described and subsequently indicated whether or not it may be in conflict with international norms and standards.

3 Trafficking in children in the Netherlands: definition, various forms of exploitation and statistics

In 2006, two young women, including a sixteen year old girl, were approached by a man who showed interest in them, in a club in Lithuania. He asked the women to go with him to the Netherlands and offered them a job in a bar. The man paid the parents of the underage girl a sum of money. Then they left in the car, through Poland, to the Netherlands. Along the way an accomplice of the man took the girls' passports. The adult girl managed to escape in Poland, after it had become clear what the real purpose was of the trip to the Netherlands: to have them working in prostitution. The underage girl did not realize this until they had arrived in the Netherlands. She did not dare to flee. In the Netherlands the girl was told by the man and his accomplice that she had to work for them until her travel expenses were reimbursed. She then worked in prostitution in the Netherlands for several weeks. She gave the man all the money she earned. The girl lived in the house of the man and was completely dependent on him. She did not speak Dutch and did not know where she was.²⁵

3.1 Introduction

Due to the often cross-border aspect of human trafficking and the fact that many victims are foreign persons staying in the Netherlands without a valid residence permit, immigration law and policy play a major role in the fight against human trafficking and the reception of (potential) victims. This is reflected in Chapter B9 of the Aliens Act 2000.²⁶

This chapter provides an overview of the Dutch legislation and policies regarding child victims of trafficking. It examines the definition of the terms and the different forms of exploitation that occur in the Netherlands.

3.2 Definition human trafficking in Dutch legislation

Human trafficking is punishable under section 273f of the Dutch Criminal Code (WvSr.). Paragraph 1 defines when someone is guilty of this crime:

'any person who by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs, by the misuse of a vulnerable position or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over this other person recruits, transports, moves, accommodates or shelters another person, with the intention of exploiting this other person or removing his organs'.

Child trafficking is exactly the same as human trafficking, only the victim has not yet reached the age of eighteen. Child trafficking is trafficking in underage persons. This is clearly stated in paragraph 1, point 2 of Article 273f of the Penal Code:

'any person who recruits, transports, moves, accommodates or shelters a person with the intention of exploitation of that other person or removing his or her organs, when that person has not yet reached the age of eighteen years'.

²⁵ LJN: BP5527

²⁶ As from 1 June 2013 B9 is renumbered to B8/3

In case of child trafficking, threats or coercion need not be involved.

Illegal adoption

Illegal adoption is always a crime in the Netherlands, but is not always qualified as human trafficking. Illegal adoption in the Netherlands only is a matter of human trafficking when acted with the aim of exploitation of the child.²⁷ Illegal adoption without the purpose of exploitation is punishable under the Placement of Foreign Foster Children Act (PFFCA).

The sale of children

The sale of children, without the existence of illegal adoption and a situation of exploitation, is not punishable under Dutch law.

Commercial surrogacy

Commercial surrogacy is forbidden in the Netherlands, but in countries like the United States, India and Ukraine "high-tech" commercial surrogacy is allowed. It is known that Dutch commissioning parents go abroad for commercial surrogacy.

Commercial surrogacy may involve women who are forced to be a surrogate mother. The question remains whether commercial surrogacy also is a form of child exploitation and thus child trafficking. Under certain circumstances coerced surrogacy may be a form of exploitation, according to the National Rapporteur on Trafficking in Human Beings.²⁸ In that case coerced surrogacy constitutes human trafficking, which makes it a crime as stated in Article 273f of the WvSr. The exploitation does not take place in the Netherlands, but Dutch commissioning parents do make use of coerced surrogacy. They are not the traffickers and as such not punishable under Article 273f of the WvSr. They are involved in a (potentially) exploitative situation and benefit from it. Informing Dutch commissioning parents should make them aware and warn them against illegal practices.

The National Rapporteur further argues that children born out of coerced surrogacy, are not victims of trafficking as long as they are not subsequently placed in a situation of exploitation. The rights of surrogate mother are threatened here, not the rights of the child.²⁹ However, there may be the issue of selling children. The children are being sold as a commodity and bought by the commissioning parents. As yet, both the Dutch legislator and the National Rapporteur have not expressed an opinion on the matter.

Prostitution of children

Prostitution of children can be regarded as a form of child abuse which may involve human trafficking. On October 1, 2000, the Act that lifted the ban on brothels, made prostitution legal in the Netherlands. But prostitution of minors is explicitly criminalized, both for operators of brothels and for customers (Article 248, WvSr). A third party offering a minor for prostitution against payment, is always regarded as committing human trafficking, in the Netherlands. Transfer across borders need not have taken place. This may involve minors who do not have the Dutch nationality as well as Dutch minors.

²⁷ Aanwijzing Mensenhandel 2012.

²⁸ Nationaal Rapporteur Mensenhandel (2012) *Mensenhandel met het oogmerk van orgaanverwijdering en gedwongen commercieel draagmoederschap*. National Rapporteur on Trafficking in Human Beings; *Human Trafficking for the purpose of the removal of organs and forced commercial surrogacy* (2012).

²⁹ Ditto, p.22

Child pornography

Child pornography is a form of sexual exploitation whereby children are depicted being involved in real or simulated sexual activities or whereby images of a child's genitals are depicted for primarily sexual purposes. These are images of child sexual abuse. Child pornography is punishable under Article 240b of the WvSr. Child pornography is closely connected with child trafficking. Child trafficking is part of the production process of child abuse images.

In her first report on child pornography, the National Rapporteur conducted a comprehensive analysis of the phenomenon of child pornography and the Dutch policy concerned.³⁰ Child pornography involves victims, perpetrators and technology (equipment, information and communication technology). Where perpetrators and victims meet, human trafficking may occur.³¹ Offending and victimization take place, both in the offline and the online world. According to the National Rapporteur, child pornography is inextricably linked to other forms of sexual violence. The Rapporteur concludes: 'Children have the right to protection from all forms of sexual violence. Addressing child pornography must be part of an integrated approach to the sexual abuse of children'.

Grooming

Grooming means approaching a child over the internet to propose a meeting with preconceived sexual intentions. Grooming is a way to recruit potential victims of exploitation and trafficking. It is criminalized in Dutch legislation since 2010.³²

3.2.1 The term exploitation in Dutch legislation

Article 273f, paragraph 2 of the Dutch Criminal Code gives a non-exhaustive list of what constitutes exploitation. Human trafficking is not limited to just one form of exploitation. For instance, exploitation occurs through prostitution or forced labor (in agriculture, horticulture, catering, criminal activities). Consent of the victim is irrelevant when coercion and/or deception is used. Furthermore, it is of great importance that the exploitation itself does not necessarily have to take place. One of these acts combined with the purpose of exploitation is enough to convict a person for trafficking. Thus, when a foreign national minor was brought to the Netherlands under false pretenses to work in prostitution but at Schiphol already identified as a potential victim and brought to the shelter, this is a case of human trafficking. Forced organ removal is considered by the National Rapporteur as a specific form of human trafficking: human trafficking with the purpose of organ removal.

In the report *Investigating Exploitation; Research into trafficking in children in the Netherlands*, from 2005, Defence for Children - ECPAT Netherlands and UNICEF Netherlands concluded already that the various forms of exploitation referred to in Article 273f, paragraph 2, have not been defined precisely and that this makes it difficult to combat human trafficking. Exception is the exploitation of minors in prostitution as described in paragraph 1, points 5 and 8. Other forms of sexual exploitation, forced or compulsory labor or

³⁰ As of October 2009 the National Rapporteur's mandate was expanded to include the topic child pornography. Motivation is to be found in the new mandate: Instelling Nationaal Rapporteur Mensenhandel 2009: 'A relationship between human trafficking and sexual exploitation as an area of research also results from (...) the Lanzarote Convention. This convention is partly based on existing international agreements in the field of human trafficking. These documents show the common characteristics of child pornography and human trafficking as a transnational crime.

³¹ Nationaal Rapporteur Mensenhandel (2011), pp. 19-22.

³² Article 248e WvSr.

services and slavery are not described further.

The report included a short list of aspects (that may be) involved in determining whether it is a situation of exploitation of a minor:

- It is a violation of children's rights, as enshrined in the UN CRC;
- These are forms of exploitation as defined in international instruments;
- Someone will benefit from the exploitation of a minor;
- The fact that a child does or does not consent, is irrelevant;
- The purpose of exploitation can be assumed.³³

Since then, the National Rapporteur has tried to clarify the term 'other forms of exploitation'.³⁴ It constitutes exploitation and trafficking pursuant to Article 273f of the Dutch Criminal Code if fundamental human rights are violated, such as human dignity, physical integrity or personal freedom. We are talking here about what are considered excesses, compared to Dutch standards. It is not so much the nature of the work that determines whether fundamental human rights are violated. It is more about the different circumstances in which the work is to be done and the consequences for the person concerned. According to the National Rapporteur, exploitation as a form of human trafficking is serious abuse, by which the fundamental human rights of the victim have been violated and the victim reasonably believes that it is impossible to escape from the situation. Based on this reasoning, a minor who has to work in the household is being exploited when the child cannot go to school, has to work long hours, has no free time, works in an unsafe environment and/or is held captive on the workplace.

The legislator in formulating Article 273f of the Criminal Code deliberately, left the courts the task of defining 'other forms of exploitation' in further detail.³⁵ However, law practice reveals there are still problems with defining the other forms of exploitation within the human trafficking article.³⁶ This is confirmed by research conducted by the National Rapporteur on human trafficking cases between 2006 and 2010. In this period an average of about 130 human trafficking cases were dealt with in first instance by the courts every year. Of these, 58% led to a conviction for human trafficking. In her investigation, the National Rapporteur concludes that it remains very difficult to prove cases of human trafficking in such a way to get a conviction.³⁷ In earlier case law research by the National Rapporteur, in October 2009, the National Rapporteur concluded that the number of acquittals in trafficking cases is high. This is partly explained by the lack of reliable statements of victims and witnesses, but also because the concept of exploitation is not clearly interpreted and the human trafficking Article is experienced as complex by police and justice.³⁸

A situation of exploitation can be defined by the list of indicators the PPS included in the Directive Human Trafficking.³⁹ This list contains additional criteria to define the term exploitation in further detail and to describe the exploitative situation:

- Multiple dependence on the employer;

³³ Borne, A. van den & Kloosterboer, K (2005), p. 30.

³⁴ 'Mensenhandel, het begrip uitbuiting in art. 273a Sr', *Trema*, nr. 7 September 2006, pp. 286-290.

³⁵ Tweede Kamer 2003-2004, 29291, nr. 3

³⁶ Kinderrechtencollectief (2012), p. 71.

³⁷ Nationaal Rapporteur Mensenhandel (2012). *Kwalitatieve gegevens over (de vervolging en berechting van) verdachten en veroordeelden in mensenhandelzaken in de periode 2006-2010*, p.12. See: www.dutchrapporteur.nl/reports

³⁸ Nationaal Rapporteur Mensenhandel (2009), hoofdstuk 11.

³⁹ Directive Human Trafficking, in force 3 May 2012. Appendix 3 List of indicators/features of human trafficking, and Werson, H. (2012, p. 350.

- Strong curtailment of basic freedoms of the person involved;
- Lack of information about one's own position;
- Work or providing services under very poor working conditions;
- Harm to the physical integrity of the person concerned;
- Exploitation is not incidental, there is a pattern or some form of organized context.

In addition, the PPS issued two guidelines for the prosecution of cases of sexual⁴⁰ and economic⁴¹ exploitation. It defines these concepts. There are no guidelines made for other forms of exploitation such as slavery, forced begging and criminal activities. The reason the Public Prosecution Service gives for this is that cases of slavery or forced begging are rare in the Netherlands. When criminal activities occur each case should be considered separately whether it should be covered under servitude⁴² or labor exploitation.

3.3 Forms of exploitation of children in the Netherlands

Trafficking of children does occur in Netherlands, both domestic trade of which often Dutch children are victims, as cross-border child trafficking involving foreign minors that are trafficked to the Netherlands. In 2005, the researchers of the report *Understanding Exploitation* set up a database with details of 230 child victims of exploitation in the period 2003-2005. 169 cases were about the prostitution of minors. With 21 children it was a matter of both prostitution and other forms of exploitation, such as forced labor. Only a small group of victims in this database was a victim of domestic exploitation, exploitation by being forced to conduct criminal activities or economic exploitation. Among them were victims of child pornography.

The case study done for the present research, shows a similar picture. Based on this case study, the following forms of exploitation may be distinguished:

- Exploitation of Dutch girls through the loverboy method for sexual (prostitution), financial and/or criminal purposes (signing mobile phone contracts, fraud with debit and credit cards and inciting other criminal activity);
- Exploitation of foreign girls in prostitution;
- Exploitation of boys in prostitution;
- Child pornography;
- Economic exploitation;
- Exploitation in domestic service;
- Use of children in crime.

These forms of exploitation of children in the Netherlands will be explained in more detail below. In addition to a description we may also provide a case as an example.

Dutch girls as victims of loverboys

Dutch child victims of human trafficking are often exploited by the 'loverboy' method. Since the nineteen nineties, the term 'loverboy' has been used increasingly to describe a method aimed at the recruitment of underage girls especially for, but not only, sexual exploitation. The report published by the Institute Verwey-Jonker in 2011, *Loverboys en hun slachtoffers*

⁴⁰ Guideline criminal proceedings human trafficking for the purpose of sexual exploitation, 2 August 2010.

⁴¹ Guideline criminal proceedings human trafficking for the purpose of servitude or labor exploitation, 26 April 2012.

⁴² By servitude is meant a state of domination over the victim at work and habitat and a (double or multiple) dependence of the victim, in which he or she is forced to perform labor or services, and (reasonably) believes that he or she has no viable alternative to carrying it out. Servitude constitutes a serious infringement of personal freedom and is regarded as a lighter form of slavery.

(Loverboys and their victims), provides a definition of loverboys:⁴³

'Loverboys are human traffickers who make women and/or men deliberately emotionally dependent by (the promise of) entering into a love relationship and then - through coercion, (the threat of) violence or another act, extortion, fraud, deception, misuse of authority arising from the actual state of affairs, misuse of a position of vulnerability of these women or men - to exploit them, often in prostitution.'⁴⁴

Underage boys (mostly boys, but sometimes girls) or adult men (and sometimes women) use the loverboy method. This method of exploitation is covered by Article 273f of the Dutch Criminal Code. The loverboy method differs from other forms of exploitation by human traffickers because of the specific method in which recruitment and grooming are central, the domestic nature of the exploitation and the fact that loverboys mainly, but not only focus on child victims.

The exploitation of victims by loverboys usually involves sexual exploitation. Girls mainly have to work in private houses or they are put to work at public places known for street prostitution. Underage girls are scarcely found in legalized prostitution; victims of loverboys that have been found there, were older than eighteen. In addition to sexual exploitation, girls are sometimes used for delivering drug packets⁴⁵ and financial exploitation, such as fraud with debit cards, credit cards. They can be forced to sign several (mobile) phone contracts, the costs of the subscriptions are for the victims while the perpetrators use the phones.⁴⁶

The next story - built from different cases - illustrates the experience of a victim of the loverboy method in Netherlands:

Eva (15) is in high school. Like other young people of her age she is in the process of developing her identity. Eva wants to fit in but finds little connection at school. She used to be bullied a lot and has an unstable home environment. Therefore her self-esteem is low and she is very uncertain.

One day during the break Eva walks to the mall and is approached by a slightly older boy. He asks her where a beautiful girl like she is going all on her own.

Eva likes the attention of the boy. They chat and exchange phone numbers. The same evening already the boy calls and asks her what time she will finish school tomorrow. After school, he is waiting for her and gives her a new BlackBerry as a present. Eva is flattered by all the attention, the compliments, the new BlackBerry and the clothes he gives her. She can hardly believe that such a handsome older boy would be interested in her. Eva starts to spend all her time with the boy. Sometimes he also spends time at her home. He always behaves polite towards her mother, but often tells Eva that she is so much better than the rest of her family. Later, when they are together they will do things differently and they will have it much better. Because of all the fun things her friend organizes, Eva actually has no time left to do things with the few girlfriends she had. She is so in love that she does not care. After several months none of her friends call her anymore.

⁴³ Verwijs, R., Mein, A., Goderie, M., Harreveld, C & Jansma A. (2011)

⁴⁴ Zanetti & Kanters 2009 in: Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma A. (2011).

⁴⁵ In 2010, CoMensha registered 5 girls that had been exploited in the drug trade.

⁴⁶ For instance, cases about the forced signing of phone contracts, in which victims are forced to sign several (mobile) phone contracts and immediately afterwards have to give the phones to the loverboy.

For four months Eva spends all her free time with her boyfriend. He literally means the world to her. However, his behavior is starting to change. Although he still gives her lots of clothes and pays her compliments, he can sometimes be very angry. Once, when Eve did not answer her phone because she was in the shower, he slapped her the next time they saw each other. At times he is very absent minded and uninterested. This makes Eva sad and uncertain. She will do anything to go back to the time when everything was just nice. When they talk about this, her boyfriend asks her whether she is stupid or something. Does she not understand that he is running out of money? He's all stressed out from worrying about money while she only want to do fun things.

Her boyfriend suggests that Eva has sex with one of his friends for just one time. This friend can pay for sex and so get them out of trouble. Thinking of the fun times they had together and hoping that these times will then come back, Eva agrees. But it will not be just for this one time. Increasingly, her boyfriend expects Eva to sleep with his friends and later on also with strange men. Usually they come to the apartment where she is staying with her boyfriend. Sometimes he takes her somewhere else. Eva consents to please her boyfriend. If she earns money for him, he will love her and she will remember the good times she had with him. But fear is also involved here. Her boyfriend has been threatening Eva and sometimes actually mistreats her. He also threatens to hurt people who are important to her. Eva does not want her boyfriend to be angry with her because she feels totally dependent on him. She feels she has nowhere else to go anyway. Back to her family and friends with whom she has lost almost all contact is not an option to her anymore.

Eva's classmate Maaïke notices Eva has started to behave differently. After Maaïke encountered Eva and her boyfriend on the street and saw that Eva was pulled along hard by her arm, she decided to tell her mentor. The mentor has a talk with Eva, who indicates she needs help. The mentor informs the Youth Care Agency. Eva is placed in a crisis shelter.

Victims of loverboys may escape from their situation in different ways. The police can raid a house where girls are exploited. Sometimes a girl manages to flee or to inform a confidant. In other cases, the Youth Care Agency is informed after signals from parents, friends or school.

Foreign girls in prostitution

A second group of girls emerging from the case study are foreign girls who are exploited in prostitution in the Netherlands. These girls may have been trafficked to the Netherlands with the purpose of exploiting them here in the sex industry or girls that, once they were in the Netherlands, from a vulnerable position, have ended up in prostitution.

Gaëlle from Cameroon was a victim of sexual exploitation, both in her home country as in the Netherlands:

Gaëlle from Cameroon was twelve years old when her mother finds out that she is sexually abused by her stepfather. Her mother accuses Gaëlle of destroying the marriage between her mother and stepfather and burns all her clothes. Her stepfather feels guilty and arranges for Gaëlle to live with a family in an affluent neighborhood in the Cameroonian capital Yaounde. She works for them as a domestic help.

Gaëlle takes care of the two children of the family. It does not take long before the father of this family starts to abuse her. As a result of the abuse she gets pregnant at the age of fourteen. When the mother of the family finds out that Gaëlle is pregnant, she wants to know who the

father is. Gaëlle does not dare to say anything. The father of the family has threatened to kill her if she tells.

After several weeks, Gaëlle has to go to the hospital because the pregnancy does not go well. In the hospital she gets a miscarriage. One of the women in the hospital is very nice to Gaëlle and offers her a place to stay if she wants to leave the family. Gaëlle decides to run away from the hospital and goes directly to the address of the nice lady. The nice lady is not at home, but she is allowed to stay with the family. After three weeks, the woman returns. Gaëlle is asked to take off her clothes and turn around several times, all the while the woman is looking and writing things in her notebook. A week later Gaëlle and the wife go to the airport. The woman tells her that they are going to the Netherlands. There will Gaëlle be able to work with children. Gaëlle has no idea how long she is on the plane. She does not know exactly where they fly to. She sleeps almost the whole trip.

At the airport the woman introduces Gaëlle, now fifteen years, to uncle 'Henk', telling her to be nice to him. Henk takes Gaëlle to a house somewhere in Brabant where more African girls are present. In the evening one of the other girls comes to the room of Gaëlle. She gives Gaëlle lingerie and tells her that men will visit and she should be nice to them. She has to dance for them. When Gaëlle wakes up the next morning, Henk is still sleeping and the door is not locked. She runs outside. On the street she speaks to people in French, but nobody understands her. People are walking by. Only after a long search Gaëlle finds a man who takes her to the police station. The police sends her straight to the crisis shelter.

Care and residence permit

Gaëlle reports a case of human trafficking and gets a temporary residence permit for victims of human trafficking (B9 regulation). But the police do not find enough leads for further investigation and prosecution and they drop the case (dismissal). After Gaëlle's lawyer successfully challenges the dismissal, the residence permit is extended. The judge ruled that the Dutch police should first investigate the suspects in Cameroon before they can dismiss the case. In the end the additional investigation brought forward too little to continue the criminal investigation and the case was dropped again after eighteen months. This is the end of the B9 procedure for Gaëlle. A request for continuance of residency was made. This is awarded. Gaëlle is allowed to stay in the Netherlands .

Since recently she lives independently in an apartment especially for minors of sixteen years and older and follows training, learning to cope on her own. She goes to school, speaks Dutch and every other weekend she stays with a foster mother. Gaëlle still suffers from the trauma of her past. She gets therapy to overcome this. She also receives help and support in setting up and expanding her social network.

Boys in prostitution

In the Netherlands sexual exploitation concerns boys as well as girls. This form of exploitation is often difficult to prove. Not in the least because of the triple taboo the victims involved have to deal with: prostitution, homosexuality and victimization.⁴⁷ In 2005, several cases were known of boys from Central and Southern Europe who had been trafficked to the Netherlands. In 2013, in the Netherlands, there are only a few known concrete cases about the sexual exploitation of boys from other countries. Some cases involve boys who only just or

⁴⁷ Repetur, L., Veenstra, J. (2010).

almost reached the age of majority. Presumably these boys already got involved in prostitution as a minor.

Samuel is sixteen when he flees with his cousin from their village in Sierra Leone because they do not want to become a member of a religious society in their homeland. A truck takes them to the big city. When they arrive, it is already dark. Samuel and his cousin see light burning at a compound and keep hanging around it. Eventually a guard speaks to them, he brings them to the owner of the property. The owner, a white man, lets Samuel and his cousin stay in his house for a month. Then the man brings them with a motorized canoe and taxi to the airport. The three of them fly to the Netherlands. At Schiphol they take the train and afterwards walk to a terraced house. Samuel and his nephew each get a private room.

The next day Samuel and his cousin, are forced, by gun treath, to commit sexual acts. The boys have to have sex daily with several men for two weeks. One day they have to go and sell drugs in the city.

Care and residence permit

That day the boys manage to run away and report to the police. They do not tell the police what happened and are subsequently housed at the Salvation Army as undocumented immigrants (no legal residence). The next day Samuel and his cousin are brought to the Schiphol shelter and their asylum process starts. However, their claim for asylum is rejected. The police offers them a B9 regulation, a temporary residence permit, especially for victims of human trafficking. Both boys have this B9 regulation for a year, after which it is withdrawn because the criminal investigation is terminated (dismissed) by the Public Prosecution Service. Their lawyer litigates further over the dismissal and continued residency.

Child pornography

To create child pornography, children are exploited in different ways. They may be forced to perform the sexual acts of which pictures are taken. This directly implies sexual abuse and exploitation. Child pornography is frequently copied and can remain in circulation for years. As a result the victim may be subject to humiliation or blackmail for years after the images were made. The person looking at child pornography - has sexual satisfaction from watching sexual exploitation of children - also is an abuser, regardless of whether he (or she) makes the images himself or is seeking sex with children.

The emergence and development of Internet technology and services, such as mobile telephony, chat and webcam, offer new ways to approach children. Children everywhere are increasingly exposed to serious violence through the Internet and other communication technologies. Chat rooms are increasingly used to come into contact with children. Often, children are told they are chatting with a child of the same age to establish a meeting, or the child is persuaded to perform sexual acts for the webcam.

Economic exploitation

Economic exploitation of children, or the exploitation of children in the employment market is very limited in the Netherlands. The report published in January 2012, *Baantjes en Klusjes: Kinderarbeid in Nederland* (Jobs and Chores: Child labor in the Netherlands)⁴⁸ concludes that violations of the regulations for children in the Working Hours Act do occur. However, these

⁴⁸ Strehl, T., de Vos, S. & Lieten, C. (2012)

cases, do not directly involve exploitation as referred to in Article 273f of the Criminal Code. Economic exploitation may occur in various sectors. Economic exploitation in restaurants seems to occur mainly within the Chinese community in Chinese restaurants.

Qiu grew up in an orphanage in China. At the age of five she is sold by the orphanage to an Asian criminal organization. Qiu is sexually abused by men from this organization and other organizations. From the age of six she is resold several times. Being sold within the Chinese Community, she goes from China to Russia and eventually ends up in Western Europe. Her journey goes in parts. Sometimes she was driven by car. At borders she often had to make the crossing on foot.

When she is about fourteen years old Qiu lives in Eindhoven. She is staying in a house where she has to have sex, mostly with Chinese, but also with Dutch men. She soon gets pregnant by a customer. Fearing that her child will be taken Qiu decides to flee. She jumps off the balcony of the house where she is staying. Due to the fall Qiu has a miscarriage. The hospital where she ends up, alerts the police. Qiu is placed in a shelter, but flees for fear of the police. Qiu starts living on the streets. She earns money as a prostitute and from jobs she gets through the Chinese community. After about one year and a half, Qiu is discovered during a check on the Chinese restaurant where she works long hours in the kitchen at a very low fee. By then she is sixteen years old. She is taken to a *Kleine Woongroep*, KWG (small living facility for minor asylum seekers) and placed under the guardianship of Nidos (Legal Guardianship Service for unaccompanied minor asylum seekers). Here again Qiu manages to escape within two weeks.

Qiu continues to survive on the streets and again works in prostitution. She gets a Chinese boyfriend. He facilitates sex work for her and they live off the revenues. Qiu is regularly abused by him.

At seventeen she gets pregnant for the second time. During her pregnancy, her boyfriend abuses her so severely that she ends up in the hospital. The hospital refers her back to the guardianship institution Nidos and she is placed under its guardianship. For a short time, subsequently, she stays, with an *amv* license (a license for unaccompanied minor aliens), in a *Kleine Woongroep* (small living unit) and gives birth to a son. Qiu files a report of human trafficking and receives a temporary residence permit. After her eighteenth birthday Qiu and her son are placed in a shelter together.

Residence permit

Three times Qiu is placed under the responsibility of the Dutch government. The first two times, when she is respectively fourteen and sixteen years old, no application procedure is started because Qiu ran away. When on her seventeenth, heavily pregnant, Qiu is taken into care, a residence permit procedure is initiated in the context of human trafficking. The criminal investigation that accompanies it, is stopped after a year (dismissed). After the complaint procedure (the lawyer is appealing against the dismissal), again a year later, follows the announcement that the criminal investigation is closed and the permit will expire. Then the lawyer files an application for continued residence. Qiu is twenty years old when she gets a permit for continued residence.

Exploitation in domestic service

In the Netherlands, exploitation of children in domestic service mainly seems to take place within the family. Children, often daughters or nieces are kept home from school to run errands, to clean, to look after the other children and/or help as an interpreter.

It is difficult to determine when a case is a matter of domestic exploitation, when the boundary between helping with the housekeeping and domestic slavery is exceeded. Children can be forced by family circumstances to take on domestic chores. Especially, children from single parents families, addicted parents or parents with a physical or mental illness run a chance of having to deal with this. As a result of these conditions the child sometimes takes on the care of younger siblings. Such caring responsibilities are not regarded as exploitation. The circumstances in which the child has to work define whether the work is a form of exploitation. For instance, if the child is unable to attend school, has to work long hours, has no free time, works in an unsafe environment and/or is held captive in the workplace.

The performance of domestic services seems in some cases, an exchange for taking a foreign child in a family that is located in Netherlands. As a consequence, exploitation in domestic work is regularly seen together with forms of illegal migration, illegal adoption.

At a young age **Francis** from Uganda loses her parents in the war. Her uncle and aunt take her in. A Ugandan woman with a diplomatic post in the Netherlands declares she wants to adopt Francis and take her to the Netherlands so she will have a better future. Francis has an intellectual disability and could get appropriate education in the Netherlands. The adoption succeeds and Francis travels to the Netherlands. An additional passport has been arranged for Francis stating that she is three years younger than she really is.

In the Netherlands, Francis is not allowed to go to school at first. She is kept at home with excuses about illness. She has to take care of the children of her adoptive mother, do the cleaning and cooking. Whenever Francis does something not well or too slow, her adoptive mother yells at her. Francis' passports are taken away from her. Sometimes a Dutch male friend of the adoptive mother visits and abuses Francis sexually.

After several months, Francis is allowed to go to school. After class, she has to come home immediately because she still has to take care of the household and the children. Eventually Francis tells her friends at school about her home situation. Her friends go to the police and Francis is placed in a crisis shelter. While Francis is staying at the shelter, her family in Uganda is threatened by the brother of her adoptive mother.

Although the immunity of diplomacy is withdrawn, the case was dismissed in the middle of the investigation. The investigation into the sexual abuse by the Dutch family friend will be continued. However, Francis' anger focuses on her adoptive mother who has harmed her trust.

Deployment of children in crime

The exploitation of children for criminal activity only very rarely is found in the Netherlands. The Immigration and Naturalization Service (IND) is aware of a few cases.

One case involves suspected exploitation of two Vietnamese children on a cannabis farm. Exploitation of Vietnamese on cannabis farms is a common phenomenon in the United Kingdom. In the Netherlands, it is an isolated case. The regulation of cannabis cultivation in

the Netherlands is given as the main reason for the findings that Vietnamese are involved to a much lesser extent in the cultivation of cannabis in the Netherlands.

While uncovering a cannabis farm two Vietnamese children are discovered. **Linh**, a fourteen year old girl and **Dung**, a boy of fifteen. Both children have no passport or residence permit.

Dung says he has been in the Netherlands for two years and has no family here. He claims he accidentally ended up in the house where the police found him and denies having known about it being a cannabis farm location. He also denies any involvement in the cultivation of hemp and claims certainly not to have been exploited. He survives by begging on the streets. He also states that he has only just met Linh in the house. Linh was already living there, when Dung arrived. Although Linh and Dung deny having been exploited, social workers have strong suspicions that they indeed were forced to work on the cannabis farm and have possibly been sexually abused there.

Care and residence permit

Dung and Linh are placed separately in a shelter. They are assigned a lawyer, but both state that they neither want to file a report nor want to apply for a residence permit. After four months Linh disappears from the shelter to a destination unknown. A week later Dung disappears, while doing an errand. The children are reported missing. The police have closed the investigation on them.

3.4 Numbers and countries of origin of child victims

In The Netherlands victims of human trafficking are registered by the coordination center human trafficking CoMensha. Reports to CoMensha are made anonymous in the statistics. To avoid duplication, a registration contains name, sex, date of birth and form of exploitation of the victim.

The police, the Royal Military Police (KMar) and the Social Affairs and Employment Inspectorate (Social Affairs Inspectorate) are obliged by law to report to CoMensha as is laid down in Chapter B9 of the Aliens Act 2000 and the Directive Human Trafficking by the Public Prosecution Service (PPS or Dutch OM). Most reports are done by the police. At the first indications of human trafficking the police has an obligation to report. When afterwards, it turns out not to have been human trafficking, the reports made earlier are not removed from the system by CoMensha. This is why registration is not totally accurate.

Furthermore, the registration of CoMensha is not complete since not all care agencies report adequately to CoMensha and victims of human trafficking are not always recognized as such.⁴⁹ In particular Dutch victims of trafficking (including victims of loverboys) are directly referred to care institutions that have no formal obligation to report. The youth care sector scarcely reports victims of loverboys. These victims are therefore not known by CoMensha as victims of human trafficking. Current systems in youth care are not set up in a way such that (potential) victims of trafficking will be recorded as victims. Registration is done according to the type of intervention (the form of care) deployed in response to the problem, not according to what happened in advance (human trafficking). Care organisations indicate they already have to register with various national systems (such as the Youth Monitor) and that they are unfamiliar with CoMensha.

⁴⁹ See also Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (2012).

In 2012, in six regions a pilot project was launched, in which youth care staff received training on identifying victims of loverboys. In 2012-2013 Movisie, in exchange for expert training, received figures on the number of victims of lover boys that ended up in care in these six regions. Between January to July 2012 there were about 129 child victims. Doublings are possible because these are anonymous figures from different authorities. And alleged victims are also included.⁵⁰

The total number of (possible) victims annually registered by CoMensha in eleven years has more than tripled, from 341 in 2000 to 1222 in 2011. Of this number, approximately sixteen percent is underage.

Table 1

The table below gives an overview of the registered number of child victims (Source: CoMensha)⁵¹

| Year | Number | Number of foreign victims | Number of Dutch victims | Sexual exploitation | Economic exploitation | Forms of exploitation unknown, other forms of exploitation or not actually exploited yet | Boys | Girls | Top 2 Countries of origin (besides the Netherlands) |
|------|-------------------|---------------------------|-------------------------|---------------------|-----------------------|--|------|-------------------|---|
| 2006 | 104 | 69 | 35 | 28 | 6 | 70 | 5 | 99 | Nigeria, Sierra Leona |
| 2007 | 199 | 99 | 100 | 88 | 10 | 101 | 16 | 182 ⁵² | Nigeria, Romania |
| 2008 | 170 | 66 | 104 | 99 | 7 | 64 | 5 | 165 | China, Guinea |
| 2009 | 118 | 50 | 68 | 49 | 4 | 65 | 7 | 111 | Nigeria, Guinea |
| 2010 | 152 ⁵³ | 63 | 89 | 117 | 7 | 30 | 7 | 145 | Nigeria, Guinea |
| 2011 | 195 | 64 | 131 | 125 | 4 | 66 | 10 | 185 | Nigeria, Sierra Leona |
| 2012 | 223 ⁵⁴ | 82 | 141 | 113 | 4 | 108 | 25 | 198 | Guinea, Sierra Leona |

Most of the cases registered are Dutch girls who are victims of lover boy practices. Each year, between sixty and ninety child victims from abroad are registered. This figure does not include all possible child victims from abroad. In 2010 Nidos sent 121 unaccompanied minor

⁵⁰ Movisie will release the report with an analysis of the figures by the end of May 2013. The victims are divided into five profiles. Most victims (39) are severely traumatized.

⁵¹ Comensha registers (possible) victims of trafficking. The National Rapporteur analyses this data for her report. See National Rapporteur Human Trafficking (2012), Trafficking in Human beings. Visible and invisible, pp. 47 ff.

⁵² Of one person gender has not been registered.

⁵³ Of one person gender has not been registered.

⁵⁴ Of one person gender has not been registered.

foreigners (amv's) to the protected shelter. In 2011 Nidos referred 106 amv's.⁵⁵ These are child (possible) victims of human trafficking who are signaled by Nidos and referred by them to the protected shelter. These have not all been reported to CoMensha because Nidos has no reporting obligation. For this reason these figures do not match the figures in the third column of the above table.

Victims who are minors at the time they are found are registered as minors. The largest group of registered victims is between eighteen and twenty-three years.⁵⁶ In this group of victims exploitation and the prelude to human trafficking probably already started before the age of eighteen. They are not recorded as underage victims. The presumption is therefore that the number of registered child victims is only the tip of the iceberg.

3.4.1 Countries of origin of foreign child victims

In recent years there have been several periods in which girls from one particular country became a victim of human trafficking in the Netherlands. In 2005-2006, the media started to report about young Nigerian girls disappearing from asylum centers.⁵⁷ Some of them were later recovered by the police, working in prostitution in one of the major cities of the Netherlands. CoMensha registration figures show that the group of Nigerian girls fluctuates. In 2006, there are 32 girls, to 45 in 2007.⁵⁸ Thereafter, the number of Nigerian girls decreases, to seven in 2008 and ten in 2009. It is clear that human traffickers, pimps and girls respond quickly to (inter) national changes. Incidentally, this does not mean that in that period only girls from Nigeria are sold to the Netherlands. Children from countries such as Guinea, Sierra Leone and China are regularly identified as victims of trafficking.⁵⁹ In 2012, more girls from Guinea are in the shelter than girls from Nigeria. In addition to West African countries and China, in recent years children increasingly come from Eastern European countries such as Bulgaria and Romania.

Moreover, the Dutch division of the International Organization for Migration (IOM) finds that more and more girls with a (mild) intellectual disability from Eastern Europe come to the Netherlands to work in prostitution.⁶⁰ These girls hardly realize what kind of situation they have ended up in. IOM also noted that more and more Roma girls work in prostitution in the Netherlands.

In January 2012, the Legal Aid Board reported that many amv's, mostly Afghan boys, arrived at the airport and did not apply for asylum. They indicated to be only passing through to Sweden. It is unclear whether these young people have indeed arrived there. Some of them ended up applying for asylum in the Netherlands anyway and were taken up in the shelter to calm down. In April, the flow of these vanishing Afghan amv's had stopped.⁶¹ However, in the autumn of 2012 Nidos and the Dutch police announced they were going to investigate into this group of Afghan boys because there are suspicions of human trafficking and organized crime.⁶²

3.5 Backgrounds of child victims

Victims have different backgrounds, but a number of factors seem to increase the risk of

⁵⁵ Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (2012). *Mensenhandel in en uit beeld; Cijfermatige rapportage 2007- (2011)*, p. 63.

⁵⁶ Ditto, p. 54. This is 39% of the total number of registered possible victims

⁵⁷ Algemeen Dagblad, 'Jonge Nigeriaanse slachtoffers verdwenen', 3 August 2006.

⁵⁸ Figures from Comensha.

⁵⁹ Ditto.

⁶⁰ Information received via oral communication with IOM, 17 April 2012.

⁶¹ GATE - *Guardians Against Child Trafficking and Exploitation (2012)*, p 26.

⁶² Information received via oral communication with Nidos and EMM 2012.

becoming a victim of sexual exploitation. Children by their age and inexperience are easy to manipulate and dependent on adults. This combined with factors such as poverty, poor economic prospects, poor education, discrimination, the demand for cheap labor and sexual services, makes children more vulnerable to end up in an exploitative situation.

In the case study of 2005, conducted for the report *Understanding exploitation*, informants mentioned several aspects that make children especially vulnerable to becoming victims of exploitation:

- Highly dependent on others;
- Lacking a sense of personal boundaries;
- Past with sexual abuse or forced sex;
- Raised in a strict religious family and not being able to handle their own freedom;
- Coming from a troubled family (divorce, stepfamilies, single parenting);
- Running away issues;
- Mistreatment, abuse or neglect (by parent or family member);
- Longing for adventure;
- Parents who have difficulty with (Dutch) society or who are unable to set boundaries for their children;
- Experiences with war and violence;
- Low social economic status;
- Poor social emotional skills;
- Lacking or inadequate social network.⁶³

By now, more research has been conducted into the background of child victims of human trafficking in the Netherlands and various publications provide more insight into the background of child victims. Most of the research and publications are about victims of sexual exploitation and of loverboys.⁶⁴

Van der Wiele and de Ruiter in the *Kleine Gids* from 2011, mention the following risk factors with regard to identification and treatment:

- Not having a stable background, a problematic situation at home or problems at school;
- The presence of underlying problems such as abuse, divorce, bullying, alcohol and/or drug abuse, behavior that crosses a line and little to no control, sexual abuse, physical, mental or emotional neglect;
- A negative self image, mentally and physically, as a result of underlying problems;
- Phase problems related to puberty;
- Low intelligence and/or mild intellectual disability;
- A strict Christian, Islamic or traditional family, causing victims to become stuck between home and the outside world.⁶⁵

The research conducted by the Verwey-Jonker Institute in 2011, which was commissioned by the Ministry of Health, Welfare and Sport, on the issues involving loverboy victims poses few other insights, but does confirm the familiar picture. This study, in addition to interviews with professionals and experts, includes interviews with 23 girls and young women and 83 client

⁶³ Borne, A. van den & Kloosterboer, K. (2005), p. 66.

⁶⁴ For example, see Terpstra, L., van Dijke, A. (2006), Berger, M., Geurts, E., Terpstra, L. & van Dijke, A.

⁶⁵ Van der Wiele en De Ruiter (2011) pp. 41-43.

files from sixteen care institutions that were analyzed. This study provides the following picture about the background of loverboy victims:⁶⁶

- Victimization of a loverboy starts in early adolescence;
- Ethnicity appears not to be a determining factor in becoming victim of a loverboy;
- A mild intellectual disability is a risk factor;
- Victims of loverboys have often experienced a problematic parenting and family situation: they have had to deal with domestic violence and other forms of child abuse, drug addicted parents issues, attachment problems, neglect and lack of attention during childhood (physical or emotionally unavailable parents);
- Some victims had to deal with negative sexual experiences and sexual abuse at a every young age;
- Some victims have a long history of social care;
- Some victims have behavioral problems, such as aggression issues, difficulty expressing emotions, setting boundaries in relationships and in the field of sexuality;
- Several cases show an accumulation of problems in various areas.

Another recent study providing insight into the background and characteristics of child victims is that of Fier Fryslân in 2012. This study consists of a comprehensive analysis of 102 cases of girls and young women who have been taken to the shelter Asja between the first of January 2008 and the first of July 2011 and interviews with girls and focus groups as well as with professionals. The researchers have compared the data of girls and young women who had been victims of loverboys, wherever possible, with data of average Dutch girls in the same age category.

Summarizing, the following picture of the background of the Asja girls emerges:

- At time of arrival more than half of the girls and young women are minors (56 %) ⁶⁷, aged between twelve and 23 and on average 17.4 years old;
- The majority was born in the Netherlands, 86 % of whom are of native Dutch descent, and about a fifth of them were born abroad;
- A large majority come from broken families (many of which have to do with divorce issues, including contact arrangement problems and loyalty conflicts);
- A third of the girls lived with (one of) their parents prior to entry and almost half lived with their friend, who is often known as a loverboy or is suspected of loverboy practices;
- Two fifths of the girls have a degree in secondary education; more than a quarter has started vocational or higher education;
- The drug use of the girls prior to entry of Asja is very high compared to average Dutch youth;
- More than a third of the girls has come into contact with the police before and during their relation with the loverboy;
- Three quarter of the families of these girls, have a wide range of issues (domestic violence, child abuse, recorded contact with police, substance abuse and psychiatric problems (of one) of the parents or relatives, problems relating to religious conviction and honor related issues. ⁶⁸

Looking more precisely at the positive and negative experiences in the past of the girls, it appears that in many cases there is continuous child abuse, which often starts in early

⁶⁶ Verwijs, R., Mein, A., Goderie, M., Harreveld, C & Jansma A. (2011), pp. 60-62, pp. 64-65.

⁶⁷ Percentage based 102 files that were examined.

⁶⁸ Dijke van, and others (2012), pp. 54-69.

childhood.⁶⁹ This study also provides insight into the complaints of the girls that were brought forward during diagnostic interviews. Particularly interesting about this research is that also the results of the diagnostic tests conducted with the girls during their stay in Asja are included in the analysis. The survey results indicate that about three quarters of the girls suffer from post-traumatic symptoms such as nightmares, flashbacks and anxiety.⁷⁰

Based on the analysis, researchers conclude that Asja girls and young women appear to have a relatively high level of physical and psychological symptoms, similar to that of an average psychiatric patient.⁷¹

3.6 Conclusion

Trafficking in human beings, and thus the trafficking of minors, is punishable according to section 273f of the Dutch Criminal code. In case of human trafficking, the intent of exploitation is sufficient. This includes both sexual exploitation and other forms of exploitation, such as economic exploitation. Sexual exploitation, the most common form of exploitation in the Netherlands, is well defined. But other forms of exploitation, added to this law section in 2005, are less clearly defined. This may lead to various interpretations and thus to problems in the prosecution of human trafficking, so it appears from research conducted by the National Rapporteur on Human Trafficking.

Exploitation of children does occur in the Netherlands. Both Dutch girls who are victims of loverboys as well as foreign minors who are brought to the Netherlands to work in prostitution, catering or agriculture. Victims are registered with CoMensha, but registration is not complete. Figures on the number of children who are victims of human trafficking in the Netherlands are therefore not reliable.

In recent years we have learned more about the backgrounds of child victims of trafficking for sexual purposes, in particular about victims of domestic trafficking. According to research into the backgrounds and problems of girls who have been taken in by Asja the past few years, many cases show a continuous abuse of the child, that often started in early childhood. This information is of great importance for the implementation of care and support to victims.

⁶⁹ Ditto, pp 60-65.

⁷⁰ Ditto, pp. 69-76

⁷¹ Ditto, p. 75.

4 Preventing and combating child trafficking in the Netherlands

4.1 Introduction

Combating human trafficking has high priority in the Netherlands. Prime Minister Rutte Cabinet I made it a government priority. In the coalition agreement of 30 September 2010, the right wing liberal party, VVD and the Christian democrats CDA laid down that human trafficking was to be addressed firmly. Cabinet Rutte II continues with this policy. According to the coalition agreement between VVD and social democrats PvdA of 29 October 2012, human trafficking and exploitation relating to prostitution will be fought harder. This chapter describes the Dutch approach to combat human trafficking and specifically the Dutch policy for the prevention of human trafficking.

4.2 Combating human trafficking in the Netherlands

The Dutch human trafficking policy is shaped according to three P's: prevention, protection and prosecution. Combating human trafficking in the Netherlands falls under the responsibility of the Ministry of Security and Justice. Shelter and assistance to victims of human trafficking is the responsibility of both the Ministry of Health, Welfare and Sport and the Ministry of Security and Justice. There is no separate budget for addressing human trafficking.

Human Trafficking Action Plan and Plan of Action Loverboy problems

The National Action Plan on Human Trafficking set up late 2004 was supplemented in February 2006 with measures targeting minors.⁷² By the end of 2011 the Dutch government presented the government-wide Plan of Action on Loverboy Issues 2011-2014, which included activities aimed at the prevention of loverboy problems, criminal prosecution, training of professionals in youth care and informing victims about their rights.

Task Force Human Trafficking

In 2008, the Minister of Justice appointed the Task Force on Human Trafficking for a period of three years.⁷³ The mission of the Task Force is to combat human trafficking. The Task Force consists of representatives from police, judiciary, government authorities on municipal, regional and national level, the National Rapporteur on Human Trafficking and CoMensha. The Task Force should identify bottlenecks, solve problems and promote innovative initiatives. In monitoring, specific attention is to be paid to minor victims. In January 2009, The Human Trafficking Task Force published a Plan of Action. This plan contained ten measures. The premise was that by implementing these ten measures human trafficking and smuggling was to be substantially reduced in the short term.⁷⁴

The following steps were involved:

- Strengthen supervision of the prostitution sector;
- Improve the exchange of information;
- To complete and introduce the barrier model;
- Professionalization of administrative reports;

⁷² Kamerstukken II 2005-2006 28638, nr. 19.

⁷³ Staatscourant 2008, 4717.

⁷⁴ Task Force Mensenhandel (2009).

- Enhance assistance to victims;
- Improve attention to the position of victims;
- Intensify international cooperation;
- Improve awareness of potential cases of human trafficking;
- Training, expertise and enhancing awareness raising of the judiciary;
- Intensify the contribution of the Royal Military Police in the fight against human trafficking.

In 2011 it was found that the work of the Task Force was not finished yet. The mandate of the Task Force was extended until February 2014, and a new Action Plan for the years 2011-2014 was presented. Partly, the plan for the second term builds upon the first. New areas of focus are the loverboy problem and the role of the Internet in human trafficking and the way of addressing these issues.⁷⁵ The sections on prevention and putting a stop to loverboy activities pay attention to child victims. In 2013, the National Rapporteur proposed the Task Force to also focus on child victims.⁷⁶

National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children
 Since 2000, the Netherlands has a National Rapporteur that reports on the nature and extent of human trafficking in the Netherlands and on the effects of the current policies. The rapporteur publishes reports on different sub areas. Since 2009, the mandate of the National Rapporteur has been expanded.⁷⁷ As from October 2009, the rapporteur also examines the extent and nature of child pornography and the effects of combating child pornography. This falls under the broader area of sexual violence against children. In April 2013, the Lower House of Parliament adopted a motion for a new law which will give the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children legal status.⁷⁸ By this the independence of the National Rapporteur is laid down in law.

Chain of partner organizations

A wide range of organizations implement the Dutch human trafficking policy. These organizations are involved in preventing and combating trafficking in human beings, in the detection of offenders and protection, shelter and care of victims. The diagram on the next page gives an overview:

⁷⁵ Task Force Mensenhandel (2011).

⁷⁶ Information received by an interview with the National Rapporteur Human Trafficking, April 2013.

⁷⁷ Regeling Instelling Nationaal Rapporteur Mensenhandel 2009.

⁷⁸ Motie Berndsen c.s., Tweede Kamerstuk 28638, nr. 81, 2013.

Figure 1

Chain partner organizations in human trafficking and their functions

NATIONAL LEVEL

Developing policy

National government

Makes combating human trafficking a political priority and formulates laws and policies. In 2011, published the Government-wide Plan of Action on Loverboy Problems.

Task Force Human Trafficking

Sets policy and makes a priority agenda in the form of the Plan of Action of the Task Force on Human Trafficking 2011-2014. Established by the government.

Monitoring policy

National Rapporteur on Human Trafficking & Sexual violence against children

Reports from an independent position on legislation, policies and impacts. Publishes reports and surveys.

Investigation and prosecution

Expertise Center Human Trafficking and Human Smuggling (EMM)

National repository for all information, including identification on human trafficking. Starting point of (national) investigations. Developing expertise. Partnership between the National Criminal Investigation, Immigration and Naturalization Service (IND), Social Security Investigation and Detection Service (SIOD), Royal Military Police, Police Alien Administration (Taakorganisatie Vreemdelingen).

National Expertise on Human Trafficking (LEM)

Outlines investigation policies. Publishes the police force monitor, every other year. Consists of the National Criminal Investigation, Royal Military Police, Ministry of Security and Justice, the Police Academy and the National Rapporteur on Human Trafficking.

Investigation Services

Police, National Police, Tax Investigation and Detection Service (FIOD), Inspection of Social Affairs and Employment, Immigration and Naturalisation Service (IND) to detect situations of trafficking and identify victims.

Public Prosecution Service (PPS or Dutch OM)

Criminal Prosecution. National prosecutor for human trafficking and smuggling. Falls under the Ministry of Security and Justice.

Reception and assistance

CoMensha (Human Trafficking Coordinating Center)

CoMensha registers victims of human trafficking and refers adult victims to relief and care. Non government agency.

Nidos

Guardianship Institution for unaccompanied minor foreigners. Determines where the care takes place of child victims of foreign nationality. Falls under the Minister of Security and Justice.

COA (Central Agency for the Reception of Asylum seekers)

Asylum seekers reception centers.

REGIONAL LEVEL

Detection

Regional Information and Expertise centers

Provide expertise and advice on organized crime to municipalities

Reception and assistance

Reception and care institutions

Categorical care (adult care), women's and social care, Youth Care Agency (in charge of referring Dutch child victims to care), youth institutions, COA (Protected Shelter for underage victims, asylum seekers' centers/campuses for unaccompanied minor asylum seekers. These organizations provide shelter and care to victims.

LOCAL LEVEL

Detection / Prevention

Municipalities

Direct organization chain approach that combat human trafficking locally. Responsibilities include supervisory and municipal policy on prostitution.

Prevention / Protection

School

Take care of prevention through information activities and have a signaling role.

reception and assistance

Youth and Family Centers

Take care of prevention and are in control of referring Dutch child victims to relief and care institutions

Chain Cooperation

In order to be able to prevent and combat human trafficking from different angles (criminal, fiscal, administrative) an integrated approach is needed. The above organizations are therefore working together on different levels. This form of cooperation is called the chain approach. For example, on a local level, organizations make specific agreements with each other about how they are going to address human trafficking in their region or their field. During case consultations, which is part of the chain approach, cases or concrete signs of human trafficking are discussed and action undertaken.

Points of concern

The various policy documents that have been published after 2005, do not recognize the special attention child victims need. The Government-wide Plan of Action on Loverboy Problems 2011-2014, announced special measures to ensure that the loverboy problem is better identified and addressed. In the Plan of Action 2011-2014 of the Human Trafficking Task Force, underage victims are mentioned in the context of addressing loverboy issues, but not with regard to shelter and assistance. The measures and activities announced, do not focus on all groups of child victims and do not include all aspects necessary for the protection of underage victims. It lacks a specific integrated policy for the protection of child victims of human trafficking.

In the local approach to human trafficking municipalities are indispensable as coordinators. The municipality should be in control. A report by the National Rapporteur on Human trafficking in 2012 shows that not all municipalities realize that human trafficking may also occur within their municipal boundaries and that not every municipality has a special coordinator.⁷⁹ In this report the rapporteur asks municipalities to develop policy for combating human trafficking and to set up a partnership with all relevant stakeholders within the municipality, such as the police, the Public Prosecution Service, Tax Administration, the Chamber of Commerce and with relief and care institutions. Especially the latter institutions are now often overlooked and not involved.

4.3 Preventing human trafficking and child trafficking

Policies to prevent trafficking should include measures that focus on both perpetrators and (potential) victims. These measures are to remove the breeding ground for human trafficking; this involves identifying potential victims and making them resilient, providing information and picking up signals in time and act accordingly. Prevention of human trafficking is an assignment to the various agencies involved in combating human trafficking: investigation services, care institutions and municipalities.

Human trafficking is a phenomenon of all times, but the way people are trafficked and exploited, is constantly changing. Perpetrators adapt, depending on (the success of) detection methods, their modus operandi constantly. This requires that professionals involved in preventing and combating trafficking in human beings be well informed of the latest developments. It is also of importance in being able to provide for safe shelter and care to victims.

The chain (integrated) approach has an important role in preventing human trafficking. The barrier model is used by the partners in order to identify what barriers chain partners and the

⁷⁹ Nationaal Rapporteur Mensenhandel (2012) *Mensenhandel. Effectieve aanpak op gemeentelijk niveau. Lessen uit de praktijk.*

government can raise to make it difficult for traffickers to perform their activities in the Netherlands.⁸⁰ Herein municipalities have an important preventive role. For example, a municipality, when issuing licenses to new businesses in the sex industry, should be alert to signs that may indicate human trafficking. At this moment there is a pilot at the Chamber of Commerce in which signs of human trafficking are to be passed on to the chain partners concerning human trafficking. It is also being investigated whether it is possible to refuse registration with the Chamber of Commerce on account of signs of human trafficking.⁸¹

Educating children in the Netherlands

In recent years, regarding prevention of child trafficking, emphasis has been on preventive activities aimed at (potential) loverboy victims. Increased attention for loverboys and their techniques to exploit minors resulted in educational projects about loverboys and their methods in several cities in the Netherlands.⁸² The Expertise Center Youth Prostitution in the Institute Movisie provides information on its website www.jeugdprostitutie.nu. The Government-wide Plan of action on Loverboy Problems 2011-2014 also provides awareness campaigns aimed at young people and schools, and educates victims about their rights. The educational core objectives shall include lessons on sexuality. A number of youth care institutions has its own range of prevention and educational activities aimed at potential victims of loverboys. Employees of youth care institutions visit schools to provide information.

All in all, the past few years, information supply to minors increased, although it is remarkable that the focus mainly has been on loverboys and their techniques to exploit minors.⁸³ For instance, no specific preventive activities are aimed at potential victims at Schiphol or foreign minors in asylum centers, apart from the referral of victims to protected shelter.

Information and prevention projects in countries of origin

The prevention of cross-border trafficking mainly consists of prevention projects in the countries of origin and supplying information to foreign prostitutes. Cooperation with countries of origin will most likely be with countries where most of the victims come from. The Dutch government has implemented projects in Nigeria (for instance around capacity building, training and return) and set up joint investigation teams in Bulgaria and Romania. In recent years more and more underage victims of the latter two countries have arrived. Hungary is one of the largest source countries for (adult) victims of human trafficking in the Netherlands. Therefore, in 2012, the Netherlands began to work more closely with the Hungarian government and police in the investigation, but also in the prevention of human trafficking. It appears that many returnee victims from Hungarian end up back in the Netherlands. An attempt is made to stop this flow by bringing Dutch care workers into contact with their Hungarian colleagues.

Besides structural bilateral cooperation with countries of origin of trafficking victims in the Netherlands, the Ministry of Foreign Affairs also finances projects initiated by non-governmental organizations in Albania, Kosovo, Bulgaria, Belarus, Ukraine, Poland, Romania and Serbia. These projects are aimed at training professionals and improving cooperation and

⁸⁰ For more information on the barrier model, see *Handboek Bestuurlijke Aanpak Georganiseerde Criminaliteit*.

⁸¹ Letter by Security and Justice Minister to the Lower House of Parliament containing answers to questions about human trafficking and sexual exploitation of children, 6 February 2013, nr. 342703.

⁸² Nationaal Rapporteur Mensenhandel (2010), p. 102.

⁸³ Ditto.

reception facilities.⁸⁴

In 2009 and again in 2011 the Netherlands signed a Memorandum of Understanding (MoU) with Aruba, Curacao and Sint Maarten about collaboration to prevent and combat human trafficking. In the MoU a *twinning* system is set up between the countries of the Kingdom to promote the exchange of knowledge and expertise. In addition, the MoU includes provisions on the care and protection of victims of these practices. The countries also agreed to advance improvements in the areas of prevention and exchange of information between organizations responsible for investigation, prosecution, immigration inspection and care.⁸⁵ The countries have subsequently agreed to set up awareness campaigns, aimed at specific risk groups such as children and young people with a scholarship who travel to the Netherlands for further studies.⁸⁶

Points of concern

In 2005, in the Netherlands, there were several awareness raising activities regarding human trafficking aimed at children and youth, but the offer was little coherent and not nationwide. There was also little knowledge about the way in which the target group could be reached most effectively. Minors were hardly involved in the development of prevention programs. A key recommendation had been that information on the exploitation of children at schools (both primary and secondary education) should be provided structurally and be part of the school curriculum. Another important obstacle that the researchers found in 2005 was that the information and prevention campaigns mainly focus on potential victims and not on potential offenders.

In 2013, The Netherlands still has no clearly defined policy on the prevention of human trafficking, although since 2005, the number of preventive activities that were set up, has increased, both in cooperation with authorities and local organizations in the countries of origin as in the Netherlands itself. Up to now, however, no data are known on the effect of the awareness campaigns and other activities to prevent human trafficking.

In the Netherlands, preventive actions to avoid child trafficking are mainly focused on (potential) victims of the loverboy method. Awareness raising activities do not or hardly target potential loverboys. This is remarkable because there is a lot to be gained just there. Potential perpetrators should be made aware of the impact their behavior has on victims. It is also striking that preventive activities in the Netherlands hardly focus on child victims of cross-border trafficking. No information is given to unaccompanied minor foreigners (amv's) in asylum seekers centers and other reception centers for amv's. This does happen in specially protected relief centers for (potential) victims of trafficking.⁸⁷

Prevention also includes reducing or eliminating demand for services provided by the people that are exploited. Therefore it is important to cooperate with sectors where human trafficking occurs, such as the sex industry, agriculture, and for example, the hospitality industry. Right now, this happens too little in the Netherlands. Since the ban on brothels was lifted in 2000 and licensed sector was introduced, abuse in the sex industry has not decreased. There is little

⁸⁴ Kinderrechtencollectief (2012). p. 73.

⁸⁵ Answer of the Kingdom of the Netherlands to the request of the Committee on the Elimination of Discrimination against Women in its concluding observations (CEDAW/C/NLD/CO/5, section 52) to provide information on the steps taken to implement the recommendations contained in paragraphs 27 and 29, within two years.

⁸⁶ There are indications that this group of youth was more vulnerable of becoming a loverboy victim in the Netherlands, Information by CoMensha, April 2013.

⁸⁷ For more information about protected reception see chapter 5.

supervision of establishments without license, the escort sector and sex work from home.⁸⁸ However, these are just the places where illegal prostitution, including child prostitution occurs.

4.4 Developing professional expertise

Prevention of human trafficking cannot do without accurate signaling and identification of potential victims. Professionals who work with children and young people should therefore have sufficient knowledge to identify human trafficking. The professionals involved in tackling human trafficking, such as police, social workers and lawyers, however, must not only possess sufficient knowledge to identify, they should also have insight into the backgrounds of potential victims and be able to recognize risk factors.

Employees of the COA (Central Agency for the Reception of Asylum Seekers) working in the relief facilities have recently been trained in recognizing signs of human trafficking, but employees of Nidos (guardianship institution for minor aliens) so far have had no special training in identifying human trafficking or providing support to victims of trafficking. However, Nidos guardians, working in the Application Centre for asylum seekers do have a lot of expertise in the field of human trafficking. A description of their methodology will become available in the future. Guardians who work in the protected shelter for foreign child victims of trafficking, give new employees during their first working weeks a presentation about their experiences.⁸⁹

Research by the Verwey-Jonker Institute shows that not all youth institutions provide training on the loverboy problem for their employees. This is due to lack of capacity and because victims of loverboys are not the only victims of violence staying in these institutions.⁹⁰ However, in 2012, a pilot project was launched in six regions where the youth care staff receive training on the identification of loverboy victims. This should result in them reporting more adequately about loverboy victims.⁹¹

Information on expertise development of police and Public Prosecution Service can be found in Chapter 6.

Points of concern

The report *Understanding exploitation*, in 2005, made it clear that too little had been done to educate and train professionals who work with children. At the time there was training and information about human trafficking, but little to no attention was paid to the position of children. The researchers noted a lack of specific knowledge about child trafficking among professionals. This lack of knowledge has led to signals not being recognized sufficiently, and failure to act in case of suspicion of child trafficking.

Since 2005, both the Netherlands and countries of origin have invested in training professionals who may come across human trafficking. The identification of human trafficking by professionals that work for organizations involved in the chain partnership has improved. In the course of years, development of expertise among different groups of professionals, has received more attention. Yet, employees of asylum seekers centers and

⁸⁸ Memorie van Toelichting Wet regulering prostitutie en bestrijding misstanden seksbranche, 2009.

⁸⁹ GATE - Guardians Against Child Trafficking and Exploitation (2012), p. 63.

⁹⁰ Verwijs, R., Mein, A., Goderie, M. Harreveld, C. & Jansma A. (2011), p 50.

⁹¹ This is a Movisie project. More information on www.movisie.nl/artikel/registratie-slachtoffers-loverboys-jeugdzorg. Consulted in April 2013.

employees of youth care institutions prove to be little alert to signs of human trafficking.

The training of professionals should pay more attention to the background of child victims, to the reason children end up in an exploitative situation, the way children survive in a situation of exploitation and to the concerns and needs of child victims. This knowledge is vital for recognizing signs of child trafficking, providing adequate protection for the victims and to prevent minors from becoming victims of trafficking.

4.5 Conclusion

Anti-trafficking policy starts with an adequate preventive policy. The Netherlands, however, lack a clearly defined prevention policy. In recent years, the information supply to minors has increased, but focus has been primarily on potential Dutch victims of loverboys and much less so on potential child victims of cross-border trafficking. Also, there is little or no attention to educating potential offenders.

Part of the prevention lies in expertise development of all professionals who work with minors and human trafficking victims. Although this has received a great deal of attention in recent years, still employees of asylum seekers centers and employees of youth care institutions remain little alert to signs of human trafficking. Also, expertise development still pays too little attention to the specific position, backgrounds and needs of the child victims. This expertise is particularly important to protect underage victims adequately.

If we look at the local approach to human trafficking, it appears that not all municipalities have effective local anti-trafficking policies. Some municipalities are under the assumption that human trafficking does not occur on their territory, but human trafficking is not tied to particular municipality borders. It is important, in every municipality, under the leadership of the municipality, that all chain partners and relevant stakeholders cooperate. Extra attention should be given to involve care and relief institutions, because currently this is not done enough.

All in all, compared with the situation in 2005, regarding prevention of and the fight against human trafficking, child victims receive more attention, but the Netherlands are still lacking a specific comprehensive policy in this field.

5 Protection of child victims in the Netherlands

Seventeen- year-old Jessica and eighteen-year-old Annemarie both live temporarily in an open youth care institution. In the evenings Jessica regularly goes out with her boyfriend. One night she asks Annemarie if she would like to come along. The three of them visit a bar. Afterwards the boyfriend takes them to a secluded property. Annemarie finds it interesting and exciting. Once in the building Jessica and her boyfriend are not nice anymore to Annemarie. She begins to feel uncomfortable. Suddenly Jessica's friend grabs Annemarie and rapes her, while Jessica is filming it with a phone.

Annemarie returns to the institution all upset. The next morning she tells two supervisors what happened . They call the police. Annemarie herself does not want to report. She is ashamed and terrified. The care workers suspect that she has been threatened. The case is not seriously picked up by the police and the boy walked free. Jessica is removed from the institution.⁹²

5.1 Introduction

With the implementation of the EU Directive on preventing and combating human trafficking and protecting its victims in April 2013, Dutch trafficking policy will have to focus more on the position and the protection of (child) victims. Based on the provisions of the UNCRC and other international regulations, care and assistance should be appropriate and sustainable and focus on recovery and reintegration of victims. This chapter explains how reception, care and assistance to child victims is regulated in the Netherlands.

5.2 Identifying child victims of human trafficking

Early detection of human trafficking is the basis for relief and assistance to victims. Victims of human trafficking can be found in various sectors. Therefore, a diverse group of professionals should be able to recognize signs of child trafficking.

The task of identifying child trafficking lies with all professionals working with and for children and young people, such as teachers in schools and social workers in youth care and other support agencies. In case of minors from abroad, this will be a task for guardians of guardianship institution Nidos and mentors of the COA. In addition, the signaling task lies with investigation services such as the police (Regional or National Investigation), the Royal Military Police (KMar), special investigation services, such as the Labour Inspectorate (Inspectorate for Social Affairs), but also with law enforcement services of the municipalities. When foreigners enter the Netherlands the Royal Military Police look for indications of human trafficking. Nidos has a special unit at the Application Centre in Ter Apel, watching for signs of human trafficking at the arrival of foreign unaccompanied minor foreigners. This department was first active at the Application Centre Schiphol till January 1, 2013.

Investigation and law enforcement services usually work with lists of indicators. In some municipalities support organizations are also working with these lists. Annex 3 of the PPS Human Trafficking Guidelines contains a list of over 70 indicators/risk factors that may indicate trafficking. This list contains a number of risk factors that specifically apply to child

⁹² Case study for this report by Defence for Children-ECPAT Nederland.

victims. Examples include truancy, problems at home, going out a lot and staying away all night. However, it is still not common for all professionals in youth care, let alone in schools, to be familiar with signs of human trafficking.

Besides professionals, citizens can also identify child trafficking. They can report the signals to the police, the Advice and Complaints Bureau on Child Abuse or a local or regional telephone hotline youth prostitution, which in some municipalities is housed at the Support Centre for Domestic Violence. Report Crime Anonymously receives anonymous reports on serious crimes such as human trafficking. Since January 2006, this hotline, at the initiative of the Ministry of Security and Justice, started the campaign "Appearances are deceptive". Local residents, care workers, customers of prostitutes and other people involved are called upon to report illegal practices such as human trafficking. In 2012, Report Crime Anonymously noted an increase in the number of reports of trafficking and smuggling by 46% to 198. It is not known how many of these reports were about possible child trafficking.

Points of concern

In practice, it is often difficult to recognize signs of human trafficking. Partly this is because it is not always clear whether a situation may be regarded as human trafficking. Moreover, not all victims consider themselves to be victims, especially if the exploitation has not occurred yet. Investigative authorities, educational institutions, care and shelters organizations suffer from lack of knowledge and capacity, which complicates signaling even further. In that respect, the situation has not much improved compared to 2005. The study *Understanding exploitation* showed that signs of exploitation of children were insufficiently recognized by chain partners such as IND, KMar, social workers, local police officers and teachers. This was due to lack of knowledge and expertise on human trafficking.

Many organizations have become more alert to signs of human trafficking. Since 2005 investigative services have been more focused on the identification and registration of victims of trafficking, but there still is no foolproof system. Fact is that in the year 2013 not all victims are identified and not all identified victims are registered.

So for instance, in 2012, Mrs. Conny Rijken of Tilburg University, in an article claimed that in the past years there had been several cases to prove that despite the fact that signs of human trafficking were obvious, people were not recognized as such by authorities.⁹³ Additional interviews conducted as part of this research show that youth care institutions do not recognize and register victims of loverboys as a victim of human trafficking.

A report by Defence for Children from 2012 shows that sometimes unaccompanied minor foreigners arriving at the weekend in the Netherlands do not get an initial interview at the Schiphol application centre (per 2013 in Ter Apel), but are taken directly to the process reception location (POL).⁹⁴ Mentors indicate that POL employees are believed to be less experienced in identifying human trafficking and this way (possible) victims are not recognized.⁹⁵

Detection is also complicated because the exchange of information, including indications of human trafficking, between care facilities and the police does not go well. Care institutions are sometimes not involved in local case consultation. Also, police believe that care workers are reluctant in sharing information. Care workers do not want to endanger the bond of trust

⁹³ See: Rijken, C. (2012), pp. 95-96.

⁹⁴ Amv's stay for a maximum of three months at a process reception center. During this period the guardian will decide what form of continued reception is appropriate for the child.

⁹⁵ GATE- *Guardians Against Child Trafficking and Exploitation* (2012), p. 52.

between them and a (possible) victim and feel they are not supposed to share personal data just like that.

Duty to report

The police report the largest number of victims to CoMensha. Police, Royal Military Police and Social Affairs Inspectorate have a legal duty to report to CoMensha. But care and relief institutions are not required to report and do report too little. It is not only that they do not recognize victims of trafficking as such, but they are also unfamiliar with CoMensha as a registration organization. In turn, CoMensha does not refer underage victims to relief and care institutions for children. This does not motivate these institutions to report. For several years there have been attempts to motivate relief and care institutions to report, but this takes time. These institutions should also be required by law to report victims in order to get a better picture of the number of child victims in the Netherlands.

5.3 Reception, care and assistance to child victims

In the Netherlands, access to reception, care and support facilities depends on whether the child victim is of Dutch or foreign nationality. A victim of foreign nationality without right of residence only has under certain conditions access to similar or the same facilities that are accessible to Dutch child victims of trafficking. Apart from the reflection period that may last up to three months in which the victim should think about whether or not to file a report of human trafficking, support and care for foreign victims of trafficking is not regarded as separate from their willingness to cooperate in Dutch criminal proceedings. During the reflection period the victims receive support and care and cannot be returned to his or her country of origin. After that period, support and care depends on the willingness of the victim to cooperate in criminal proceedings.

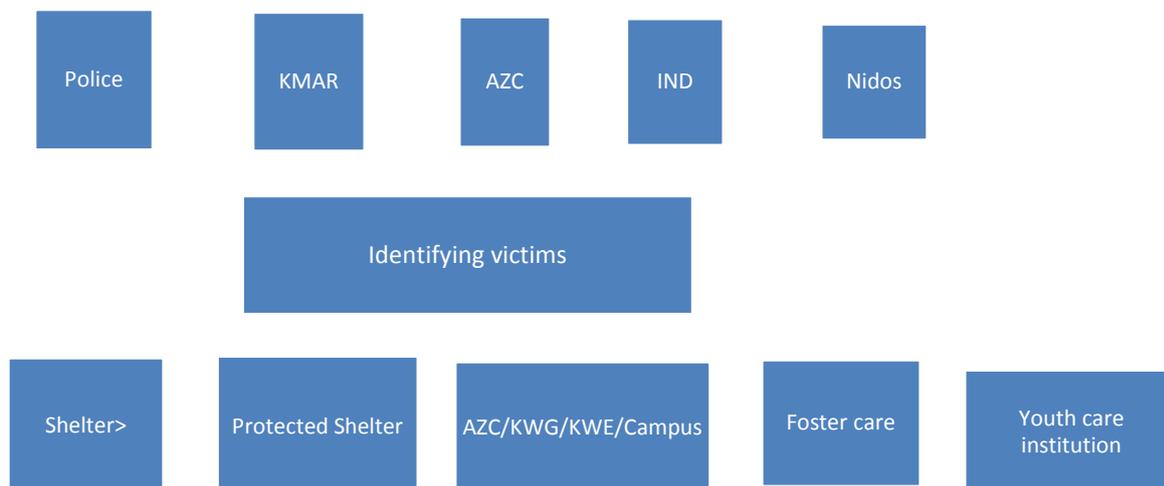
Before considering the range of support, care and assistance to underage victims of trafficking in the Netherlands, the next section will first explain about the Dutch legislation that creates the difference in access to shelter and assistance.

5.3.1 Residence permit for underage foreign victims of trafficking

Aspects of alien and criminal law to a large extent determine protection and relief of unaccompanied minor victims from abroad. The protection of child victims from abroad without right of residence not only depends on (timely) detection of the child victim, but also on granting a residence permit.

The diagram below clearly shows the flow in and through of foreign unaccompanied minor victims. This scheme is illustrated in the next few paragraphs.

Figure 2 Flow in and through of foreign unaccompanied minors of human trafficking



18 years

With residence permit or in application process . **Without residence permit**

Women's shelter AZC Prolonged youth care (voluntary) . Return Illegality

A Minor?

The first step in protecting foreign underage victims is to determine whether the victim actually is a minor. This is particularly important for obtaining a residence permit, such as the special amv permit.⁹⁶ If victims have official identity documents with them, it should be easy to determine, but usually victims are not in possession of these or there are suspicions that the documents are false. The Convention of the Council of Europe on the Protection of Children against Sexual Exploitation and Sexual Abuse defines in article 35 paragraph 3, that when in doubt about the correct age of the victim, the victim in the first instance should be considered a minor and should be approached as such.⁹⁷

In the Netherlands, when there is doubt about the age of a victim, this will be investigated by way of an x-ray of the wrist and possibly the collarbone of the victim. This is done by the Dutch Forensic Institute. The x-rays tell whether a person is a minor or not. When this x-ray shows that the collar is not fully mature, it is assumed that the victim is younger than 20 years of age. In that case, the victim is given the benefit of the doubt, and it is considered a minor. At the age testing no pediatrician, psychologist or social worker will be involved.

⁹⁶ The amv permit will be abolished 1 June 2013.
⁹⁷ This can also be found in the EU Directive 2011/36/EU.

Appointment of a guardian

Foreign child victims of trafficking usually arrive in the Netherlands as unaccompanied minors and therefore have no legal representative. It is important that custody is arranged quickly. In the Netherlands, Nidos, Legal Guardian Service, acts on behalf of the State as guardian. Subsequently, the Nidos guardian is responsible for the supervision of the minor.⁹⁸ The legal basis for the guardianship of Nidos is a custody rule and not a child protection rule. With the custody rule, ordered by the court, a Nidos guardian gets temporary custody of the minor. As soon as an unaccompanied minor arrives at the Application Centre, Nidos arranges custody. Unaccompanied minor victims who come from EU countries, also fall under the guardianship of Nidos.

According to Nidos, unaccompanied minors, particularly boys of sixteen and seventeen years old from Eastern European countries such as Hungary, Romania, Poland and Lithuania, are regularly arrested by the police for theft and put in prison for a short period. These children are then registered with Nidos. This concerns about two to three children per month. Nidos applies for custody of them, but in most cases the minors disappear when released, before guardianship is arranged. Some stay longer and are accommodated in reception centers. Then, they can return home via IOM. Nidos indicated that some of the minors that have been sent back, are later again found in the Netherlands. It is, according to Nidos, not a matter of exploitation, but rather boys travelling around, looking for food or clothing and committing thefts for that reason.

Residence permit

To remain in the Netherlands unaccompanied minors victims of trafficking need a right of residence. If they do not have this right of residence, various application procedures may be initiated. Victims may start an asylum procedure, or they can get a (temporary) residence permit through the B9 regulation if they file a report or cooperate in the criminal investigation or trial. The choice between asylum procedure or B9 regulation, is often made by the lawyers who monitor minors in the various phases of the application procedure. This choice is influenced by the probability of obtaining a residence permit and the knowledge and experience of asylum lawyers with human trafficking and the B9 regulation.

Asylum procedure

To apply for asylum a person has to meet certain requirements. Being a victim of human trafficking is not a ground for asylum, but if the person is also in danger in their country of origin because of race, religion, nationality, political opinion or sexual orientation, then this may be a reason to get refugee status.

The requirements to be eligible for asylum are stringent for child victims of trafficking. Based on their victimization, a child victim is not given asylum. Moreover, it can be difficult for them to tell what happened, for example because they are traumatized or they might not be aware of their victimization.

Up to 2013, unaccompanied minor foreigners (amv's) who are not given asylum, may get an amv permit if it is likely that the minor will not be able to survive on his own in the country of origin or in another country where he reasonably can go, and if care in the land of origin is not

⁹⁸ Article 1:241 section 7 of the Dutch Civil Code.

adequate. The amv permit is abolished 1 June 2013. As a consequence unaccompanied minor foreigners who are not given asylum, will no longer have identity documents, but do keep the right to shelter, education and health care. This group of amv's is particularly vulnerable to becoming a victim of exploitation.

*B9 regulation*⁹⁹

In the Netherlands, Chapter B9 of the Aliens Act (Vreemdelingen­circulaire) defines the right of residence and access to care and relief of human trafficking victims. This rule also applies to child victims. The B9 regulation provides (child) victims and witnesses of human trafficking during the investigation and prosecution of the suspects a temporary right of residence (B9/2Vc) with care, medical assistance, legal assistance and livelihood. The duration of stay is linked to filing a report or giving a statement and is then attached to the proceedings against the accused. Each (presumable) victim of trafficking shall get a three-month reflection period. During these three months, the victim will receive support and care. Neither can the victim be returned to country of origin during this period. The period is meant to give the victim some space, peace and tranquility for making decisions about whether or not to file a report on human trafficking, or to cooperate with a criminal investigation or prosecution (for example by giving a statement). Underage children of victims and witnesses are also eligible for a temporary residence permit. Since 2006, victims who have filed a report or cooperated in the criminal proceedings in any way, and who for three years have had a B9 permit or whose criminal case has led to a conviction are eligible for continued residence (Article 3:52 Vb jo B16/4.5 Vc).

Only the police are authorized to offer reflection time as described in the B9 regulation. Even the slightest indication of human trafficking is reason to offer the reflection period. The police reports that a suspected victim is found and that this person would like to make use of the reflection period to both the IND (in connection with postponing departure) and to CoMensha. Subsequently, CoMensha takes care of registration and, in the case of adult victims, of shelter. Other institutions that recognize signs of human trafficking or come into contact with victims, are not allowed to offer victims the B9 regulation. They can still call the police, but it is up to the police to do something with those signs. This limits access to the B9 regulation. There are signs of support agencies that sometimes the B9 regulation is unjustly not being offered or that the police refuse to register a report.

If the victim indicates that he or she wants to file a report or wants to cooperate in the criminal investigation or prosecution in a different way, the police will inform the IND. Reporting or cooperating with a criminal investigation or further investigation in another way, is officially regarded as an application for a residence permit.

Relatively, child victims make little use of the B9 regulation. According to government data a total of thirty minors have been granted a B9 permit in 2011. This is only a third of the 106 unaccompanied minor foreigners that have been sent by Nidos, on the basis of evidence of human trafficking, to the protected shelter for victims of trafficking.

⁹⁹ 1 June 2013 B9 will be renumbered to B8/3. Decision of the Security and Justice State Secretary of 28 March 2013, nr. WBV 2013/5, amending the Aliens Act 2000.

Table 2 **Number of B9 permits granted to minors (3.4, paragraph 1 under s Vb)**¹⁰⁰

| Year | Number of B9 permits granted to minors (numbers Migration Policy Department of the Ministry of Interior and Kingdom Relations) | Number of B9 permits granted to minors (numbers National Rapporteur) |
|------|--|--|
| 2009 | 20 | 12 |
| 2010 | 30 | 34 |
| 2011 | 30 | 36 |

If the victim does not wish to report or will not cooperate in a different way, postponement of departure will be lifted. If a victim wants to file a report or wants to cooperate in a different way, but does not want to stay in the Netherlands, then the police, the Public Prosecution Service and CoMensha will make agreements on this with the victim. CoMensha contacts organizations in the country of origin that can help the victim in returning and that maintain contacts with the relevant Dutch authorities.

In exceptional cases, a residence permit can be granted without the victim having reported or otherwise cooperated in the criminal investigation and prosecution of the trafficker. For instance, in situations where the victim is seriously threatened, or when there is a medical or mental disability. Two conditions apply: the police must issue a statement that the person (presumably) is a victim of human trafficking and the police must certify that, in the Netherlands, threats against the person are so seriously that no cooperation of the person can be expected. Medical and mental disability must be apparent from a medical certificate. Very little use is being made of this B9/12 rule. In 2011 and 2012 there were less than 10 cases (adult and underage victims).¹⁰¹ It is not known how many residence permits the government has granted under B9/12 to child victims.¹⁰²

Criminal proceedings may end in a dismissal (investigation and prosecution is stopped) or a court order. After the criminal trial is completed or dismissed, the Prosecution will notify the Immigration and Naturalization Service, the IND, and then it withdraws the temporary residence permit obtained under the B9 regulation. In case of a dismissal, a complaint can be filed about the case not being investigated further. This happens frequently in human trafficking cases.

Continued residency

After the B9 permit has expired victims can apply for continued residency according to Chapter B16 Section 4.5 of the Aliens Act. For the following categories of victims the application for continued residency will certainly be met, provided no further general grounds for refusal exist:

a. victims who have filed a report on, or otherwise cooperated in a criminal case, which ultimately led to a conviction;

¹⁰⁰ Letter by the Ministry of Interior and Kingdom Relations, Department of Migration Policy to Defence for Children, following a WOB-request, 11 May 2012, nr. 2012-0000277620. Figures are rounded to tens. In the third column, the numbers registered by the National Rapporteur. See: Nationaal Rapporteur Mensenhandel (2012), *Mensenhandel in en uit beeld*, p.295.

¹⁰¹ Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel in en uit beeld*, p. 84.

¹⁰² Letter by the Ministry of Interior and Kingdom Relations to Defence for Children, following a WOB request, 11 May 2012, nr. 2012-0000277620.

b. victims who report on or otherwise cooperated in a criminal case, which ultimately did not result in a conviction, but who at the time of the court ruling already had been staying in the Netherlands for three years or more on the basis of a residence permit on the grounds of the B9 regulation.¹⁰³

In other cases, applications will only be granted eligible if, in the opinion of the Minister, due to special individual circumstances the victim cannot reasonably be asked to leave the Netherlands.¹⁰⁴ Risks of reprisals play a role in the balancing of interests by the Minister, as well as risks of persecution in the country of origin (for example, on the basis of prostitution), and the (im) possibilities of social and community reintegration in the country of origin. It is not known how many people have obtained a continued residency permit due to specific individual circumstances (3.52 VB) after having a B9 permit for a shorter period than three years, while getting the B9 permit when they were minors.¹⁰⁵

Points of concern

For child victims without a right of residence, an application procedure will be started. Subsequently, special shelter and care can be arranged. This special shelter and care is usually subject to a (temporary) residence permit. A minor unaccompanied victim may apply for an asylum permit, a permit for amv's (until 2013) or a temporary residence permit under the B9 regulation. The latter regulates both right of residence and assistance and support to foreign victims of trafficking. The B9 regulation applies to adult and child victims.

In 2005, the B9 regulation led to much criticism. The report *Understanding Exploitation* shows that many interviewees found the rule offered little protection and care to victims and that only few of the children made use of it. For them, the benefits did not weigh against the disadvantages of filing a report, which is a requirement to be allowed to apply for the B9 regulation. The police themselves also proved to be reluctant to motivate victims to report. Partly this is due to the police not being aware of the rule at the time.

Eight years later there have been some changes. Now, the police is familiar with the B9 regulation. However, the fact that the B9 regulation can be offered only by the police and the Royal Military Police remains an issue. Namely, not nearly all victims of trafficking end up with the police or the Royal Military Police or are identified as victims. So there are victims who are not identified, do not reach the police or the Royal Military Police and therefore are not offered the B9 regulation, and subsequently, do not get the right protection.

The main concern about the B9 regulation remains that relief and assistance to victims is not its main objective. The B9 regulation aims to support criminal prosecution of human trafficking.¹⁰⁶ Shelter and assistance depend on the willingness to report or cooperate in the criminal investigation and in the start and continuation of criminal detection or prosecution. Moreover, in case police or Public Prosecution Service decide not to prosecute for example due to technical detection problems, the victim no longer is entitled to assistance, support or a residence permit under the B9 regulation.¹⁰⁷

¹⁰³ Article 4.5. chapter B16 of Vc2000.

¹⁰⁴ Article 3.52 Vb, in detail in chapter B16/4.5 Vc.

¹⁰⁵ Letter by the Ministry of Interior and Kingdom Relations to Defence for Children following a WOB request, 11 May 2012, nr. 2012-0000277620.

¹⁰⁶ Letter by the Dutch Ministry of Immigration and Asylum to the Lower House of Parliament regarding measures to fight abuse of residence procedures for trafficking victims, 11 November 2011, nr. 5716693/11/15 November 2012, Parliamentary document 28638, nr. 57.

¹⁰⁷ See also: Rijken, C. (2012), pp. 89-99.

The B9 regulation does not offer adequate protection for underage victims. It does not take into account the individual situation of a child victim, the interests of the child victim are not put first, and it offers no perspective: the residence permit may expire at any time, regardless of whether the child needs care or assistance. Only few minors make use of the B9 regulation. Most minors in protected shelter apply for an amv permit or already have an amv permit. If a minor at a later stage wants to be eligible for the B9 regulation, it is difficult for the police and Public Prosecution Service to launch an investigation and find evidence. The abolition of the amv permit will create a group of minors who, if they do not get refugee status and remain in the Netherlands, are particularly vulnerable. They run the risk of falling into the wrong hands and once again becoming a victim.

According to care workers in shelters and assistance and care organizations, procedures concerning the application process of child victims impede their recovery and assistance and care to minors. The lack of clarity and uncertainties related to whether or not obtaining a residence permit are very damaging to the further development of the child. This puts too much strain on the child.¹⁰⁸

Because protection of minor foreign victims has been made to depend so much on the application process and criminal proceedings, it does not meet the international standards, applicable in this field.

5.3.2 Reception locations

CoMensha is responsible for referring victims of trafficking to shelter, care and assistance, with the exception of child victims. Youth Care and the Legal Guardian Service, Nidos, play an important role in referring child victims to shelter and care.

For child victims of domestic human trafficking Youth Care is a key player in determining the appropriate assistance and care. For this group only a limited and fragmented range of ambulatory care is available. In addition, they can be accommodated in residential institutions within and outside youth care, including social care institutions and women's shelters.

There are just a few youth care institutions (open and closed care) that have specific expertise to help victims of sexual exploitation (mainly loverboy problems). In addition, the Netherlands has some specialist care facilities for child victims of trafficking, such as Meisa in Amsterdam and Fier Fryslân in Leeuwarden.

If a young person has severe parenting and growing up problems, and there is a threat that he or she will withdraw from the necessary treatment, than the juvenile court may authorize the Youth Care Agency to place the children in a secure youth care institution (Youth Care Plus). It is unknown how many child victims of trafficking (including loverboy problem) are placed in Youth Care Plus institutions. This is not registered.

In case of child victims of cross-border trafficking and unaccompanied minor foreigners who are suspected of being at risk of becoming trafficking victims Legal Guardian Service Nidos plays an important role in determining the place of shelter. For child victims of cross-border trafficking and minors at risk, a special care facility has been set up: the protected shelter. Especially, minors aged thirteen and older are placed in the protected shelter. Children twelve years old and younger are placed in foster families. Older child victims of trafficking (17+) can also be placed in the regular reception of the COA (Central Agency for the

¹⁰⁸ Interview with Jade Zorggroep (protected shelter) and Meisa, 2012.

Reception of Asylum Seekers) such as the amv campuses . These are large-scale institutions for hundreds of minors. The Youth Care Inspectorate has stated that these large campuses do not reflect the interests and needs of children and that they cannot provide these children adequate safety.¹⁰⁹

As a rule, no minors are placed in the Categorical Care for Human Trafficking Victims (COSM). It happens that a child victim of cross-border trafficking ends up in an institution for youth care or specialist care institution. This depends on the preference of the Nidos employee concerned and his or her assessment of the child's needs.¹¹⁰

Seventeen-year-old Valeria is Hungarian and she lives in a small town in northern Hungary. Through Facebook she meets a Hungarian man who lives in the Netherlands. They chat for a few weeks on Facebook and begin a relationship. They talk about a common future in the Netherlands. The young man proposes to actually meet each other in Hungary. If they get along then Valeria can return with him to the Netherlands. Valeria becomes madly in love with the man when he is in Hungary. He visits her home and also get along well with her father. Valeria decides to go with him to the Netherlands. Her father gives his permission.

At the border Valeria and the man are detained. Valeria is placed in a crisis center. The police appeared to have followed the man for some time and has been tapping his phone. The telephone taps revealed that the father of Valeria had sold her to the boy for seven hundred Euros and the boys intend to put her to work in the prostitution in the Netherlands. Valeria has no idea what she's doing in a crisis center. She misses her boyfriend and does not believe the allegations made against him and her father.

The protective shelter has 60 beds. There is no waiting list.¹¹¹ On average, minors spend about four months in protected reception and then move on to follow-up reception.

Table 3 Number of amv's and average duration of their stay in the protected shelter¹¹²

| Year | Number | Average duration of stay in days |
|------|--------|----------------------------------|
| 2009 | 120 | 140 |
| 2010 | 170 | 110 |
| 2011 | 180 | 110 |
| 2012 | 80 | 117 |

¹⁰⁹ Report by Inspectorate for Youth Care about campuses and the Minister's response in a letter to the Parliament: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2012/05/21/kamerbrief-over-rapport-inspectie-jeugdzorg-over-opvang-amv-s-in-campuslocaties.html>. See also: GATE- *Guardians Against Child Trafficking and Exploitation* (2012), p. 6 en 31.

¹¹⁰ Information received during interview with a Nidos guardian, 2012.

¹¹¹ Information received during interview with Jade Zorggroep, 6 February 2012.

¹¹² Letter by the Ministry of Interior and Kingdom Relations to Defence for Children following a WOB request, 11 May 2012, nr. 2012-0000277620 and of 7 May 2013, nr. 2013-0000191522. Average length of stay; some amv's only stay a few days in protected shelter, others a year. These figures do not correspond to the former mentioned Nidos figures.

Points of concern

Relief and assistance to child victims of domestic trafficking and child victims of cross-border trafficking differs. For victims of cross-border trafficking a residence permit must be applied for. This in turn has implications for the way in which care and assistance to the victims is regulated.

Victims of domestic human trafficking can be placed in the youth care. This involves the Youth Care Agency and, in the event that secure placement is necessary, the Council for Child Protection and the juvenile court. Unaccompanied minor victims of cross-border trafficking are placed under guardianship through an authoritative measure. They mainly end up in protected shelters. The Council for Child Protection and juvenile courts have no role in the relief and care process. The reception and care of these victims is not monitored or evaluated by the Council or a juvenile court. Protected reception as a shelter location of the COA is under authority of the Youth Care Inspectorate (Ministry of Security and Justice).

In 2010, a survey of the Research and Documentation Centre (WODC) classified staying in protected reception as deprivation of liberty and declared that Dutch legislation does not provide a basis for this. It is contrary to international human rights treaties, including the UN CRC which stipulates that children should be deprived of their liberty only in extreme cases. It lacks the necessary judicial review and there is no legal assistance for the minor when placed in protected reception.¹¹³ Following this report, no measures were taken to provide for a judicial review nor for legal assistance in case of placement. COA finds that there is no deprivation of liberty and that the regime has become less strict. According to the COA the target group has changed from Nigerian girls to (potential) victims from Guinea, who are less threatened. A less closed setting would therefore be sufficient.

5.3.3 Care available in reception facilities.

There has been global research on the effectiveness of methods and practices in the care and assistance to (child) victims of trafficking.¹¹⁴ Since it is difficult to follow victims for a longer time - especially in the case of foreign victims - the long-term effects of rehabilitation and reintegration programs are not clear. Despite the lack of information about what works best, globally, a large number of manuals has been published on the reception of and assistance to (child) victims of trafficking.¹¹⁵ Several countries have also formulated national quality standards for reception, care and assistance to child victims of (sexual) exploitation.¹¹⁶ The various reports, manuals and standards provide general principles and show what elements a program for relief and assistance should contain. In addition, there are guidelines and standards for alternative care for children which are also relevant to the residential care of child victims of trafficking, such as the international guidelines for alternative care of children, the Quality Standards for youth care Q4C (Quality for Children) and the Quality Standards guardians of unaccompanied minor aliens in Europe.¹¹⁷

¹¹³ Kromhout and others (2010), p. 150.

¹¹⁴ Rigby, P., Malloch, M. & Hamilton Smith, N. (2012), p. 21. See also: Asquith, P. & Turner, E. (2008), p. 22.

¹¹⁵ For an overview see bibliography.

¹¹⁶ Frederick, J. (2002).

¹¹⁷ See the *Core Standards for guardians of separated children in Europe* (2011), available on www.defenceforchildren.nl. Defence for Children International-ECPAT Nederland (2011).

Kwaliteitsstandaarden voor voogden van alleenstaande minderjarige vreemdelingen. Leiden: Defence for Children International-ECPAT Nederland. These standards are supported by the human rights commissioner of the Council of Europe and several Euro-parliamentarians.

Reports, manuals and guidelines provide the following eight elements that a program for shelter and care of minor trafficking victims should at least contain:¹¹⁸

- Provide basic necessities such as food, clothing and peace and quiet;
- Provide security, both physical and emotional;¹¹⁹
- Provide medical care and (sexual) education;
- Provide training in social and practical skills (life skills);
- Ensure access to education and vocational training;
- Offer treatment aimed at dealing with traumatic experiences and psychological recovery;¹²⁰
- Ensure access to legal assistance and their interests represented;¹²¹
- Offer follow-up and in case of return provide a risk analysis, support and guidance before and after arrival in the country of origin.¹²²

In chapter 3 is explained what is known about the background and problems of child victims of trafficking in the Netherlands. Especially striking are the multiple and underlying problems that many underage victims of loverboys face. Often, this also applies to victims of cross-border trafficking. With shelter and care, this should be taken into account appropriately, since it largely determines what form of care and support children need.

As indicated above, underage victims of trafficking can be accommodated in different locations. The question is whether the various reception locations provide the care and support underage victims require minimally. This section describes the care available at the various reception areas.

Residential youth care institutions

In most regionally funded youth care institutions child victims of domestic human trafficking are accommodated in open or closed groups. Only few child victims of cross-border trafficking stay in these institutions. In most cases, the victim resides within a group of young people with various problems. Victims can get into separate groups for girls and boys, but also in mixed groups. In some institutions, there are special groups for girls with similar problems (girl-specific treatment).¹²³ However, the number of institutions that provide care in separate groups and offer expertise for child victims of loverboys or other forms of trafficking is very limited in the Netherlands.

¹¹⁸ Delaney, S. & Cotterill, C. (2005); Delaney, S. (2012).

¹¹⁹ Delaney, S. & Cotterill, C. (2005), p. 15: It involves more than providing safe living conditions (safe shelter), but also to provide an emotionally warm environment in which the child feels respected and valued from the moment of entry. See also: Bjerkan, L. & Dyrild, L., p. 128, in this context ECPAT UK also refers to the prevention of child victims disappearances.

¹²⁰ To help victims of exploitation adequately it is necessary to pay attention to the psychological and social impact of the circumstances in which the child has been and to underlying problems. If this gets no attention, then all other measures or support programs will have no use at all. It is of great importance that psychological support to cope with trauma is offered, if necessary. See, among others: Delaney, S & Cotterill, C. (2005), p.33; ECPAT UK (2011), pp. 30-31; Frederick, J. (2002), p. 25; Fernandez, G. (2005), pp. 38-42.

¹²¹ For example, it involves arranging custody for an unaccompanied child victim from abroad, supporting the child in residential proceedings to obtain identity documents and a residence permit and in criminal proceedings. It is also important that professionals who work with child victims, defend the interests of this group and gain attention of lobbyists, politicians and policy makers for bottlenecks. See the Quality Standards for guardians of unaccompanied minor foreigners.

¹²² See, among others, *UNICEF Guidelines on the Protection of Child Victims of Trafficking*.

¹²³ Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma, A. (2011), p. 51.

Generally, in residential youth care, shelter and assistance to child victims are focused on care, education and in reducing problems. So, in addition to orthopedagogic basic care, treatments and interventions are offered to address problems specific to the child.¹²⁴ A study by the Verwey - Jonker Institute into the care of loverboy victims shows that there is a great risk of relapse and re-victimization. This had been observed by social workers who were employed by residential institutions and who took care of the loverboy victims. The research report showed several examples of loverboys, who during the time the girl was staying in the institution, tried to keep their grip on the girl and also girls who had been victims of a loverboy more than once. The study continues with these observations and examples but it does not become clear what is being done within the institutions in order to prevent relapse and re-victimization.¹²⁵

Secure Youth Care Institutions (JeugdzorgPlus)

Until 2010, children with a civil court action and children with a criminal action were placed together in juvenile institutions. The start of secure youth care institutions, JeugdzorgPlus, has ended this. Placement in a JeugdzorgPlus institution is possible only if juvenile court has issued an authorization. In 2013, sixteen youth care organizations offer JeugdzorgPlus.

The majority of these institutions do not have expertise on victims of trafficking, but provide individually tailored care to the victim. Work is being done in the spirit of: one child, one place, one plan.¹²⁶ Most institutions offer various forms of individual treatment, group treatment and family interventions. According to the Dutch Youth Institute quality and range of treatments vary greatly by JeugdzorgPlus institutions.¹²⁷

Women's shelter organizations

Most institutions for women's shelters do not have specialized care for trafficking victims, let alone that they have specific policy and care for child victims. Care and assistance is individually oriented, focusing on providing a safe environment and addressing the problems of women and girls under the broader headings of violence and exploitation in dependency relationships.¹²⁸ A number of institutions for women's shelters has specialized in the care and treatment of victims of trafficking. An institution for women's shelters is allowed to receive child victims if it has also been recognized as a youth care facility. Some women's shelters work closely with providers of youth care.¹²⁹

The Verwey-Jonker Institute examined which elements of care important for trafficking victims are also offered by women's shelters and youth care institutions that have no specialized care. They work on:

- Building a positive self-image;
- Learning to set personal boundaries;
- Creating resilience against the loverboy method;
- Learning to deal with sexuality;
- Engaging and maintaining healthy relationships;

¹²⁴ Boendemaker, L., van Rooijen, K., & Berg, T. (2012), p. 4.

¹²⁵ Verwijs, R., Mein., A., Goderie, M., Harreveld, C & Jansma, A. (2011), pp. 80-82.

¹²⁶ Ditto, p. 52.

¹²⁷ For information look at the website of The Netherlands Youth Institute , <http://www.nji.nl/eCache/DEF/1/24/357.html>. Consulted 25 April 2013.

¹²⁸ Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma, A. (2011), p. 52.

¹²⁹ www.opvang.nl. Consulted in October 2012.

- Trauma recovery or cognitive behavioral therapy.¹³⁰

The study of the Verwey-Jonker Institute indicates that only few youth care institutions work according to the systems approach and involve families in the care of the child.¹³¹

Pamela is fourteen years old and calls herself Zineb. She chose a Moroccan name because she feels Moroccan, like her Moroccan father she has never known. Pamela grew up in a small town in Limburg with her Dutch mother and sister but she is not home much. She has no interest in her mother or sister, she rather is on the street with her mostly Moroccan friends and her boyfriend. She skips school a lot, comes into contact with the police and is eventually placed in a secure institution because she is presumed to be the victim of a loverboy. In the secure institution Pamela claims to be fine and does not say anything further. Suspicions remain and are strengthened as Pamela sometimes comes back from leave covered with bruises which she attributes to small accidents. Pamela's secure placement is extended several times, since she does not stick to agreements, does not return from leave or stays out all night.

In the summer after her seventeenth birthday Pamela is allowed to go home. After a few weeks, she tells her sister that since she was fourteen years old, she regularly has been working in the prostitution. It started before she was placed in a secure institution, and it went on during her leave and after she was allowed to live at home again. Pamela tells her that her boyfriend takes her to premises known as prostitutes' spots. There, he arranges men for her. Pamela knows these men pay money for it, but she never sees any of it herself. If she sometimes says to her boyfriend she does not want to work, he beats her and says she does not want to do anything for their relationship.

Pamela's sister tells this story to their mother who contacts the Youth Care Agency. Pamela indicates that she would like to be placed in a secure institution, elsewhere in the Netherlands to build up a new life, away from her boyfriend. She hands in her mobile phone, because she does not want her boyfriend to contact her. She knows she will be unable to resist him. Since Pamela is so cooperative, it proves to be difficult to place her in a secure facility. In first instance, no place was found for her, and Pamela had to wait a few days at home. Eventually, she is placed in a crisis shelter.

Specialized institutions

The study of the Verwey-Jonker Institute shows that regarding the desirability of specialized care for victims of loverboys, opinions of professionals differ. Proponents argue that victims will benefit from specialized care because it concerns very complex issues. They find that social workers should have specific expertise to be able to offer effective care to this group. Opponents see loverboy problems as a manifestation of underlying problems that according to them, can be treated very well in individually tailored care.¹³²

Already, in her first report in 2002, the National Rapporteur pointed out the lack of specialized care for child victims of trafficking.¹³³ Ten years later, in her eighth report she comes to the conclusion that no vision has been developed on the care of minor loverboy

¹³⁰ Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma, A. (2011), p. 52.

¹³¹ Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma, A. (2011), p. 53.

¹³² Verwijs, R., Mein, A., Goderie, M., Harreveld, C. & Jansma, A. (2011), p. 53.

¹³³ Nationaal Rapporteur Mensenhandel (2002), p. 181.

victims, although this is long overdue considering the longstanding severe problems.¹³⁴ Partly because of her recommendations, the Task Force on Human Trafficking in its Action Plan for 2011-2014 paid special attention to child victims of loverboys.¹³⁵

As already indicated above, the Netherlands have only few institutions that offer specific help programs for the relief and assistance of child victims of trafficking. Since 2005, some specialized care shelter locations have been set up. At that time there was only one shelter that offered specialized care to girls and young women aged 12 to 23 years who were victims of human trafficking. This shelter, Asja of Fier Fryslân, in Leeuwarden has existed since 1999. It provides a structured program in which the emphasis is on here-and-now, normal development (education and various social and practical skills such as maintaining friendships, dealing with love matters, leisure, learning how to deal with money), support and treatment for current and underlying issues and safety and protection from loverboy or a criminal network.¹³⁶ The Asja intervention program has been recognized as being theoretically well-founded by the Interventions Accreditation Committee of the Dutch Youth Institute (NJI), the National Institute for Public Health and the Environment (RIVM) and the Dutch Centre for Youth Health Care (NCJ).¹³⁷

Presently, Fier Fryslân, the institution to which Asja belongs, has several groups for child victims of domestic trafficking. Besides Asja, young victims of domestic trafficking experiencing psychiatric problems can be accommodated in three special orthopsychiatric treatment groups by Meta. Fier Fryslân also has a group (eight places) specially for child and adult victims of cross-border trafficking: Rena.¹³⁸ In 2011, Fier Fryslân began with the development of a multidisciplinary Centre for Child and Human Trafficking. In this centre, a diagnostic centre, a shelter and assistance to victims, and an expertise centre for child and human trafficking will be brought together under one roof. Professionals from different organizations are intended to work together in this center, including the police. It started in 2013.¹³⁹

In 2007, the Amsterdam Human trafficking Coordination (ACM) was founded, a partnership between HVO-Querido, police, legal expertise and the Youth Care Agency. Also part of this partnership are COSM and Meisa of youth care provider Spirit, that provides crisis relief for child victims of trafficking.

Meisa is a crisis relief location for girls between twelve and eighteen years old who need intensive gender-specific guidance and structure. They can also accommodate girls who are victims of human trafficking. Meisa can place both child victims of domestic and cross-border trafficking. Meisa not only offers a safe place, but also works on a daily routine of school, work and leisure activities and increasing social and practical skills. They are in partnership with Equator, an organization that provides psychological and psychiatric assistance to victims of human trafficking.¹⁴⁰

The protected shelter

The protected shelter is a special relief centre developed by Nidos, COA and the Jade

¹³⁴ Ditto, p. 48.

¹³⁵ Task Force Mensenhandel (2011).

¹³⁶ Van Dijke, A., Lamers, F., Talhout, M., Terpstra, L., Werson, S, de Wind, A. (2002).

¹³⁷ See the database for effective youth interventions, www.nji.nl

¹³⁸ More information to be found on: www.fierfryslan.nl. Consulted in April 2013.

¹³⁹ <http://www.ckm-fier.nl/pages/home.aspx>. Consulted in April 2013.

¹⁴⁰ Interview with Meisa and information on the Spirit website: www.spirit.nl.

Foundation. Target group of the protected shelter are child victims of cross-border trafficking and minors at risk of becoming a victim. Upon signs of human trafficking, it is the policy of Nidos to place minors (thirteen years and older) in protected shelter. That may already be upon entry into the Netherlands or during the stay in asylum centers. Placement in protected shelter occurs on the instruction of Nidos, whether or not combined with signals from the IND, the COA and the Royal Military Police. COA does the final placement. Evaluation by the WODC of the pilot protected reception of 2010, shows that IND risk profiles hardly play a role in placement and that the Royal Military Police only plays a minor role.¹⁴¹

On January 1, 2008, protected reception was launched as a pilot and from summer 2011 continued as a project. The reason for the protected shelter was the disappearance of unaccompanied minor foreigners from the regular asylum reception and the signal that they had landed in the trafficking circuit. Protected reception facilities should counteract this kind of disappearances and protect unaccompanied minor foreigners against human trafficking. The intention was to provide relief especially for unaccompanied minor foreigners of thirteen years and older, of whom the risk of disappearing was great. In practice, especially unaccompanied minor foreigners were given shelter that (presumably) already had become a victim of cross-border trafficking before they were placed in protected reception and unaccompanied minor foreigners who (presumably) run the risk of becoming a trafficking victim, but have not yet really been in a situation of exploitation.¹⁴²

During protected reception, guidance is aimed at easing away the minor from the trafficker. Starting point of the guidance lies in empowering the minor and helping her or him to live independently. Guidance is intense and particularly focused at preventing the minor to disappear. This is reflected in the security measures that are taken. Care and supervision is carried out in two security phases. In the first phase, a minor is supervised intensively by a mentor. Each appointment outside the institution takes place under guidance of the mentor. In the second phase, the minor gets more freedom and he or she is sometimes allowed to go outside the institution unaccompanied. The young people go to the private school of the reception centre. The school offers a customized curriculum, in particular practical training and English. Furthermore, there is much attention for sports and practical activities. The youths are kept busy, otherwise they would start brooding, according to a relief worker. There is a description of the methodology for the mentors, including a separate chapter on how to deal with pregnant unaccompanied minor foreigners. The methodology is based on experience of the past years and not made public.¹⁴³

In protected reception there are no specialized psychological services available for processing traumatic experiences. Although, some amv's also stay too short a time in the shelter to receive psychological treatment. According to an employee of the protected shelter it is possible to refer to psychologists outside the shelter, but experience shows that they have insufficient expertise to help this special group of young people and waiting lists for this sort of care are long. Generally, there is little alignment between the protected shelter and youth care in the region. However, they are looking into possibilities of future cooperation with psychologists of youth care authorities.¹⁴⁴

¹⁴¹ Kromhout and others (2010), p. 13.

¹⁴² Ditto, p. 11.

¹⁴³ GATE - *Guardians Against Child Trafficking and Exploitation* (2012).

¹⁴⁴ Interview with Jade Zorggroep, 6 February 2012.

Points of concern

In 2005, finding a relief place for child victims of trafficking was difficult, both for victims of domestic and cross-border trafficking. There was only one shelter specifically for child victims of sexual exploitation: Asja in Leeuwarden. It had eight places, just for girls from 16 to 23 years.

Many child victims ended up in women's shelters. Some child victims were placed in closed juvenile institutions where they were at risk of coming into contact with male residents, some of whom were in prison for human trafficking. Many relief centers had no specific knowledge and expertise in the field of juvenile prostitution and exploitation of children. Apart from too few specific care places, foreign victims had additional problems concerning access to appropriate care due to a lack of experience of professionals with this specific group and cultural and language barriers.

Since 2005, things have improved, especially with regard to the number of relief places and the specific skills of social workers. Victims are still accommodated in various care institutions. Most loverboy victims are cared for in youth care institutions that have no specialized care programs for victims of trafficking, but, for example for victims of sexual abuse. There are youth care institutions (open and closed reception) that have specific knowledge to care for victims of sexual exploitation (mainly the loverboy problem). The only JeugdzorgPlus institution (closed reception) just for girls from twelve years and older, that also provides relief for victims of loverboys will have to merge with an institution which accommodates both boys and girls in 2013.¹⁴⁵ After the merger, there will be no longer a closed shelter only for girls who are victims of loverboys.

Protected reception, where child victims of cross-border trafficking end up is not a part of the regular Dutch youth care system.¹⁴⁶ This form of care works on detaching the victim of the trafficker, but no trauma treatment is offered. Victims are referred to psychologists outside the institution who have no specific experience with the psychological consequences of human trafficking and with this specific target group coming from another culture.

The Netherlands has as yet no specialized care for all child victims of trafficking that also offers psychological services focused on the problems of these victims. However, in 2011, in Friesland, Fier Fryslân took the first steps with plans for a multi-disciplinary Centre for Child and Human Trafficking.

5.3.4 Next stage in reception

The care initially offered to the different groups of child victims of trafficking is temporary. This includes for example crisis relief for several weeks or months, a special treatment program for a defined period, a closed placement that should take the shortest time possible or a shelter for children under eighteen. In most cases, follow-up reception for the victim is necessary. In those cases when the victim goes back home or will go and live independently, appropriate follow-up care is required also.

It is difficult to get a clear picture of the next stage in reception and the follow-up care that is available. However, it is known that placement from the JeugdzorgPlus institutions to other care facilities is a problem. Already in 2009, the National Rapporteur pointed this out in her

¹⁴⁵ See: <http://www.nationaalrapporteur.nl/actueel/nieuws/2013/20130304-rapporteur-reageert-op-fusie-jeugdinstellingen-lindenhorst-en-almata.aspx?cp=63&cs=16790>. Consulted 4 April 2013.

¹⁴⁶ Protected reception is part of the Central agency for the reception of asylum seekers (COA), but is inspected by the Youth Care Inspectorate. The Youth Care Inspectorate has plans to inspect the protected reception in 2014, see: http://www.inspectiejeugdzorg.nl/actueel/nw_detail.asp?id=0307). Consulted 24 April 2013.

seventh report.¹⁴⁷ And in 2010, the Dutch Court of Audit concluded that it was difficult for children in JeugdzorgPlus institutions to move on to another care institution.¹⁴⁸ This problem had not been solved in 2012. Waiting periods are still long for other open youth care institutions or training centers for independent living skills.¹⁴⁹

For young people placed in protected shelter the next step in reception is also a major problem. There may be several reasons why children have to leave this shelter, such as reaching the age of majority¹⁵⁰ or when protected shelter appears not to be the most appropriate place for the child concerned. In the latter case Nidos can place a child in regular youth care (small living unit, amv-campus, foster care) or in case of an asylum permit, house independently. Young people of eighteen years, if they are in the asylum process, can be placed in a reception center (asylum seekers' center), in case of an asylum permit they are housed independently, in an ongoing B9 procedure via CoMensha they are placed in a men's or women's shelter or with Fier Fryslân or they return to their country of origin. When victims are denied asylum, they may end up on the streets. There is a shortage of relief places in the Categorical Shelter for Human Trafficking Victims (COSM) and in women's shelters. In all cases, the intensive support victims received in the protected shelter disappears. WODC evaluation research shows that a substantial group of young people leave the protected shelter without being sufficiently equipped for the next phase when supervision is much less intensive. This increases risks for this group of young people, such as the risk of being (again) exploited.¹⁵¹

A particular concern is that some of the child victims after their stay in protected reception will be transferred to an amv campus. The Youth Care Inspectorate stated that these large institutions are conflictive with the interests and needs of children and that they do not offer the safety that should be provided to minors.¹⁵² This large-scale reception has been discussed in the Lower House of Parliament. A majority in parliament is in favor of the idea to stop using these campuses for the reception of unaccompanied minors.¹⁵³

Grace was born in Uganda. As a result of AIDS and the war, she loses consecutively her brothers, sisters and parents. At fifteen she is violently raped by a rebel. She becomes pregnant. Due to the rape and the injuries she probably also is infected with HIV. As the sole survivor of her family, Grace flees to a refugee camp. She gives birth to a son there. In the refugee camp, she is sexually abused regularly. At seventeen Grace meets a Dutch man at the camp. He promises her a future in the Netherlands. 'It's hard for me to know whether this man was a professional or a tourist. At that time I had no experience with white men. All I know is that he knew his way about, spoke a little Swahili and especially girls talked to him about

¹⁴⁷ Nationaal Rapporteur Mensenhandel (2009), p. 145.

¹⁴⁸ Letter by the Dutch Court of Audit to the Lower House of Parliament (10 March 2010). *Bevindingen algemene Rekeningkamer instroom, doorstroom en uitstroom (gesloten) jeugdzorg* (Findings of the Court, relating flow to, through and from (closed) youth care).

¹⁴⁹ Jong- de Kruijf, de M.P., Schorsing en terugplaatsing in het kader van de trajectmachtiging gesloten jeugdzorg: is *carte blanche* voor de aanbieders van gesloten jeugdzorg wel zo'n goed idee?, in the congress volume (edited by M.R. Bruning & T. Liefwaard), published in 2013 by SDU.

¹⁵⁰ Length of stay in protected shelter of a young person who shall be eighteen may be extended up to three months.

¹⁵¹ Kromhout and others, (2010), p. 96.

¹⁵² For the report of the Youth Care Inspectorate on campuses and its response by the Minister in a Parliamentary letter, see: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerbrief-over-rapport-inspectie-jeugdzorg-over-opvang-amv-s-in-campuslocaties.html>. See also: GATE - *Guardians Against Child Trafficking and Exploitation* (2012), p. 6 and 36.

¹⁵³ Kamerstuk II 19637, Motion-Maij, adopted by Lower House of Parliament 9 April 2013.

their problems in the camp. I thought he was a journalist or someone who worked for the United Nations.’ Grace leaves her son with an ‘aunty’ and goes along with the man. Together they drive to the border with Kenya. ‘As for the route, I did not know where I was or where I was going. The same applies to the travel document. I do not know how he did that. He took a picture of me and said that he would take me to a country where I would no longer suffer, where people are nice and not rape or abuse girls as in the camp. I just had to say yes and follow.’ Together with the white man she went by plane. She does not know at which airport they eventually land. Here are two men waiting, the white man tells Grace that she should go with them. The men behave well and Grace goes with them. They drive for an hour and then arrive at a house. In the hallway she saw a couple of girls who look like they live in the house.

At the house is Grace prepared for prostitution. ‘I was told that I had been brought here to study and to lead a normal life without being raped. But then they started to make pornographic videos of me. I found it annoying. I was forced to watch these videos and the sex looked very violent and abusive. Then I got a personal coach of whom I had to watch when she had sex with her clients.’ Soon Grace is forced to have sex with men who are brought to her room. ‘She always gave me a pill that made me dizzy and sometimes an injection so I felt drunk. I did not chose the customers. They just came to my room. They forced me to dance, to do unspeakable things with them. Sometimes they beat me up during sex. Some customers came back and others were new. Some used a condom but removed it during sex. Some of them were using one and others did not at all.’

Grace now lives in the house where she is being exploited. She resides primarily in her room and does not leave the house. She has no contact with the outside world and sees nothing of the money that was earned by prostituting her. ‘They threatened me. They said I owed them money which they had given to the man who had brought me. If that money was paid through the customers, I would get commission and be allowed out of the house. They said they would murder me if would try to escape. There was a lot of pressure. Especially when I was sick. They told me that I had to make sure I was better. Sometimes they forced me to sleep with two men. I never had the freedom to stop and leave. The guy said I was his property.’

At one point Grace is so sick that she cannot work a long time. They try to treat her in the house but there was no improvement in her situation. Eventually she is brought to a bus. ‘They told me I had to stay there and that they would pick me up later, but they never came back. After hours of waiting at the bus stop it became dark. I asked a woman to help me get something to eat. I told her my story and she told me to go to the police.

At first I was hesitant because my pimp told me that if I ever would go to the police and say what I do, they would put me in prison.’ Grace decides to go to the police anyway and tells them how she came to the Netherlands and what happened to her. ‘I asked them to bring me home because my experience was so cruel that I just wanted to go home, even though I knew I had no home and no family. It was better than being beaten and raped every day and being held captive and not see daylight for months. The police were nice and gave me food. They told me that they could not let me return home because I had to start legal procedures.’ Grace is brought to a specialized treatment center, where she still resides with the daughter whom she gave birth to in the Netherlands.

After placement in the treatment center, Grace files a report on human trafficking and gets a B9 permit. After a year it turns out the criminal investigation did not result into anything and

the case was closed. Grace applied for continued residence. Again, a year later, this is rejected. The objection and appeal against this decision is to be declared unfounded over the course of two years. Grace is not entitled to a continued residence. Because Grace is in an exceptionally distressing circumstance, a "schrijnendheid procedure" is started. In this procedure, the minister is asked to grant a residence permit on humanitarian grounds. The application and the appeal are dismissed. The appeal is declared unfounded. Meanwhile, Grace and her daughter again have filed appeal and await the ruling.

On the question how Grace is doing now, she replied: 'I walk around with the physical and mental scars from the abuse that was inflicted upon me. The cigarette burns, the parts of my body that have cuts from belts, sexual abuse and death threats. In the recent years, I have received treatment from a psychiatrist who gave me sleeping pills and other pills against post-traumatic stress. What is even worse is that I was tested for sexually transmitted diseases and faced my biggest fear when I heard that I have HIV. (...). Unfortunately, they keep telling me that I can survive in Uganda with my medical problems, which I find mercilessly, because not one single organization has indicated that they will provide me with free medicines all my life. I'm so scared for the future of my daughter because my life is so uncertain and I'm afraid that history will repeat itself. I ended up in prostitution and am infected with HIV because I had no parents to protect me.'¹⁵⁴

Points of concern

Subsequent steps in the reception of all (child) victims is a problem. It is difficult to move on from closed youth care because there are waiting lists for open youth care institutions and training centers for independent living skills. It is also difficult for unaccompanied minor foreigners from protected reception to move on. There are not enough relief places in the Categorical Reception, because the victims residing there cannot or only with difficulty move on to other social care institutions. Children who move to the regular asylum centers are not as intensively monitored as in protected reception. They are particularly vulnerable and at risk of (again) becoming a victim of exploitation.

5.3.5 Disappearances from reception center

Minors disappear from reception centers, both from open and closed shelter organizations. A minor who is missing may fall into the hands of the wrong people and is vulnerable to abuse and exploitation. A missing child is in danger of becoming a victim of trafficking and should therefore be traced as soon as possible.

Child victims of loverboys often are girls who have run away from (closed) youth care institutions. In 2010, more than 780 young people appeared to be missing from (closed) youth care institutions. This was almost twice the number of minors that ran away in 2009.¹⁵⁵ When a person is missing from an institution a national missing persons protocol enters into force. Missing persons that are underage ought to be reported immediately to the Inspectorate for Youth Care and the police. In cases of missing minors there is close cooperation between care institutions, the police and the prosecution. A large part of the missing youth return soon. Some disappearances are not reported because supervisors suspect the minors to be back within a day.

¹⁵⁴ Quotes from a letter Grace wrote about her experiences.

¹⁵⁵ De Volkskrant, 'Jongeren lopen steeds vaker weg uit jeugdinstellingen', 4 April 2011.

Relief workers indicate that many young people who ran away, do not want to be found again because they absolutely do not want to return to the institution. Minors do not understand why they are placed in a closed facility and why their cell phones are taken away from them since they are not the culprits. Their stay in the youth care institution more feels like a punitive measure. The fact that young girls are placed in closed facility for their own protection does not get through to them. At the same time, they often feel more dependent on their loverboy and they want to stay in contact with him or her. According to relief workers, this is illustrative of the complexity of the problems that young people have to do deal with and at the same time indicates how difficult it is to organize the proper care.

Disappearance of unaccompanied minor foreigners

Unaccompanied minor foreigners who disappear (leave for a destination unknown: MOB) from the COA reception centers are particularly vulnerable to become victims of trafficking and exploitation. In 2011, the number of missing unaccompanied minor foreigners increased to 140. This is a remarkable percentage of increase, because the influx of unaccompanied minors has decreased in the Netherlands (from 1039 in 2009 to 484 in 2011). Most young people disappeared from large centers like the POL, where unaccompanied minor foreigners stay the first three months, and the amv campus.

Table 4 Number of amv's that have left both the protected and the central reception for a destination unknown¹⁵⁶

| Year | Protected reception | Other shelter locations (COA) |
|-------------|----------------------------|--------------------------------------|
| 2009 | <10 | 130 |
| 2010 | <10 | 120 |
| 2011 | <10 | 140 |
| 2012 | <10 | 160 |

Every disappearance is reported to the police. There is a request for detection, detaining and returning of the person (Dutch: AOT). Nidos has a protocol entering in force in case of disappearances. Reporting is to be done by the guardian or mentor. Guardians indicate that most unaccompanied minor foreigners leave to build a future elsewhere because they fear being imprisoned or deported. However, guardians also report that there are also cases where the young person is found again but in an exploitative situation elsewhere in Europe or in the Netherlands.¹⁵⁷ In practice, guardians, if there are no specific signals that may indicate for example human trafficking, report a person missing, sometimes as late as three days afterwards. Reason guardians give for this is that often it turns out that the minor only stayed away a day to go and visit friends.¹⁵⁸ But the more time passes, the harder it is for the police to investigate. Police indicate that guardians often report missing persons too late. Traces will have been erased by then.¹⁵⁹

¹⁵⁶ Letter by the Ministry of Interior and Kingdom relations to Defence for Children following a WOB request, 11 May 2012, nr. 2012-0000277620 and of 7 May 2013, nr. 2013-0000191522.

¹⁵⁷ GATE - *Guardians Against Trafficking and Exploitation* (2012), p. 25.

¹⁵⁸ Ditto.

¹⁵⁹ Interview with EMM, December 2012.

A growing group of minors from Eastern European countries such as Hungary, Romania, Poland and Lithuania are found by the police in the Netherlands but they disappear before custody and care is arranged for them. These children are vulnerable to end up (again) in an exploitative situation.

Points of concern

The relatively large number of disappearances in youth care institutions, amv campuses and POL is cause for concern. Many Eastern European minors disappear before Nidos was able to arrange custody for them. It is unknown where these children go. Those children are particularly vulnerable to end up in an exploitative situation. Not all of these young people fall into the hands of a trafficker. Some (Dutch) youngsters are staying temporarily with family and friends. Rapid detection should have priority. In practice, one does quickly try to trace young people who disappear from the (close) youth care institutions. Disappearances of unaccompanied minor foreigners are sometimes reported late, often the police cannot do anything anymore.

5.4 Family tracing and return

The Netherlands has no specific family tracing policies for child victims from abroad. However, the Repatriation and Departure Service (DT&V) of the Ministry of Security and Justice is obliged to attempt to contact parents, other family members or institutions (similar to guardianship institution Nidos) in the country of origin, to determine whether they are able to provide for the child. The Netherlands cannot repatriate children as long as no adequate care has been arranged in the country of origin.

Return of child victims of trafficking may be forced (failure to obtain or renew a residence permit) or voluntary. At an early stage, attempts are made to talk with the child about a possible return. But many guardians and mentors indicate that the child often is not ready for this and that the subject of return is barely mentioned. Many children do not want to return because they find the situation in their own country unsafe, because their own family played a role in the child trafficking and exploitation, or because there is nothing or no one to return to. The situation in which the children were before they were trafficked, can be just as distressing as the human trafficking experiences. Victims come from broken homes, are abused, have already been exploited before and/or come from regions destroyed by war. For many victims of human trafficking it is difficult to rebuild their lives in the country of origin after the traumatic events they have been subjected to. They are alienated from the social environment in the country of origin and can easily become isolated. This makes them again vulnerable. Good guidance during the recovery process, return and reintegration is therefore of great importance.

Forced return

If a minor does not obtain a residence permit, he or she must return to their country of origin. Return should take place only when reception in the country of origin is safe and adequate. The Dutch government has focused strongly on the actual return of unaccompanied minors to their country of origin in recent years. To this end, the government is currently funding two shelters, one in Angola and one in the Democratic Republic of Congo. The shelters must make it possible to repatriate unaccompanied minor aliens. However, amv's make little use of these return houses. The handful of unaccompanied minors who ever were supposed to go to the shelter in Angola were, according to the Dutch government, picked up by relatives at the airport. In the report *Return of separated children to return houses in countries of origin*, UNICEF The Netherlands indicates that there is no insight on what happens to the returned

children and what steps the Dutch government takes to prevent the minors from again falling into the hands of family members or persons that initially traded them to Netherlands.¹⁶⁰ Despite far-reaching plans no forced return of unaccompanied minors has taken place the past several years.

Voluntary return

A child victim of trafficking who expresses the wish to return to the country of origin, can be supported by the International Organization for Migration (IOM). IOM implements the Directive return underage victims. Both the guardian in the Netherlands and the minor have to give permission to return. Care in the country of origin should also be approved of by the guardian. The request for assistance in return usually is made through the guardian at IOM and sometimes through the relief institution. IOM will be talking to the minor. Together with the guardian and the minor they will look at the future plans and wishes of the minor. The feasibility of these plans may be tested in collaboration with the local IOM office.

Also in the country of origin, custody must be provided for. If IOM has been able to trace the family of the minor and it is safe for the child to return, then the child goes back to the family. If the child's family was involved in the trafficking, then local institutions and government conduct a safety analysis. IOM has no role in this. It is up to the Dutch guardian to make the definitive assessment whether a child can actually go back to its family. In case the family is found, a 'consent statement' should be signed, supplemented with identity documents. In case it is not possible for the child to return to the family, the government should appoint a guardian (if the local government has a guardianship system) and a relief institution. A child can only go back to a relief institution recognized by the government. The adequacy of care is judged by local standards. A declaration is signed between the local guardian (family or national guardianship institution) and the Dutch guardian. Up to the age fourteen an IOM employee, guardian or foster parent will travel with the child from the Netherlands to the country of origin, where the child is handed over to the local IOM employee, new guardian or relief organization. Although this is only obligatory up to fourteen years, IOM usually uses a limit of sixteen years for providing complete travel assistance. After the fourteenth year arrival and transit assistance is always provided. This means that a child is dropped off at the entrance of the jet bridge of the aircraft and is again collected there at place of destination.

IOM only has experience with the return of child victims of trafficking from Eastern Europe. There are few child victims of trafficking returning through IOM. In 2008, a total of five minors. In 2011, two or three known cases. These minors have returned to Hungary, Romania and Bulgaria.¹⁶¹ More and more girls with a (mild) intellectual disability from Eastern Europe end up in the prostitution in the Netherlands. In conversations with these girls a psychologist is present who should assess whether the girl is able to decide on repatriation.

According to IOM, relief is well organized in the Eastern European country: using European funding, relief programs have been developed. In other regions, the reception, to the extent that IOM can assess, is not properly organized. Thus, there are doubts about the quality of the specialized relief and assistance to victims of trafficking in African countries. IOM has been involved in a repatriation project in Nigeria. However, only one Nigerian (adult) victim has returned.

¹⁶⁰ UNICEF The Netherlands (2012), p.48.

¹⁶¹ Interview with IOM, 17 April 2012.

At return, the victim receives a sum of money. The standard amount for return within the EU is five hundred Euros. Of these, the shelter for the first six months must be paid. In addition, it should enable the returned minors to fund one course, training or another activity that contributes to his or her re-integration into society. As the budget is very limited and the shelter should be paid by this amount, only a minimal sum of money remains for such a course. The budget for reintegration will be paid directly to the educational institution or the institution where the course is taken. It is not given to the local guardian. If the budget is spent, the involvement of IOM stops. This is after a maximum of one year.

Points of concern

Only a few child victims return to their country of origin. Most victims who return, come from Eastern Europe. In general, there is little or no cooperation between reception and care facilities in the Netherlands and in the country of origin. So for instance, there is no exchange of information regarding minors between Dutch guardians and the persons or institutions who take custody in the country of origin.

The Netherlands has no overview of the situation of the returned child victims after forced or voluntary repatriation. It is also unclear how to prevent for the returned minors to fall again into the hands of individuals or family members who have traded them to Netherlands initially.

5.5 Conclusion

The identification of child trafficking is hampered by insufficient exchange of information and signals between care institutions and police. Care organizations are not always involved in local case consultation, and if they are, care professionals often appear to be reluctant to share information. In comparison with the police, care organizations scarcely report to CoMensha. Care professionals should have an obligation to report, just like the police has.

As far as reception and assistance is concerned, it makes a difference whether the minor is a victim of domestic or cross-border human trafficking. The reason is that in the latter group of victims, immigration law issues predominate. Child victims of cross-border trafficking are mostly placed in protected reception (an amv-reception center), where provided care is insufficiently tailored to the needs of the victims, which is partly due to the short duration of stay of the minors. Uncertainty about obtaining a residence permit hinders recovery of minors.

Child victims of domestic human trafficking are placed in various relief institutions. In recent years there have been attempts to create more relief places for (child) victims of trafficking, but the number of relief places in institutions that offer specialized care is still limited.

In chapter 3 and in this chapter it has been indicated that appropriate relief and care would benefit from more information about the background of the victim and the way he or she has been trafficked and exploited. Information gathered during the criminal investigation into the matter, may help social workers to improve their care for the child victims. In this, it remains of great importance for the victims to be adequately protected during the investigation and during any subsequent criminal case. That is what the next chapter is about.

6 Investigation and prosecution of child trafficking

The position of the child victim

In 2006, the Public Prosecutor launched an investigation into the disappearance of a few dozen, unaccompanied Nigerian minors from asylum seekers centers in the Netherlands. It appeared they were forced to work as prostitutes in countries such as Belgium and Italy. The Netherlands served as a transit port. It was a crafty system, set up by an international criminal organization.

Young Nigerians were provided with false travel documents and letters from fictitious Nigerian charities and put on the plane to the Netherlands. After arriving at the airport, they requested asylum and told the pre-rehearsed story of parents who were killed in clashes between Muslims and Christians and they indicated that they were minors. They were placed in a refugee center and from there tried to get into contact with one of the suspects. Then the suspect would organize the departure of the children. The suspect or acquaintances of them would bring the children, mostly through Paris, to Italy and Spain. There they had to work in the prostitution.

During the investigation, the victims made a statement to the police. The Public Prosecution Service suspected the victims were subjected to voodoo rituals and engaged the services of a clergyman and an experience expert witness to help the victims.

Eventually, in the Netherlands, March 2012, the main suspect was sentenced on appeal to thirty months in prison for human smuggling. Trafficking in human beings was not considered proven by the Court of Appeal.¹⁶²

6.1 Introduction

In the Netherlands, the investigation and prosecution of human trafficking is in the hands of the police and the Public Prosecution Service (PPS) in cooperation with special investigative services such as the FIOD (financial investigation) and the Inspectorate of Social Affairs (detection of human trafficking at the work place).

Victims play an important role in the prosecution, as witnesses or as an injured party. In the Netherlands, child victims of trafficking may have a role in legal proceedings. A minor may have an informative interview with an investigating officer, before he or she decides to press charges.¹⁶³ The victim has the right during the criminal investigation against the accused, to tell her/his story, either orally or through a written statement. A victim may also take part in the trial by bringing an action for damages as an injured party.¹⁶⁴

Children are regarded as a vulnerable group of victims in the PPS Guidelines on investigating and prosecuting human trafficking, in its resulting guidelines for punishment, in the Victim Care Guidelines and in the Guidelines for audiovisual registering of interrogation. Specific

¹⁶² LJN: BV8567.

¹⁶³ Aanwijzing Mensenhandel, chapter IV, paragraph 6.

¹⁶⁴ Article 51f and further of the Criminal Proceedings Act.

attention to the child victim should be given further shape by the police and judiciary involved during the process of investigation and prosecution. For this, there are no special guidelines.

In this chapter we will examine Dutch policy regarding the investigation and prosecution of cases involving child victims of trafficking. In addition to attention to the role of the police and the PPS, the (legal) position of the child victim in the investigation and prosecution is the main focus of this chapter. Other aspects in the framework of investigation and prosecution, such as cooperation with foreign investigative services, extraterritoriality, extradition and legal assistance are not covered.

6.2 Criminalization of trafficking in children

The legal framework for the investigation and prosecution of human trafficking is laid down in Article 273f of the Dutch Criminal Code which was further developed in a number of guidelines. Article 273f states that human trafficking is punishable. The Guideline Trafficking in Human Beings provides the PPS, the police and the special investigative services guidelines for the investigation and prosecution of human trafficking.¹⁶⁵ Cases involving sexual exploitation, child victims and removal of organs have priority. In addition, the prosecution produced two guidelines for the prosecution of cases of sexual¹⁶⁶ and economic exploitation.¹⁶⁷

Punishment

Since 2005, the penalty for trafficking has doubled. In 2005, the sentence was six years in prison. On July 1, 2009, the penalty for trafficking was increased to a maximum sentence of eight years or a fine of EURO 78 thousand. On February 29, 2012, the government submitted a proposal to increase the penalty for human trafficking even further.¹⁶⁸ As of April 1, 2013, the maximum penalty for human trafficking is twelve years.¹⁶⁹

When a victim has not yet reached the age of sixteen, this is an aggravating circumstance. Then the maximum penalty will be increased to fifteen years. On 2 April 2013, the Lower House of Parliament approved an amendment that regarded human trafficking involving children aged sixteen and seventeen years of age also as an aggravating circumstance.¹⁷⁰

The punishment is increased to a maximum of fifteen years if the offence is committed in association of persons, to eighteen years in case of serious physical injury or if it threatens the life of another person and to life imprisonment or a term of imprisonment of not more than thirty year when it has resulted in death.

Prosecution of child victims

The non-punishment principle, laid down in Article 26 of the European Convention against Human Trafficking, means that it should be possible not to punish victims of trafficking for criminal acts they have committed, to the extent that they have been compelled to do so. This means that, for example illegal residence and offences that the victim might have been forced

¹⁶⁵ Guideline Human Trafficking (2008A022gp).

¹⁶⁶ Guideline criminal proceedings human trafficking for the purpose of sexual exploitation, 2 August 2010.

¹⁶⁷ Guideline criminal proceedings human trafficking for the purpose of servitude or labor exploitation, 26 April 2012.

¹⁶⁸ Partial amendment of the Criminal Code and other laws in connection with the adjustment of substantive criminal law to recent developments; Verzamelwet Veiligheid en Justitie 2011 Strafrecht (33185).

¹⁶⁹ Besluitlijst Vaste Commissie Veiligheid en Justitie, 20 December 2012.

¹⁷⁰ See: http://www.eerstekamer.nl/wetsvoorstel/33309_implementatie_richtlijn. Consulted 4 April 2013.

to commit, need not be prosecuted. Victimization should possibly lead to dismissal of the case against the accused who as a victim of human trafficking has committed criminal offences.

The Netherlands has no formal policy on the non-prosecution of victims. The non-punishment principle is not included in the Guideline Human Trafficking.¹⁷¹ However, victims of trafficking cannot be rejected for the B9 regulation on the grounds of maintaining public order, if the breach of public order is directly related to human trafficking. False identity documents are no grounds for refusal either.

Points of concern

Investigation and prosecution of human trafficking is a political priority, which is most evident in the increase in the sentence of six years in prison in 2005 to twelve in 2013. Increasing penalties for human trafficking has been a recurring topic in politics. The EU Directive 2011/36 of 5 April 2011 states that penalties should be stricter if the victim is a very vulnerable person. This includes all children (persons under the age of eighteen). In the current Dutch legislation, increased penalties only apply if the victim is under the age of sixteen. On April 2, 2013, the Lower House of Parliament agreed to the implementation of this guideline and will, subject to approval by the Dutch Upper House, include trafficking against children of sixteen and seventeen years as an aggravating circumstance.¹⁷²

Aggravating circumstances do not always lead to a higher sentence, sometimes even to a reduced sentence, according to research from the National Rapporteur. It happens that absence of coercion by the perpetrator of a child victim results in a reduced sentence.¹⁷³ This is not in line with national and international legislation. In case of child victims there is no need for evidence of coercion, according to Article 273f paragraph 1, subsection 2 WvSr. Also the fact that the victim is under the age of sixteen years, is not always taken into account in determining the sentence.

The results of a case study in 2012 conducted by the National Rapporteur indicated that severity of the sentences imposed by judges in human trafficking cases vary widely. The judges have no framework that helps them determining the appropriate punishment. Therefore, the National Rapporteur calls for the development of orientation points by the judiciary and judges specializing in human trafficking cases.¹⁷⁴

6.3 Rights and duties of the victim

The Guideline Victim Care is important for the position of victims. It has been adjusted on 1 January 2011, following the entry into force of the Act to strengthen the position of the victim in criminal proceedings. The central idea of the new law is that in its thinking and workings PPS should focus more on the victim.¹⁷⁵ The PPS supports victims in exercising the following rights:

- Government recognition that something was done to the victim;
- Doing justice for the victim;
- Compensation for affected suffering;

¹⁷¹ See also: Nationaal Rapporteur Mensenhandel (2010), p. 87.

¹⁷² See: http://www.eerstekamer.nl/wetsvoorstel/33309_implementatie_richtlijn. Consulted 4 April 2013.

¹⁷³ Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel; Jurisprudentie mensenhandel zaken 2009-2012. Een analyse, p. 173.*/National rapporteur on Trafficking in Human Beings (2012). *Trafficking in Human beings; Case law on trafficking in human beings 2009-2012. An Analysis.*

¹⁷⁴ Ditto, p. 176.

¹⁷⁵ Directive victim care, 1 January 2011, 2010A029.

- Correct treatment in the criminal proceedings.

In severe cases the PPS may decide to engage a case manager or care coordinator to assist the victim during the trial against the suspects. This is done when it involves human trafficking cases.

The prosecution has a number of tasks related to the victim. Firstly, the victim must be informed continuously about the judicial process, the final decision and the possible release of the accused. The latter can be cause of great anxiety to the victim. Secondly, the prosecution may take protective measures for the minor during the course of justice such as having interrogations take place in child-friendly rooms and to ensure that victims and the accused do not encounter each other during the trial.

A victim of trafficking has the right to speak. This means that he or she during the court session may make a statement about the impact that the trafficking and exploitation has had on him or her. Once the victim has given the explanation, the judges may ask questions. The lawyer of the accused or the defendant is allowed to submit a comment.

A victim of trafficking also has the option, within the criminal trial, to require compensation from the accused. Human traffickers earn a lot of money through their victims. Only few victims have put in a claim for damages during the criminal proceedings.¹⁷⁶ In 2012, the court awarded an adult victim damages of EURO 950 thousand.¹⁷⁷

6.4 Investigation

Since 2004, the competence of the police and PPS regarding trafficking is concentrated in the National Expert Group on Human Trafficking (LEM). The LEM advises on all issues in the fight against human trafficking. In May 2005, the National Expertise Centre on Human Trafficking and Migrant Smuggling (EMM) was launched. This is a collaboration of the National Police Agency (KLPD), the Royal Military Police (KMar), Social Security Investigation Service (SIOD, merged with the Inspectorate SWZ as from 1 January 2012) and the Immigration and Naturalization Service (IND). It is under the authority of the national coordinating public prosecutor human trafficking and human smuggling.

The EMM receives any signal of human trafficking that police, other services and external partners pick up. The EMM collects all the signals in the police database and try to match this data with other information. Annually, the EMM receives about five thousand signals.¹⁷⁸ Depending on the type of exploitation the EMM passes the signals on to an Investigative Service. Then will be considered on what level an investigation should be carried out: regional, national or international.¹⁷⁹ The EMM also receives signals from abroad and is therefore able to map international trends and developments. Signals of relief and care institutions are not automatically passed on to the EMM, because these institutions are not sufficiently aware of the possibility of reporting signals to EMM.

¹⁷⁶ Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel. Jurisprudentie in Mensenhandelzaken 2009-2012. Een analyse*, p. 74./National Rapporteur on Trafficking in Human Beings (2012). *Trafficking in Human beings; Case law on trafficking in human beings 2009-2012. An Analysis*.

¹⁷⁷ <http://www.trouw.nl/tr/nl/4492/Nederland/article/detail/3292819/2012/07/27/Ex-prostitutee-krijgt-9-5-ton-schadevergoeding.dhtml>. Consulted 6 March 2013. LJN:BX 3800.

¹⁷⁸ <http://www.hetccv.nl/dossiers/Mensenhandel/menuketenpartners/index#7>. Consulted 27 February 2013.

¹⁷⁹ Werson, H. (2012), pp. 305-306.

Public Prosecution Service (PPS)

PPS has made combating human trafficking and smuggling a priority. There is a national prosecutor trafficking and smuggling of human beings who controls human trafficking investigations carried out by the National Investigation Service and who also has authority over the EMM. Subsequently, each parquet (ten district courts) has one contact officer for human trafficking from the justice department. They are the prosecutors contact for human trafficking cases and also do a lot trafficking cases themselves. The justice department contact officers for human trafficking communicate a lot with each other and are united in a national portfolio consultation. Prosecutors receive training on human trafficking in which specific attention is paid to child victims.

Police

In 2008, the National Expert Group Human Trafficking (LEM) distributed the Trafficking Framework to all police forces. This provides a framework for the Dutch police to organize the fight against human trafficking. This document contains a description of its tasks, powers and responsibilities, cooperation with other services and the way information is to be exchanged.¹⁸⁰

The investigation into trafficking is organized differently by police region. In some regions trafficking falls under the vice squad, in other regions under the immigration police. Each police district has appointed a human trafficking expert. For large national investigations, the National Investigation Service brings certified investigators from around the country together. In 2012, the National Investigation Service had 17 certified detectives for human trafficking. In 2010, according to the Police Monitor Prostitution and Human Trafficking 2010, there were about 227 certified police officers on Prostitution and Human Trafficking distributed over the different police forces.¹⁸¹

Certified investigators human trafficking are police officers specially trained in handling human trafficking cases. In addition to the AMO (General Migration Training) at the Police Academy, they must also complete an additional specialized training on human trafficking.¹⁸² After this training, these detectives possess legal knowledge about trafficking, they are familiar with relief and care organizations and are trained in communication skills and intercultural communication. Certified detectives do the interviewing with the victim when it is clear that the police are dealing with a victim of human trafficking. Victims of human trafficking may only be questioned by these specially qualified investigators. The police investigation is also done by non-certified investigators.

In case of detection of human trafficking an absolute prohibition to let it pass is applied. This means that upon suspicion of human trafficking the police (and PPS) should not let this offence continue. Intervention should be immediately to retrieve the victim from his or her difficult position. Within the police force there is attention for the special needs of minor victims of trafficking. Interviews with child victims always take place in special interrogation studios with sound equipment and young victims can be accompanied by a youth police detective.

¹⁸⁰ Landelijke Expertgroep Mensenhandel (2008), *Referentiekader Mensenhandel*.

¹⁸¹ Prostitutie Controle Mensenhandel. These investigators received a PCM training (Process Communication Model)

¹⁸² This training has also been offered to employees of the Kmar, judges and lawyers who support victims who applied for a temporary residence permit under the B9 regulation.

Methods of detection

In recent years a lot of knowledge has been acquired on the detection of human trafficking; on the routes traffickers use, the way victims are recruited, transported and exploited. Since traffickers continually change their methods, police and the judiciary should also be creative in their investigation. There is still much to learn and develop. The police put increasingly more emphasis on developing methodologies for the Internet. Thus, in the detection of loverboys there have been experiments with setting up fake profiles on the Internet.

There have been collaborations in experimental projects, the so-called 'experimental gardens human trafficking'. In this experimental setting, which mostly is regionally and locally organized, innovative collaboration between different organizations aims to achieve the best approach to human trafficking. In addition to the police and judiciary, Tax Administration, Chamber of Commerce, but also housing associations and Municipal Health Services all participated in these experimental projects. Some basic elements to start with were: a program based approach, the barrier model and the obligation to have an administrative report. In recent years, police and Public Prosecution Service have worked on innovative detection methods in these 'experimental gardens human trafficking'. The knowledge and experience gained in these experimental projects will be made available nationwide.¹⁸³

Points of concern

A major concern for the detection of perpetrators of trafficking is that procedures and systems within the detection system are not sufficiently coordinated. Due to this, the exchange of information has become complicated. The EMM for example, now has no national overview of (the progress of) criminal investigations involving minors going on in the regional police forces. Also, not all signals reach the EMM. This limits the ability to identify and map trends and developments and to act accordingly. Hopefully, with the introduction of the national police force in 2013, attention to human trafficking within the police will be better organized.

Police capacity

The police organization has undergone a radical change from 1 January 2013. The regional police forces have been abolished. Since then, the National Police consists of one national unit, ten regional units and local-based teams. The various procedures and systems at the national police, acting as one company, should be better matched than was hitherto the case. This will gain time in obtaining and processing the right information. From the interviews conducted with the police for this study, it appears that sufficient capacity is a major concern for the investigation and prosecution of human trafficking. According to the Police Monitor Prostitution & Trafficking 2010, not all police staff are sufficiently trained and certified to approach victims of trafficking professionally.¹⁸⁴

The question is whether reorganization of the police will improve matters. Sufficient staff and financial resources are ultimately needed to effectively perform criminal investigations into trafficking.

¹⁸³ The seven experimental projects on human trafficking that were completed between 2009 and 2011: Zandpad (Utrecht); Slaven van het Systeem (Groningen en Leeuwarden); Ablak (Amsterdam en Alkmaar); Emergo (Amsterdam); Faciliteerders van de schone Schijn (Alkmaar); Samen groeien in samen werken (Rotterdam Nationaal Rapporteur Mensenhandel (2012), *Effectieve Aanpak op gemeentelijk niveau: lessen uit de praktijk*, pp. 15, 19, 24 en www.hetccv.nl.

¹⁸⁴ Werson, H. & Den Hertog, A. (2011), p. 117.

Collaboration police, PPS and care organizations

Both the police and PPS indicate that cooperation between the police and PPS has much improved since 2005. The appointment of special prosecutors trafficking has increased PPS expertise in the field of human trafficking. Furthermore, police and PPS work closely together in the Human Trafficking Task Force, the LEM and the EMM. At a local level, there is also close cooperation.

However, cooperation between the police, PPS and care organizations, just as in 2005, still needs attention. In detecting trafficking, it is important that care institutions and police exchange timely information on possible cases of human trafficking. In the interviews for this study police indicate that care workers are reluctant in sharing information.¹⁸⁵

Detection of other forms of exploitation

In 2005, much uncertainty existed about combating other forms of exploitation (besides sexual exploitation). Moreover, it was unclear what responsibilities special investigative services like the FIOD and the labor inspectorate should have. Cooperation between the various authorities had not been outlined. The establishment of the EMM in 2005 and the arrival of the Task Force on Human Trafficking in 2008 changed that. The EMM unites various investigative services and makes it possible to exchange information quickly. Cooperation in the detection of other forms of exploitation is thus greatly improved.

Although knowledge about human trafficking and child victims of trafficking has increased, with the investigative services, focus is still mainly on detection of sexual exploitation. Experience with the detection of other forms of exploitation is less than the experience with the detection of sexual exploitation. The trafficking victims registered with CoMensha still are mostly victims of sexual exploitation. Nevertheless, the police suspect, based on what they come across, that economic exploitation occurs more than is visible and its number of victims could be more than the number of victims of sexual exploitation.

6.5 Reporting

Police and the PPS start a criminal investigation if there are sufficient indications for detection. Reporting by the victim helps with this, but a victim is not obliged to report human trafficking. Human trafficking is an offence prosecuted *ex officio*. It is not required to report, especially in the case of child victims of trafficking. A (witness) statement in which the victim is confronted with the facts and just need to confirm, should be sufficient for the criminal investigation and prosecution. For years, the police and the National Rapporteur have been advocating for the so-called "stacking of evidence": the search for complementary and supportive evidence to prove the case.¹⁸⁶ Police expert Henk Werson argues in his book *The Fatal trap* to focus on the suspect and to regard the victim as a 'commodity' for the sake of the investigation and spare him or her further misery. After all, in case of a drug trafficking investigation, one does not ask the drugs any questions either. Evidence and information must come from the suspect.

Points of concern

For the time being, in practice, great importance is attached to reporting the offence. In the case of victims of cross-border trafficking, a report or statement is an important condition for getting a temporary residence permit under the B9 regulation. Since several years, the willingness of child victims to file a report has been not great. It is not easy for a child victim to take this step. This applies to both child victims of cross-border trafficking and child

¹⁸⁵ See section 5.2.

¹⁸⁶ See, among others, Werson, H. (2012), p. 317.

victims of loverboys. Social workers, lawyers and prosecutors indicate that many girls do not feel being a victim and do not understand why they should file a report. A lawyer reports that it regularly occurs that victims from abroad find it normal that they should have to work to pay back the money for their journey. Only when the police explains what the actual price is of a plane ticket and a passport, the victim realizes that EURO 65 thousand is too much and that he or she has been exploited. The legal profession and the police indicate that they find child victims of the Roma community a difficult group because they are often exploited by family members, but do not see it as exploitation.

Another reason for the lack of willingness to report, as indicated by social workers, is that victims have experienced that reports were not recorded by the police, or that no action was undertaken on previous reports. This affects the willingness to again press charges. Both police and social workers indicate that many victims are afraid of the police and fear reprisals from the perpetrators.

In addition, the reports of victims are frequently incomplete or inconsistent. This is not always done consciously. Care workers indicate that traumatized victims who have been under the influence of a trafficker have difficulty telling the whole story in detail at one time. Often important details come later during the investigation or not until criminal proceedings. These victims may therefore appear unreliable. Foreign victims are sometimes suspected of having filed a false report, hoping to be allowed to remain in the Netherlands.¹⁸⁷ In 2011, the then Minister for Immigration, Integration and Asylum announced measures to address the alleged abuse of the B9 regulation. One of these measures consisted of prosecuting persons filing false reports.¹⁸⁸ Commenting on this, various social organizations and care and relief organizations called for the ministers to examine the extent to which medical and psychological problems may stand in the way of victims when they are heard.¹⁸⁹

It also occurs that the police are reluctant to take the statement of a victim that is not yet exploited.¹⁹⁰ Social workers indicate that sometimes the police are reluctant to take a statement from a loverboy victim. It is not known whether this is due to lack of human resources, lack of time or because the police expect to have little indications for detection. Some social workers indicate that it is sometimes easier to report to special trafficking investigators than with regular police investigators. This has to do with experience and expertise. Police indicate that sometimes during preliminary (informative) talks, prior to the reporting, it quickly becomes clear to the police that there are no or too few indications for detection and it therefore is of little use to write a report.

6.6 Hearing children as witnesses or victims

Hearing victims by the police can only be done by investigators specially trained and certified for that purpose. If a child victim is under twelve years of age, it will take place in a child-friendly interview studio: a special room where the possibility exists to record the interview with video equipment. The police also do a studio interview when a vulnerable witness (children under twelve years of age or people with intellectual disabilities) must be heard in sexual abuse cases or in cases involving domestic or child abuse. In trafficking cases,

¹⁸⁷ See, among others, Werson, H., (2012) pp. 316-317.

¹⁸⁸ Letter by the Dutch Ministry of Immigration and Asylum to the Lower House of Parliament regarding measures to fight abuse of residence procedures for trafficking victims, 11 November 2011, nr. 5716693/11.

¹⁸⁹ Letter to the Minister of Immigration and Asylum about the measures to fight abuse of residence procedures for trafficking victims, 18 January 2012.

¹⁹⁰ Kromhout and others (2010), p. 82.

interviews with minors (victims, witnesses or suspects) are always recorded audio visually. This also happens when a behavioral expert is present at the hearing.¹⁹¹

Usually, a child victim of trafficking is not heard in court. Hearing of the witness takes place during the preliminary inquiry. The judge, the defense lawyer(s) and the defendant (s) then ask their questions to the witness. The prosecutor shall advise the judge based on information gathered from people directly involved with the witness, how and where the conversation can best take place. It is possible for the witness hearing to take place in a child-friendly space and it might be videotaped. In case of a witness who is threatened or who is a protected witness, the interview may take place outside the presence of the accused or his counsel, or without both of them.

It is not usual for a lawyer, parent or guardian of the child victim-witness to be present at the hearing of witnesses. It is possible, but permission must be sought from the judges presiding the hearing. The child witness should be prepared for the date, time, place and purpose of the interview. A parent or guardian accompanies the witness to the hearing and provides care and assistance afterwards. Care workers and PPS indicate that in reality, child victims who do not regard themselves victim and have been called as a witness to be heard, are often unaccompanied.

Points of concern

According to European legislation¹⁹², interrogation of the child victim must take place without undue delay and the number of interviews should be limited in order to prevent minors to be harmed by it. This is especially important if it is a traumatized victim. In practice, throughout the criminal proceedings from beginning to end, intermittently, the victim is sometimes three to four times questioned by several people: by police, prosecutor, lawyer, the judge and defense lawyer. Aside from the certified trafficking investigators from the police, who must be qualified to interrogate the victims - witnesses of trafficking, as a rule none of them are trained to hear specifically child victims of trafficking. Social workers, lawyers and a prosecutor indicated that the preliminary hearing of the witnesses may be very stressful for the victims - witnesses and can lead to additional damage for instance through reliving. In many cases, the defense of the accused will try to prove that the statement of the victim is unreliable. During the criminal proceedings, the psychological pressure on the victim is extremely large.¹⁹³

6.7 Legal assistance

Child victims of trafficking may be assisted by a lawyer in the event of a criminal investigation and also for all procedures involving right of residence, including the B9 regulation. A lawyer can also help them to obtain compensation. At an early stage the lawyer is able to assist victims in reporting the crime and, at a later stage, to prepare and assist at the preliminary hearing.¹⁹⁴ But this support can also be given by a mentor or a social worker. Legal aid for minor foreign victims is provided by lawyers with a B9-additional training. These lawyers have at least followed the introduction course 'Legal assistance to victims of human trafficking'.

¹⁹¹ PPS Aanwijzing Auditief en Audiovisueel Registeren van Verhoren van Aangevers, getuigen en Verdachten, 4 December 2012.

¹⁹² Among others article 35 of The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse and article 15, section 3 of the Directive 2011/36/EU of 5 April 2011.

¹⁹³ The risk of secondary victimization is present: a victim might again be damaged by the criminal proceedings.

¹⁹⁴ Interview with a lawyer, 24 July 2012.

The lawyers are usually engaged during the reflection period of the victim, which is part of the B9 regulation. The lawyer prepares the victim for the preliminary hearings. Furthermore, the lawyer will provide substantiation by report documents (for instance of a psychologist or psychiatrist, or about the country of origin), if necessary, he or she will file an appeal and / or will see the police investigation after a dismissal. The lawyer will also substantiate an application for continued residence and will be present at preliminary hearings. Regarding the criminal aspects that are involved in reporting a crime and that come with the involvement in a criminal investigation, it would be wise, according to an experienced lawyer, when lawyers with a B9 additional training not only have experience in immigration law, but also in criminal law.

6.8 Prosecution

There is no national overview of the number of criminal investigations conducted by the police in cases involving child victims of trafficking. However, we do know the number of human trafficking cases involving child victims that are registered with the OM.

On average, over two hundred human trafficking cases are registered with the PPS every year and this is also the number that is handled on average. Sixteen percent of all cases involved a child victim. Research by the National Rapporteur shows that between 2000-2010, an average of 61 percent of the registered cases contained aggravating circumstances, in particular trafficking by organized crime and relating to a victim under the age of sixteen.¹⁹⁵

Table 5

Number of cases registered, among which cases (also) involving child victims, annually¹⁹⁶

| Year | Cases | Registered cases (also) involving child victims |
|------|-------|---|
| 2006 | 199 | 25 (13%) |
| 2007 | 281 | 56 (21%) |
| 2008 | 214 | 26 (12%) |
| 2009 | 141 | 25 (18%) |
| 2010 | 215 | 35 (16%) |
| 2011 | 255 | 55 (22%) |

The National Rapporteur has been advocating for many years for specialization and training of judges in human trafficking cases. Judges do know relatively little about human trafficking cases. Consequently, they may not have sufficient knowledge of legal history and jurisprudence. On 18 October 2012, the presidents of the criminal justice sectors of all Dutch courts decided in response to the presentation of a study by the National Rapporteur on jurisprudence, that they will work on a specialization of judges in human trafficking, which should also result in a training.¹⁹⁷ Since 1 January 2013, specialized judges and justices judge on human trafficking cases.

¹⁹⁵ Nationaal Rapporteur Mensenhandel (2012). *Kwalitatieve gegevens over (de vervolging en berechting van) verdachten en veroordeelden in mensenhandelzaken in de periode 2006-2010*, p. 23.

¹⁹⁶ Ditto, *Mensenhandel in en uit beeld*, p. 308.

¹⁹⁷ Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel, Jurisprudentie mensenhandelzaken 2009-2012. Een analyse*; Trouw, 'Speciale rechters voor zaken rond mensenhandel', 18 October 2012. www.bnrm.nl.

An inventory of the EMM shows that between 2007 and 2012, the police conducted 132 criminal investigations into human trafficking cases, in which child victims were involved. However, this is not the whole picture. Registering and reporting of criminal investigations at the EMM is not complete. Several police forces do not register or register differently in their data system for human trafficking. This means that the EMM bases her statement only on the number of investigations (properly) registered in this database. Of these 132 criminal investigations, 130 are about sexual exploitation. The other two cases relate to other forms of exploitation. The ages of the child victims range from eight to seventeen years.

Points of concern

Criminal investigation and prosecution procedures can take up lot of time. There may be a year or more between filing a report or being heard as a witness, and the final judgment of the court. In cases with victims of cross-border trafficking it may involve even more time, because cooperation of foreign authorities is necessary. Criminal investigation by the police is time-consuming because it usually involves complicated matters. An appeal will lengthen the duration of the criminal proceedings further.

Social workers indicate that the lengthy procedures give some child victims the impression that their case has minor priority. At the same time the hearings and judicial process, however long that takes, are very important for the victim in coming to terms with and recovery from what happened. When criminal proceedings take much time, victims remain in uncertainty and fear of meeting the perpetrator during a longer period, and they will feel they have to be on their guard all the time.

Another concern is that the PPS, the court or the police do not keep the victim informed adequately about the course of justice. According to social workers, it sometimes happens that a victim should read in a newspaper what decision the court made against the offender. Victims should be much better informed about the progress and duration of their case.

6.9 Conclusion

In 2005, in the report 'Understanding exploitation', we considered whether the fight against trafficking in minors did receive the priority as intended by politicians. It appeared that the investigation and prosecution of trafficking still had not taken shape. Many informants who participated in this study attributed this to a lack of capacity and knowledge about human trafficking with the police and OM. Another point of concern in 2005 was the lack of cooperation between police and relief and care institutions.

Since 2005, much has been improved. In particular, the steady increase in the penalty of six years in 2005 to twelve years in 2013 proves that the investigation and prosecution of trafficking has priority. Moreover, with the establishment of the LEM, the EMM, the development of the chain approach trafficking by the Task Force on Human Trafficking, the designation of contact prosecutors trafficking at PPS and setting up the experimental projects human trafficking a great deal of work has been done to enhance experience and expertise in the judiciary, police and other investigative services. Focus on the protection of the (child) victims during criminal proceedings did also increase. Since 2013, the judiciary has been working on the specialization of judges in the field of human trafficking.

Yet there still are crucial concerns. There is still room for improvement in cooperation and exchanges between police, and care and assistance organizations. Also more attention should be paid to the effects of the criminal proceedings on an underage victim. Insufficient capacity, particularly with the police, remains a problem.

7 Conclusions and recommendations

7.1 Introduction

In 2005 the first comprehensive study on trafficking and exploitation of minors in the Netherlands was published. The aim of the study was to understand the extent and characteristics of the problem, to examine whether the measures then prevailing were able to protect minors adequately against trafficking and to consider what other measures would be necessary to protect them sufficiently. It was concluded that the fight against human trafficking - particularly the fight against trafficking in children - in practice, had not been given the priority it deserved. Attention to trafficking of children was deficient in all phases of the approach: prevention, identification, protection, investigation, prosecution, care, support and guidance in return.

In this research, developments were studied that took place after 2005, legally, politically, at policy level and in practice. Combating human trafficking has remained a priority for the government for the past eight years. Particularly, this resulted in measures that brought the investigation and prosecution of trafficking to a higher level and improved the cooperation between stakeholders. The establishment of the Task Force on Human Trafficking and the National Expertise Centre on Human Trafficking and Migrant Smuggling also contributed to this. Trafficking in human beings is tackled as part of the fight against organized crime.

Nevertheless, this study clearly shows that in these developments the protection of (child) victims is lagging behind. In the past years various parties, including the National Rapporteur, have expressed their concerns about the reception and assistance to victims of trafficking. Other priorities of the government seem to outweigh the importance of the protection of child victims. This is especially evident in the difference between the protection arrangements for child victims of domestic trafficking and for child victims of cross-border trafficking.

This research also looked at whether current Dutch legislation, policy and practice complies with international standards and regulations regarding the trafficking of children. To answer this question, in Chapter 2 the core provisions are described which national legislation and policies must meet on the basis of international law and regulations concerning children and trafficking.

Based on the CRC, the Optional Protocol to the CRC and other international regulations, guidelines and manuals, twelve principles can be formulated that should constitute the basis for the protection of child trafficking victims:¹⁹⁸

- Start from a holistic approach;
- The interest of the child is paramount;
- Take into account age, gender and background of the child;
- Take into account the opinion of the child;
- Provide adequate safeguards for the rights of the child;
- Take a long-term perspective, look to the future;
- Provide continuity of care;
- Involve family members, friends, social environment or the community of the child;

¹⁹⁸ See Appendix 2.

- Provide small scale reception facilities;
- Provide well-trained and adequately supported professionals that work from a shared vision;
- Ensure proper screening of professionals and a policy aimed at preventing abuse;
- Provide data collection, quality standards, monitoring, evaluation and effect measurement and independent supervision.

In the previous chapters we have described Dutch legislation and policies regarding the trafficking of minors and hereby points of concern were mentioned. These concerns stem from various research reports and interviews with professionals that have been conducted for this study. In the next paragraphs we will take another look at the points of concern regarding the different aspects of the policy (prevention, protection, detection and prosecution). These concerns make immediately clear where friction arises between the current Dutch policy and international standards and principles as outlined above. Each paragraph concludes with recommendations. These recommendations are addressed to the government and the various chain partners and stakeholders that are jointly responsible for the development and implementation of the trafficking policy.

7.2 Combating trafficking in children

The Netherlands has a policy to combat human trafficking in all its facets. Tackling trafficking of children is a part of it. Being a minor and dependent on adults, makes children more vulnerable of becoming a human trafficking victim. Therefore, international laws and regulations have been designed to protect children against human trafficking and its consequences.

In the Netherlands, the trafficking of children is a specific offence, defined in Article 273f, paragraph 1, sub 2 WvSr. But the policy subsequently developed, does not consistently take into account the specific interests and needs of child victims. The Netherlands has not yet developed a policy specifically to address child trafficking, the consequences of which are evident in all facets of its human trafficking policy. This becomes apparent in identifying, reporting and registering of child victims and their referral to care and assistance. Assistance is insufficiently focused on the particular situation of a child victim of trafficking.

The chain approach is a key element in the trafficking policy. Cooperation between the various organizations, institutions and agencies is its basis. It is clear, however, that cooperation between stakeholders is not going well everywhere in the Netherlands. The fight against human trafficking is also a task for municipalities but these are not always aware of the fact that human trafficking could also exist within their municipal boundaries. Furthermore, it is striking that reception and care institutions - just the institutions that have more expertise regarding minors - are insufficiently involved in the chain approach.

Concretely, the following concerns exist:

- There is no specific policy for dealing with child trafficking;
- Not all the municipalities have developed policies to address human trafficking within their municipal boundaries;
- Reception and care institutions are not always involved in consultations concerning the local chain approach;
- The sale of children, in the absence of an exploitative situation, is not punishable under Dutch law.

These concerns give rise to the following recommendations:

- Make a specific policy for child victims of trafficking in the areas of prevention, protection, detection and prosecution. This should be done at national and municipal level. Involve reception and care institutions;
- Make the sale of children, in cases in which it is not illegal adoption or an exploitative situation, also punishable under Dutch law.

7.3 Prevention

International and European legislation provide the following key provisions:

- The government provides a policy on prevention that tackles the root causes of trafficking;
- Public awareness of child trafficking and sexual exploitation is raised;
- Education devotes attention to child trafficking and sexual exploitation;
- Children are to be involved in developing preventive programs;
- There is special attention to vulnerable groups that may become victims, including children;
- Professionals should have knowledge of child trafficking.

Internationally, attention for the prevention of trafficking in children in guidelines and regulations has increased. Children are a particularly vulnerable group of potential victims. However, it is clear that prevention of trafficking in children in practice is not in adequate order yet, internationally as well as nationally. Worldwide, human trafficking still is the largest and fastest growing form of crime. Governing authorities and agencies ought to be alert for signs and proceed much more proactive.

Preventive activities have indeed been developed in the Netherlands and in the countries of origin, but these are done ad hoc. Most preventive activities in the Netherlands focus on loverboy issues and are done through schools and youth work. This means that informing other groups of vulnerable children, including unaccompanied minor foreigners, gets little attention or does not take place at all. In the collaboration with the authorities of the countries of origin there is too little attention to vulnerable victims such as children.

The various groups of professionals who (may) come into contact with human trafficking receive training. Some courses do also pay attention to child victims, such as the training for lawyers, prosecutors, judges, police and social workers. But attention is minimal and does not elaborate further on all the aspects that are important with regard to the child victim.

Involving the business sectors in which trafficking occurs in preventive activities is still in its initial stages. The question that should be central here is: how do we prevent people from ending up in situations where they are traded and exploited?

Concretely, the following concerns exist:

- Prevention with respect to trafficking in children appears to be focused mostly on the loverboy issue (domestic trafficking), and much less on other forms of domestic and cross-border trafficking;
- The range of information activities about exploitation of children is fragmented. The offer varies widely by municipality;

- Current preventive activities in countries of origin devote little attention to the specific position and role of child victims;
- There are too few preventive activities aimed at industries in which trafficking occurs;
- Despite the available experience, COA and Nidos employees and staff of child care institutions are insufficiently trained to identify child trafficking or to give support to child victims of trafficking;
- There is insufficient knowledge about the effectiveness of awareness campaigns in the field of human trafficking.

The above concerns give rise to the following recommendations:

- Make specific preventive policies for all minors, both for potential victims of the loverboy method as for victims of cross-border trafficking. Also focus on unaccompanied minors who are particularly at risk because they are alone in the Netherlands;
- Devote attention to the target group of children in prevention programs in countries of origin;
- Involve in prevention business sectors in which trafficking occurs;
- Provide specific attention to child victims in the training of professionals. Pay attention to the identification of child trafficking and train professionals in providing support to child victims. In this, knowledge about the country of origin of child victims is essential;
- Examine the impact of awareness campaigns on the prevention of trafficking in children;
- Examine the possibility of also including potential offenders as a target group in awareness campaigns;
- Involve child victims in the development of preventive programs.

7.4 Protection

International and European legislation provide the following key provisions:

- | |
|--|
| <ul style="list-style-type: none"> • Assistance and support is available immediately as a victim is detected. This help is available before, during and after criminal proceedings for an appropriate period; • Assistance and support is also readily available to persons of whom authorities reasonably may assume that they can be victims of trafficking; • When the age of a victim of trafficking is uncertain and there are reasons to believe that the person is a child, the victim should be considered as a child and receive immediate access to assistance, support and protection; • The assistance and support to child victims is tailored to the individual situation and is aimed at a lasting solution; • Unaccompanied minor victims get a guardian or other authority acting in the best interests of the child; • There are translators and interpreters available; • Assistance and support is not dependent on the willingness of the victim to cooperate in the criminal investigation, prosecution or trial; • A residence permit for child victims is issued in conformity with the best interest of the child and will be extended under the same conditions; • Child victims are prepared for their return to society, and adequate care in the country of origin will be provided; • A child victim will not be returned if there are risk- and safety indications that return would not be in the best interests of the child; |
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- People who work with child victims of sexual exploitation and child trafficking are specially trained;
- Child victims have access to education.

International guidelines and legislation define that the protection and care to victims of trafficking should always be paramount. In the care of a child victim, her or his views, needs and interests should be taken into account and a durable solution should be found. EU Directive 2011/36/EU specifically provides that the provision of assistance and support should not depend on the willingness of the victim to cooperate in the criminal investigation, prosecution or trial. The above provisions are not transposed properly in Dutch law, policy and practice.

Reception and assistance to child victims of domestic trafficking differ from the reception and assistance the child victims of cross-border trafficking receive. In the latter group immigration law issues predominate. Reason is that most victims of cross-border trafficking do not have a right to residence in the Netherlands. Through the B9 regulation¹⁹⁹ these child victims may obtain a temporary residence permit for the duration of the criminal investigation. There are rights attached to this temporary residency, rights in the field of social security, employment, medical and psychological care. To be eligible for the B9 regulation a victim must cooperate in the criminal investigation by filing a report or submitting a statement. If police and Public Prosecution Service decide not to pursue the criminal investigation, the B9 regulation will stop and hence the residence permit and the special care and assistance to the victim. For child victims this represents a major unknown factor in their protection. In exceptional cases, victims do not need to report, and still get a temporary B9 residence permit. This is rare. In this way, the Dutch policy does not comply with the provision that protection of the victim should not be dependent of assistance to the criminal investigation, prosecution or trial.

Uniquely, in the Netherlands child (potential) victims from abroad are accommodated in specially protected reception. People that work there have knowledge and experience with victims of trafficking and can offer minors intensive support. However, care and assistance to child victims of cross-border trafficking is clouded by troubles about whether or not obtaining a residence permit. This means that a victim will start later or will not at all be dealing with the traumatic events and will be late in beginning to build a new life. The protected reception was established mainly from the viewpoint of prevention, investigation and combating of trafficking. It should keep the (potential) victims out of the hands of the traffickers. It is not set up to work towards recovery of the victims through specialist services (yet). The interests and needs of the child victims are not central to the way care and assistance are arranged. Again, this is not in line with international regulations.

This study shows that care and assistance specifically for child victims of trafficking is not in adequate order yet. This applies to all groups of victims. There are few specialist services for such victims. Repeatedly, minors appear to become again a victim of exploitation once they are on their own. Too little research has been done on what works and what does not.

Regarding the protection of child victims the following specific concerns exist:

¹⁹⁹ 1 June 2013 B9 will be renumbered to B8/3. Decision of the Security and Justice State Secretary of 28 March 2013, nr. WBV 2013/5, amending the Aliens Act 2000.

Reporting and registration

- Reporting and registration of child victims to CoMensha is not complete. The figures CoMensha publishes each year are therefore just an indication of the total amount of child victims. Especially youth care institutions and Nidos report poorly or not at all to CoMensha.

Reception and assistance

- Nationwide adequate supply of specialized care to child victims of trafficking is lacking. This applies to both the victims of loverboys and for foreign victims who are exploited in the sex industry or other sectors in the Netherlands;
- There are not enough places for specialized care of loverboy victims;
- Special care and assistance to child victims from abroad depends on prosecution and criminal proceedings. The B9 regulation is not based on the individual situation of the victim and not directed at a durable solution for the child;
- A child victim in protected reception is hardly offered any specialist help such as trauma counseling in the first three to four months;
- Continued care for victims who have reached the age of 18 is a problem due to lack of shelter facilities for victims.

Disappearances

- A significant number of young people disappear from (closed) youth care institutions. They are particularly vulnerable to end up in a situation of exploitation;
- Unaccompanied minor foreigners regularly disappear from the asylum reception to destinations unknown (MOB). They are not reported missing to the police until late. This reduces chances that the police may detect them in time. These young people are particularly vulnerable to (again) become a victim of exploitation.

Return

- After forced or voluntary repatriation, the returned child victims disappear from view. It is unclear what has been done to prevent returned minors from again falling into the hands of individuals or family members who have traded them to the Netherlands in the first place;
- There are doubts about the quality of reception and care for children in African countries in particular;
- The local safety analysis is done by local institutions, without cooperation with Dutch institutions;
- There is no personal handing over between the Dutch guardian and the persons or institutions that take custody in the country of origin.

These concerns have led to the following recommendations:

Report and registration

- Promote the reporting of child victims by (youth) care institutions to CoMensha; ensure the obligation to report;
- Ensure that CoMensha is able to follow registered child victims through a client-tracking system;
- Ensure that with the implementation of the Domestic Violence and Child Abuse Reporting Code at asylum seekers' centers, indications of human trafficking are included in the reporting code;

- Improve the exchange of information and signals between care and relief institutions and the police.

Disappearances

- Find out why so many young people disappear from (closed) youth care institutions;
- Report missing unaccompanied minor foreigners immediately to the police. Ensure that the national missing persons protocol enters into force in case of missing unaccompanied minor foreigners;
- Be extra alert when minors from Eastern Europe vanish. Ensure that Eastern European minors found by the police are quickly placed under guardianship and be referred to youth care immediately.

Reception and assistance

- Research the best way in which care and assistance to child victims of trafficking can be offered. Develop supply of specialized care including effective trauma treatment. Involve (former) victims, make use of their experiences. This reduces the risk of repeated victimization;
- Provide specialized care places for child victims of human trafficking, even after their eighteenth birthday;
- Involve youth care in signaling, care and assistance to foreign child victims of trafficking and ensure monitoring and evaluation;
- Close large-scale care institutions for unaccompanied minor foreigners such as POL and campuses. Provide small-scale care institutions for unaccompanied minor foreigners where their safety can be guaranteed and they run less risk (as yet) of becoming subject to exploitation outside the reception centre;
- Treat foreign child victims first as a child and victim, and then as a stranger. Adjust the existing policy on immigration procedures and care and assistance to foreign child victims of human trafficking. Proceed from the best interests of the child, the needs and wishes of the victim and its individual situation. Work towards a durable future. Provide continuity of care and a safe environment.

The current policy regarding unaccompanied minor foreign victims should be adjusted in the following respects:

- Care and assistance must not depend on the willingness to report an offence;
- Custody and care must be preceded by a balancing of interests resulting in an assistance plan for the child victim with a concrete perspective for the future;
- Foreign child victims of trafficking should get clarity on whether or not to obtain permanent residence (future perspective) after a maximum of one year;
- Choices made by the guardian of foreign child victims should be tested externally;
- Assistance should continue after the eighteenth year, preferably up to 23 as is possible in the national youth care system;
- Child victims should be accommodated in small-scale shelter facilities with intensive supervision.

Return

- In the return of victims put the interests of the child first. The procedure, which contains a standard security analysis, should also include a Best Interest of the Child Determination (BID);
- Take into account the views of the child in all decisions concerning return;
- Let family tracing only take place if it is in the best interests of the child;

- Make sure that the transfer of files is actively communicated between the Dutch guardian and the persons who take custody in the country of origin;
- Provide support and care in the country of origin in order to prevent the child from (again) becoming a victim of exploitation and trafficking. Reception in the country of origin should be checked against the international rules of the CRC and the International Guidelines for alternative child care;
- Ensure that Dutch care workers are in contact with care workers in the country of origin so that exchanges about assistance to the victim can take place.

7.5 Investigation and prosecution

International and European laws and regulations, provide the following key provisions:

- Human trafficking is punishable by law and subject to penalties;
- Trafficking in human beings with child victims is considered an aggravating circumstance in the criminal procedure;
- If the age of a victim of trafficking is uncertain and there are reasons to believe that the person is a child, the victim should be considered a child;
- During criminal proceedings, vulnerability, special needs and rights of child victims shall be taken into account;
- Child victims are informed of their rights, role and the scope, schedule and progress of the trial, opportunities for appeal and the possibilities of compensation from the offender(s);
- Child victims are allowed to express their views;
- Procedures are quick;
- Child victims and their families are protected from intimidation and retaliation;
- The identity and privacy of the child victim will be protected;
- Child victims are entitled to free legal aid;
- The court may decide to hold the criminal case behind closed doors;
- A child victim may be heard without he or she being present in the courtroom;
- Hearing of child victims is done in a specially equipped room;
- Hearing of child victims is done every time by the same specially trained professionals;
- The number of interviews is limited;
- The victim may be assisted by a legal representative or any other person of their choice during questioning;
- Of each hearing audiovisual recordings shall be made that can serve as evidence in the trial.

The investigation and prosecution of human trafficking is a priority in government policy. This is most evident in the increase in penalties for trafficking. In recent years, the number of registered child victims has increased, but the number of cases with a child victim at the Public Prosecution Service has not increased significantly. In 2006 CoMensha registered 104 child victims and 25 cases were registered with the PPS which involved a child victim. In 2010 there were 152 child victims of trafficking registered with CoMensha and 38 cases registered with the PPS. Not every registered victim leads to criminal prosecution of the perpetrator. At the same time police and social workers indicate that the number of registered child victims probably is only the tip of the iceberg. From various interviews conducted for this study, it appears that granting adequate capacity (human and financial resources) to

detection and linking of diverse ways of police registration remains a problem. In addition, the willingness to report by child victims remains low. This makes investigation and prosecution difficult. In contrast, cooperation between the investigative and prosecuting authorities in the field of human trafficking improved. Only cooperation with care and assistance institutions is not optimal.

Police and PPS have a protective role towards the child victim during the investigation and prosecution of the perpetrators. Child victims are mentioned in several directives and guidelines. Children are heard by specially trained police investigators in special studios. During the criminal investigation victims are heard several times. This is difficult for minors. Lengthy procedures and no conviction is hard to accept for child victims. Proper guidance of the victim by PPS and care institutions is therefore of great importance.

Specifically, there are a number of concerns about the investigation and prosecution of child victims of trafficking:

Investigation and prosecution

- The government is committed to investigation and prosecution. Nevertheless, the figures show that there are relatively few prosecutions of human trafficking cases involving child victims;
- Police has insufficient capacity and police systems are not well matched;
- Social workers mention that the police are sometimes reluctant to take a report.

Criminal procedure

- The criminal proceedings may take a long time. This is undesirable for child victims. Victims are not always well informed of the progress and developments in the criminal proceedings.

Sentencing

- Trafficking of victims under the age of sixteen is subject to increased penalty in the Netherlands, it is considered an aggravating circumstance. As yet, this does not apply for victims of sixteen and seventeen years of age. A bill to regulate this, has been submitted to the Dutch Upper House of Parliament in April 2013 and adopted.

Hearing of minors

- During the criminal investigation and process, child victims have to speak with a lot of persons, including police, prosecutor, judges, and lawyers. Only the police are trained in talking with (child) victims of trafficking. Victims sometimes have to tell their story repeatedly. The risk of secondary traumatization is great, especially in witness interviews by defense lawyers;
- Witness examination of minors, such as during preliminary hearings, does not always occur in a child-friendly environment.

These concerns give rise to the following recommendations:

Investigation and prosecution

- Use the political priority given to combating human trafficking to ensure sufficient capacity and specialization within police and judiciary for investigation and prosecution.

Protection of child victims

- Provide adequate attention to the position and needs of child victims in the investigation and prosecution of suspects. Ensure special attention to the position of child victims in training of police and PPS;
- Develop special procedures for law enforcement to protect child victims during the investigation and prosecution. Take protective measures for the hearing of child victims of trafficking. Always examine in advance whether a child victim is mentally and physically able to participate in a witness hearing. Ensure that child victim witness hearings always take place in a child-friendly environment, including the testimony of witnesses in the preliminary hearing. Strive to limit the number of witness hearings. If possible, have defense lawyers submit their questions in writing;
- Provide adequate information and communication to child victims about the investigation and prosecution of the perpetrators.

Sentencing

- Human trafficking of victims under eighteen years of age should always be an aggravating circumstance in sentencing;
- Provide adequate specialized judges on trafficking.

7.6 Final conclusions and recommendations

On paper, the Dutch policy meets the outlines of international and European legislation. In implementing the policy, however, it appears that not all key provisions are properly implemented. The biggest concern is that there is not enough attention for the special position of child victims in all facets of the human trafficking policy.

The government has made detecting and combating trafficking a priority. Reception and care for child victims receive less attention. The diverse backgrounds and origins of the victims and the complex problems they face, make adequate reception and care complicated and therefore it requires more attention and commitment.

This research shows that presently the biggest concerns are about reception and care provisions for child victims of cross-border trafficking. The government seems to have rather less attention for the interests and needs of victims than for its own interests with regard to the implementation of a strict immigration policy. By postponing psychological assistance and subordinate it to regulation of residence procedures, chances of these children to full recovery and a normal place in society will get smaller. If we look at the key provisions mentioned earlier with which policy against child trafficking and care for child victims should be in agreement, then there are certain points where the current practice is in default, according to this research. To ensure continuity of care and to provide a long-term perspective for the child victim, being the most notable ones. The interests and needs of the child are thus compromised.

To summarize, there are four basic points of the Dutch policy on trafficking in children that need improvement:

- Preventive policy;
- Reporting and registration of child victims;
- Reception and assistance to child victims;
- Protection of child victims in the investigation and prosecution.

This report contains more than thirty recommendations that can be summarized in the following five key recommendations:

- Provide a policy on prevention with specific attention to the situation of child (potential) victims of trafficking. Focus on both domestic and cross-border human trafficking;
- Ensure that child victims of trafficking are in the picture. Make sure reporting and registering of underage victims is well organized;
- Make sure that care and assistance to child victims of cross-border trafficking is not dependent on their cooperation with the criminal investigation and, or on whether or not they obtain a (temporary) residence permit;
- Provide adequate shelter places for all child victims of trafficking and ensure specialized care that works;
- Develop special procedures for law enforcement to protect child victims during the investigation and prosecution and provide sufficient capacity.

Appendix 1: Key provisions of international and European legal frameworks

Prevention human trafficking and trafficking of children

Key provisions of international and European law and regulations:

- The government provides preventive policy that tackles the causes of child trafficking (Article 23 paragraph 1 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 18 EU Directive on Human Trafficking²⁰⁰, Article 15 paragraph 2 and Article 6 European Trafficking Convention²⁰¹, Article 32, 34, 35 and 36 CRC);
- Children are involved in the development of preventive programs. Exploited children should also be involved in the development of prevention, education, and training programs, subject to their consent (Article 9 paragraph 2 OP-34²⁰², Article 9 paragraph 1 Lanzarote Convention²⁰³, Article 5 paragraph 3 European Trafficking Convention);
- There will be campaigns raising public awareness on sexual exploitation and human trafficking (Article 9 paragraph 2 OP-34, Article 8 Lanzarote Convention, Article 6 European Trafficking Convention, Article 18 EU Directive on Human Trafficking);
- Schools should devote attention to sexual exploitation and human trafficking (Article 9 paragraph 2 OP-34, Article 6 Lanzarote Convention, Article 6 European Trafficking Convention);
- The persons that work with child victims of sexual exploitation and child trafficking are specially trained for this task (Article 8 paragraph 4 OP-34, Article 10 Palermo Protocol, Article 23 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 18 paragraph 3 EU Directive on Trafficking in Human Beings, Article 3 CRC);
- The safety and integrity of professionals and organizations that work with child victims of sexual exploitation will be protected (Article 8 paragraph 5 OP-34, Article 5 paragraph 1 Lanzarote Convention);
- The government should tighten controls at borders and of identity documents to prevent human trafficking (Article 7 European Trafficking Convention).

Reception, care and return of child victims

Key provisions of international and European legislation and regulation:

- Child victims receive the support and care they need to fully recover both physically and mentally (Article 9 paragraph 3 OP-34, Article 14 Lanzarote Convention, Article 6 paragraphs 3 and 4 Palermo Protocol, Article 18 paragraph 2 Reception Directive, Article 29 paragraph 3 of the Qualification Directive, Article 12 paragraph 7 European Trafficking Convention, Article 13 EU Directive on Human Trafficking, Article 39 CRC);
- Assistance and support is available immediately when a victim is identified (Article 18 paragraph 2 EU Directive on combating the sexual abuse, sexual exploitation of

²⁰⁰ EU Directive on preventing and combating trafficking in human beings and protecting its victims.

²⁰¹ The Council of Europe Convention on Action against Trafficking in Human Beings.

²⁰² Optional Protocol on the sale of children, child prostitution and child pornography (2000).

²⁰³ The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse.

children and child pornography, article 11 paragraph 2 EU Directive on Human Trafficking);

- The victims will receive assistance and support before, during and for an appropriate period after the conclusion of criminal proceedings (Article 11 paragraph 1 EU Directive on Human Trafficking);
- Assistance and support for a victim is not dependent on her or his willingness to cooperate in the criminal investigation, prosecution or trial (Article 11 paragraph 3 EU Directive on Human Trafficking, Article 19 paragraph 2 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 12 paragraph 6 European Trafficking Convention);
- Victims are informed about care and support, including information on the reflection and recovery period (Article 11 paragraphs 5 and 6 of the EU Directive on Human Trafficking);
- When the age of a victim of trafficking is uncertain and there are reasons to believe that the person is a child, the victim should be considered a child and receive immediate access to assistance, support and protection (Article 8 paragraph 2 OP-34, Article 13 paragraph 2 EU Directive on Human Trafficking, Article 10 paragraph 3 European Trafficking Convention);
- Assistance and support of (unaccompanied) child victims will be based on individual assessment of the situation of the child, taking into account its views, needs and concerns and will be aimed at a durable solution (Article 14 paragraph 1 and Article 16 EU Directive Human Trafficking);
- Child victims are prepared for their return into society (Article 9 paragraph 3 OP-34, Article 14 Lanzarote Convention);
- There is a multidisciplinary approach to provide child victims of sexual exploitation and sexual abuse and their parents, relatives or guardians the assistance and support they need (Article 11 paragraph 1 Lanzarote Convention);
- There are telephone and internet support services for victims and children at risk to become victims (article 13 Lanzarote Convention);
- For unaccompanied child victims, a guardian, legal authority or organization is appointed to act in the best interests of the child (Article 10 paragraph 4 European Trafficking Convention, Article 14 paragraph 2 and Article 16 EU Directive Human Trafficking);
- Identity or details, which allow identification of a child, shall not be made public (Article 8 paragraph 1 sub e OP-34, Article 11 paragraph 2 European Trafficking Convention);
- If necessary, interpreters and translators will be available (Article 12 paragraph 1 sub c European Trafficking Convention);
- There is access to education (Article 12 paragraph 1 sub f European Trafficking Convention, Article 14 paragraph 1 EU Directive on Human Trafficking, Article 10 EU Directive on right of residence²⁰⁴);
- A victim is entitled to a period of at least thirty days for recovery and reflection (Article 13 European Trafficking Convention, Article 6 of the EU Directive right of residence);
- A residence permit for child victims shall be issued in accordance with the interests of the child and may be renewed under the same conditions (Article 14 paragraph 2 European Trafficking Convention);

²⁰⁴ Directive involving a temporary right of residence for victims of human trafficking who cooperate with the competent authorities (2004/81/EU-2004).

- Return programs ensure that child victims receive adequate support and care from family or appropriate care facilities and that they have access to education (Article 16 paragraph 5 European Trafficking Convention);
- A child victim will not be returned if following a risk and security assessment, there are indications that return would not be in the interests of the child (Article 16 paragraph 7 European Trafficking Convention).

Investigation and prosecution of trafficking in human beings

Key points of international and European legislation:

General provisions investigation and prosecution/substantive criminal law

- Trafficking in human beings and all the actions that lead thereto, shall be punishable by law (Article 2 EU Directive on Human Trafficking, Article 5 Palermo Protocol, Article 18-21 European Trafficking Convention);
- Child prostitution, child pornography, sexual abuse of children, corruption of children and grooming will be punishable (Articles 18-23 Lanzarote Convention);
- Effective, proportionate and dissuasive sanctions should be imposed on human trafficking and exploitation (Article 23 European Trafficking Convention);
- If the offence is committed against a child, this is seen as an aggravating circumstance (Article 24 European Trafficking Convention) and can be sentenced to a maximum term of imprisonment of at least ten years (Article 4 EU Directive Trafficking);
- In compliance with the basics of its legal system, countries provide the possibility not to impose punishment on victims for their involvement in unlawful activities, if they were forced to do so (Article 26 European Trafficking Convention, Article 8 EU Directives on Human Trafficking);
- Victims of human trafficking have access to existing arrangements for compensation to victims of violent intentional crime (Article 17 EU Directive on Human Trafficking, Article 15 paragraph 4 European Trafficking Convention);
- The prosecution of human trafficking is not dependent on filing a report or complaint (Article 9 paragraph 1 EU Directive Human Trafficking);
- Persons, units or services responsible for investigating or prosecuting human trafficking should have effective means of investigation (Article 9 paragraph 4 EU Directive Human Trafficking).

Protection of the child victim in criminal procedure

- During criminal proceedings, vulnerability, special needs and rights of the child victim shall be taken into account (Article 8 paragraph 1 a OP-34, Article 30 paragraph 1 Lanzarote Convention, Articles 28 and 30 European Trafficking Convention, Article 15 EU Directive Human Trafficking);
- Children are informed about their rights and about the role, scope, timeframe and progress of the trial (Article 8 paragraph 1 b OP-34, Article 31 paragraph 1 a and Article 31 paragraph 2 Lanzarote Convention);
- The information provided to child victims is appropriate to its age and mental level of development and is given in a language that is understandable to the child (Article 31 paragraph 6 Lanzarote Convention);
- Child victims are given the opportunity to express their opinion (Article 8 paragraph 1c OP-34);
- In a conflict of interests between the parents or persons who have parental responsibility and the child victim, a representative in criminal investigations and

proceedings will be appointed for the child victim (Article 15 paragraph 1 EU Directive Human Trafficking);

- Procedures are quick (matters are to be treated as a priority, avoiding unnecessary delay) (Article 8 paragraph 1 sub g OP-34, Article 30 paragraph 3 Lanzarote Convention, Article 15 paragraph 3 EU Directive Human Trafficking);
- During criminal proceedings minors receive appropriate assistance to prevent secondary traumatization (Article 8 paragraph 1 sub d OP-34, Article 30 paragraph 2 and Article 31 paragraph 1 sub d Lanzarote Convention, Article 12 paragraph 4 EU Directive Human Trafficking);
- Child victims and their families are protected from intimidation and reprisals (Article 8, paragraph 1, sub f OP-34, Article 28 paragraph 1 European Trafficking Convention, Article 31 paragraph 1 sub f Lanzarote Convention);
- Privacy and identity of the child victim will be protected during criminal proceedings (Article 8 paragraph 1 sub e OP-34, Article 31 paragraph 1 sub e Lanzarote Convention, Article 20 paragraph 6 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 30 European Trafficking Convention);
- Public dissemination of any information that can lead to the identification of minors will be avoided as much as possible (Article 8 paragraph 1 sub e OP-34, Article 31 paragraph 1 sub e Lanzarote Convention);
- Contact at the court and the police station between victim and offender will be prevented (Article 31 paragraph 1 sub g Lanzarote Convention);
- Child victims get free legal aid (Article 31 paragraph 3 Lanzarote Convention, Article 15 paragraph 2 European Trafficking Convention, Article 20 paragraph 2 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 15 paragraph 2 EU Directive Human Trafficking);
- Uncertainty about the age of the victim is no reason not to start a criminal investigation (Article 8 paragraph 2 OP-34, article 35 paragraph 3 Lanzarote Convention);
- All persons involved in the criminal proceedings should have access to training on children's rights, sexual exploitation and sexual abuse of children (Article 36 paragraph 1 Lanzarote Convention);
- The court may order the trial of a case with child victims to take place behind closed doors (Article 36 paragraph 2 sub a Lanzarote Convention, Article 20 paragraph 5 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, article 15 paragraph 5 EU Directive Human Trafficking);
- A child victim may be heard in the courtroom without actually being present by using appropriate communication technologies at the hearing (Article 36 paragraph 2 sub b Lanzarote Convention, Article 20 paragraph 5 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, article 15 paragraph 5 EU Directive Human Trafficking).

Interviews with the child will be done in child-friendly manner

- In case of (suspected) sexual abuse or exploitation, the child concerned will be heard without delay (Article 35 paragraph 1 sub a Lanzarote Convention, Article 20 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography);
- A child is heard in premises specially designed or adapted for this purpose (Article 35 paragraph 1 sub b Lanzarote Convention, Article 20 paragraph 3 EU Directive on

- combating sexual abuse, sexual exploitation of children and child pornography, Article 15 paragraph 3 EU Directive Human Trafficking);
- A child is questioned only by professionals trained for this purpose (Article 35 paragraph 1 sub c Lanzarote Convention, Article 20 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 15 paragraph 3 EU Directive Human Trafficking);
- The number of interviews is as limited as possible (Article 35 paragraph 1 sub e Lanzarote Convention, Article 20 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, article 15 paragraph 3 EU Directive Human Trafficking);
- At an additional hearing a child is questioned by the same professionals (Article 35 paragraph 1 sub d Lanzarote Convention, Article 20 paragraph 3 EU Directive on combating sexual abuse, sexual exploitation of children and child pornography, Article 15 paragraph 3 EU Directive Human Trafficking);
- At the hearing the child may be accompanied by his or her legal representative or other person of their choice (Article 35 paragraph 1 sub f Lanzarote Convention, Article 20 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 15 paragraph 3 EU Directive Human Trafficking);
- Any hearing of a child victim or witness will be videotaped and these videotaped interviews can be introduced as evidence in the court proceedings (Article 35 paragraph 2 Lanzarote Convention, Article 20 paragraph 4 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, article 15 paragraph 4 EU Directive Human Trafficking).

Cooperation

General provisions of international and European legal framework:

- Tackling child trafficking at local and national level requires a coordinated multidisciplinary approach (Article 10 paragraph 1 and Article 11 paragraph 2 Lanzarote Convention, Article 5 paragraph 1 European Trafficking Convention);
- Countries work together to prevent and combat trafficking, protect victims and to assist and cooperate in the prosecution or criminal proceedings (Article 10 OP-34, Article 32 European Trafficking Convention, Article 10 Palermo Protocol);
- In investigation or in criminal or extradition proceedings in cases involving the sale of children, child prostitution and child pornography countries will work together (Article 6 OP-34);
- Countries work together to prevent the sale of children, sexual exploitation of children and to ensure care and assistance to child victims (Article 10 OP-34, Article 10 Lanzarote Convention);
- Governments cooperate with civil society organizations to set up information and awareness campaigns, research and training programs (Article 23 paragraph 2 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography , article 9 paragraph 3 Palermo Protocol, Article 5 paragraph 6 European Trafficking Convention, Article 18 EU Directive Human Trafficking).

Appendix 2: Principles for the protection of child victims

Based on the CRC, the Optional Protocol to the CRC and other international regulations, guidelines and manuals,²⁰⁵ twelve principles can be formulated that should be central to the protection of child victims of trafficking:

1. Start from a holistic approach

This means that every aspect of the life of the child or young person should receive adequate attention in the protection of a child victim of trafficking.²⁰⁶ It also means that the minor should be regarded as part of a social system: a family, community, culture and that this should be taken into account in its protection.²⁰⁷

2. The interests of the child are paramount

The protection provided should suit the needs of the child or the young person. Consequently, the interests of the child must be weighed carefully.²⁰⁸ In the protection of child victims of trafficking, the needs of every minor should be determined and should be weighed carefully to the risks, the specific circumstances of the child and the opportunities that exist to improve its situation. This requires research into all aspects of the life of the child and, in particular, into what the child needs to develop (also looking to traumatic experiences in the past), the parenting abilities of his or her parents or guardians, and to the social, cultural and economic context in which the child grew up. In a 'carefully' carried out investigation professionals are child oriented, they actively involve the child and stay close to its development. Additionally, professionals highlight opportunities and strengths, and they do not only emphasize problems. Moreover, they handle with care any information they receive in confidence.²⁰⁹

A holistic approach in determining the best interests of the child, also requires multidisciplinary and interdisciplinary cooperation.²¹⁰ It is important that professionals from different disciplines and from different organizations work together and share information. In this, it is essential that professionals work from a shared vision in tackling human trafficking and providing for the needs of child trafficking victims.

For the benefit of refugee children tools are developed to determine the best interests of the child.²¹¹ These instruments are also relevant in the framework for the protection of child trafficking victims. The behavioral scientists Kalverboer and Zijlstra developed the *Best Interests of the Child* model for determining the best interests of children in immigration law.

²⁰⁵ For an overview of relevant reports, manuals and guidelines for the protection of (child) victims of human trafficking, see the bibliography.

²⁰⁶ General comment No. 13, par. 11(a), 45, 59, 62.

²⁰⁷ UN Document A/HRC/16/56, par. 26(a).

²⁰⁸ General Comment No. 13, par. 6; General Comment No. 9, par. 29-3-; standards 2 en 3 of the Kwaliteitsstandaarden Jeugdzorg Q4C (hereafter: Q4C-standards); International Guidelines alternative care for children (hereafter: Guidelines alternative care, par. 6, 54, 57).

²⁰⁹ Delany, S. (2012), p.39-42.

²¹⁰ UN Document A/HRC/16/56, par. 66; Explanatory report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, par.11, also see standard 1 of the quality standards for guardians of unaccompanied minor aliens (hereafter: guardian standards).

²¹¹ Also see, General Comment No. 6, par. 19-21.

The model consists of fourteen conditions that are essential to the development of the child.²¹² UNHCR developed *the Best Interest Determination* model to be able to determine the best interest of the child in three situations: when determining the most appropriate sustainable solution for unaccompanied minor refugees, in decisions regarding temporary reception of unaccompanied minor refugees and decisions on the forced separation of children and parents.²¹³ In 2013, the UN Committee on the Rights of the Child published a General Comment on the best interests of the child.²¹⁴

3. Take into account age, gender and background of children

In the protection of children who are victims of trafficking due account should be given to his or her age, level of development, gender, culture and religion. Children with special needs, such as a mental or physical disability or psychiatric problems, should receive extra attention.²¹⁵ Focus should also be on the root causes of the current problems of the child. It is important to ascertain whether the child has had traumatic experiences before and for example has been a victim of sexual abuse, neglect or other forms of child abuse. These underlying problems ought to get ample attention in the protection.²¹⁶

4. Take into account the views and opinions of the child

The child should be actively involved during the entire protection process.²¹⁷ It is important to involve them in decision-making, including the development of the care plan, so that child-centered choices may be made.²¹⁸ The views and opinions of the child should be taken into account in the decision-making process. This is not to say that these automatically prevail, it is a balancing of the needs of the child with present risks and possibilities. The professional must be able to balance between protecting the child and involving the child as much as possible.²¹⁹ Then the professional has the important task to explain to the minor how his or her vision and opinion is included in the decision-making process and why a particular choice is made. In this way, not only do professionals come to make better decisions, but the minors also feel that they are taken seriously. This contributes to building trust, empowerment and the process of recovery.²²⁰ It is also important to involve the views and experiences of child victims in the evaluation of protection policy and in the development of care and prevention programs.²²¹

²¹² Kalverboer, M.E., Zijlstra A.E. (2006), p. 26.

²¹³ UNHCR Guidelines on Determining the Best Interest of the Child, May 2008; Also see Miriam Blaak et al. (eds.) 2012, p.669; Dottridge, M. (2012), p.40-48.

²¹⁴ This general Comment of the Committee on the Rights of the Child is explanatory to Article 3 of the CRC and is published on the website www.ohchr.org

²¹⁵ UN Document A/HRC/16/56, par. 10, 28; standard 7 of the Q4C-standards; General Comment No.7, par. 40; Guidelines Alternative Care, par. 62.

²¹⁶ Bjerkan, L., Dyrliid, L. (2005)p.126; Delaney, S. (2012), p.12-16; UN Document A/HRC/16/56, par.27; also see: Wiele, D. van der, Ruiters, E. de (2011), p. 127.

²¹⁷ General Comment, No. 13, par.63; General Comment No.7, par. 25, 40; General Comment No. 9, par. 32-33; standaard 2 of the guardian standards.

²¹⁸ For example see standard 6 of the Q4C-standards; General Comment No. 12, par. 97.

²¹⁹ Delany, S. (2012), p. 44-45.

²²⁰ Dottridge, M. (2012), p. 58-66; standard 12 of the Q4C-standards.

²²¹ UN Document A/HRC/16/56, par. 31; Explanatory report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, par. 67; General Comment No. 13, par. 63; General Comment No. 12, par. 97, 118-119, 121-122.

5. Ensure that the rights of the child are safeguarded adequately

During the process of reception and care, besides the right to participation, other rights of the child should be safeguarded, including the rights to privacy and to non-discrimination.²²² For example a complaints procedure should be set up.²²³ Care is to be provided according to a care plan and a record should be kept of every child. This is not only important for the process of protection, but also for safeguarding the rights of the child.

In a residential setting, it is necessary to keep open the possibility of maintaining contact with parents or guardians, other family members, friends, and with the rest of the outside world, unless the contact is not in the best interest of the child. Also, the right of access to education, the right to profess a religion and the right to free time is to be safeguarded within the residential setting.²²⁴

6. Start from a long-term perspective

In the protection of child victims of trafficking, one must not only deal with the here and now, but also look forward to the future of the child and from the beginning plans should be focused on the return of the child to the society.²²⁵ This involves a process of which reception, care and support are part. So, within the care plan, there must be sufficient attention for the future.²²⁶ Long term care and assistance for victims from abroad should be closely connected with the question whether or not a victim will return to his or her country of origin.

7. Provide continuity of care

It is important to avoid too much moving between reception centres and changing of professionals.²²⁷ A solution could be to designate a mentor or contact person for each minor during the reception, care and assistance.²²⁸

8. Involve family members, friends, the social environment or the community of the child

It is essential for the psychological recovery and social reintegration of children who are victims of trafficking that their parents or guardians, relatives and other relevant people are involved in the care and assistance, provided that this is possible and safe.²²⁹

Family members and friends themselves often need help to understand the child in order to be able to help her or him effectively. They should therefore be properly guided.²³⁰ Wherever possible, the social environment, such as the school or the local community, should be involved, since these may play an essential role in the reintegration process.²³¹

²²² General Comment No. 7, par. 29-30; Guidelines for alternative care, par. 89.

²²³ UN Document A/HRC/16/56, par. 112 (f); General Comment No. 12, par. 120; Guidelines alternative care, par. 99.

²²⁴ Frederick, J. (2002), p. 19-20; Also see: the Q4C-standards and the Guidelines alternative care, par. 81,85.

²²⁵ Explanatory report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, par. 93-96; standard 6 guardian standards; Guidelines alternative care, par 58.

²²⁶ Standard 17-19 of the Q4C-standards; Guidelines alternative care, par. 61.

²²⁷ General Comment No. 7, par. 40; Guidelines alternative care, par. 60.

²²⁸ Delaney, S. (2012), p. 21; standard 6 Q4C-standards;

²²⁹ UN Document |A/HRC/16/56, par 26(b), par. 112(d); Explanatory report, par 100.

²³⁰ Explanatory report, par. 87; Frederick, J. (2002), p. 15, 25-26.

²³¹ Delaney, S. (2012), p. 19; General Comment No. 13, par 72 (d).

9. Provide small scale reception facilities

A principle of the CRC is that all children should grow up in a family environment. Placement in a facility for residential care should only occur as a last resort.²³² If there is no other or better option present, it is best for the child if groups are kept as small as possible to allow for sufficient individual attention. The number of staff in a group should make such personal attention possible.²³³

10. Provide well-trained and adequately supported professionals that work from a shared vision

It is important that professionals who work with child victims of trafficking are trained adequately.²³⁴ They should be able to communicate with children and to deal with the specific problems of children who have had to deal with human trafficking.²³⁵ Also, this work demands that professionals are aware of the specific aspects of trafficking. In addition, it is important that they are consistent in their approach and do their work on the basis of a shared vision.

reception, care and assistance require a dedicated team consisting of reliable professionals that are able to work in a team and understand their role in this team, that can be a role model (to teach children to enter into a relationship with an adult who is non-violent) and who are committed to a long term process.²³⁶

Working with victims of violence, moreover, calls for additional support such as peer review and supervision. This not only helps professionals to become more aware of their task and to do their job better, but it is also essential to prevent secondary traumatization. This is a task of the management of institutions and organizations that offer protection.²³⁷

11. Ensure adequate screening of professionals and a policy aimed at preventing abuse

To prevent professionals of becoming guilty of sexual abuse or other forms of violence such as abuse of power, adequate screening of professionals is necessary.²³⁸ In addition, the organization shall have a safety or child protection policy with clear codes of conduct and protocols.²³⁹ These behavioral codes and protocols should be written in a child-friendly manner, so that children and young people may understand the contents of policies and procedures and know where to go to report their concerns and experiences of abuse.²⁴⁰

12. Ensure data collection, quality standards, monitoring, evaluation and impact assessment and independent supervision

To get a good view on the extent of trafficking in children and the problems these children have, it is necessary to collect data and do further research.²⁴¹ To improve the programs, they

²³² Guidelines alternative care, par. 14, 21; General Comment No. 9, par. 47.

²³³ Guidelines alternative care, par. 123, 126.

²³⁴ UN Document A/HRC/16/56, par.26 (c); Explanatory report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (hereafter: Explanatory report), par. 54, 56; standard 10 guardians standards; Guidelines alternative care, par. 129.

²³⁵ General Comment No. 12, par. 134 (g).

²³⁶ Delaney, S & Cotterill, C. (2005), p. 37.

²³⁷ Asquith, P. & Turner, E. (2008) p. 10-17; Bjerkan, L. & Dyrliid, L. (2005) p.129-123; Delaney, S & Cotterill, C. (2005), p. 110.

²³⁸ Explanatory report, par. 57; Guidelines alternative care, par. 92-93, 125.

²³⁹ Frederick, J. (2002) p. 7-18; Delaney, S. (2012), p. 20.

²⁴⁰ For example see: the Child-Save Organizations, Training Toolkit of Save the Children UK and ECPAT International, 2006; standard 14 en 16 Q4C-standards.

²⁴¹ UN Document A/HRC/16/56, par. 112 (h).

need monitoring, periodic evaluation and effectiveness research.²⁴² There should always be independent monitoring to safeguard quality and prevent abuses.²⁴³ Moreover there ought to be specific quality standards to be applied to the protection of child victims of trafficking.

²⁴² UN Document A/HRC/16/56, par. 112 (i); General Comment No. 7, par. 22; General Comment No. 9, par 50; Guidelines alternative care, par. 55; Guidelines alternative care, par. 67.

²⁴³ General Comment No. 9, par. 42; General Comment No. 12, par. 97; Guidelines to alternative care, par. 128, 130.

Abbreviations

| | |
|----------------------|---|
| amv | unaccompanied minor foreigner |
| ACM | Amsterdam Coordination Center for Human Trafficking |
| AMO | General Migration Training |
| BNRM | Bureau of the Dutch National Rapporteur on Trafficking in Human Beings and sexual violence against children |
| BID | Best interest of the Child Determination |
| COA | Central Agency for the Reception of Asylum Seekers |
| COSM | Category oriented Shelter for Human Trafficking Victims |
| CRC | Convention on the Rights of the Child |
| CoMensha | Coordination Center Human Trafficking |
| ECPAT | End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes |
| DT&V | Repatriation and Departure Service |
| EMM | Expertise Center on Human Trafficking and Human Smuggling |
| EHRM | European Court of Human Rights |
| EVRM | European Convention on Human Rights |
| EU | European Union |
| FP | Optional Protocol |
| FIOD | Fiscal Information and Investigation Service |
| GGD | Municipal Health Service |
| GATE | Guardians against Child Trafficking and Exploitation |
| ILO | International Labour Organization |
| IND | Immigration and Naturalization Service |
| IOM | International Organization for Migration |
| KWG | Living facility for minors |
| KWE | Small living unit for minors |
| KMar | Royal Military Police |
| KLPD | National Police Services Agency |
| LEM | National Expert Group Trafficking in Human Beings |
| LJN | National case-law number |
| MOB | Destination unknown |
| MoU | Memorandum of Understanding |
| NJI | Dutch Youth Institute |
| NCJ | Dutch Center for Youth Healthcare |
| PPS | Prosecution Service (Dutch OM) |
| PCM-certified | Police officers that have received training on Inspection Prostitution and Human Trafficking |
| POL | Process Reception Location |
| Q4C | Quality for Children |
| RVIM | National Institute for Public Health and the Environment |
| SIOD | Social Security Investigation and Detection Service |
| UNODC | United Nations Office on Drugs and Crime |
| UN | United Nations |
| WOBKA | the Placement for Adoption (Children of Foreign Nationality) Act |
| WODC | Scientific Research and Documentation Center (of the Ministry of Security and Justice) |
| WvSr | Dutch Criminal Code |

Bibliography

- Asquith, P. & Turner, E. (2008). *Recovery and Reintegration of Children from the Effects of Sexual Exploitation and Related Trafficking*. Geneva: Oak Foundation Child Abuse Programme.
- Berger, M., Geurts, E., Terpstra, L. & Dijke A. van (2006). *Betovering verbroken*. Amsterdam: SWP.
- Bjerkkan, L., Dyrliid, L. 'A Sheltered Life', In: Bjerkkan, L. (ed.) (2005). *A Life of One's Own. Rehabilitation of victims of trafficking for sexual exploitation*. Norway: Fafo information office.
- Blaak, M. e.a. (red.) (2012). *Handboek Internationaal Jeugdrecht. Een toelichting voor rechtspraak en jeugdbeleid op het Internationaal Verdrag inzake de Rechten van het Kind en andere internationale regelgeving over de rechtspositie van minderjarigen*. Leiden: Defence for Children en Universiteit Leiden, Leiden.
- Borne, A. van den & Kloosterboer, K. (2005). *Inzicht in uitbuiting; Handel in minderjarigen in Nederland nader onderzocht*. Amsterdam: ECPAT Nederland/ Defence for Children International Nederland/ UNICEF Nederland/ Plan Nederland.
- Defence for Children International-ECPAT Nederland (2011). *Kwaliteitsstandaarden voor voogden van alleenstaande minderjarige vreemdelingen*. Leiden: Defence for Children International -ECPAT Nederland.
- Delaney, S. (2012). *(Re)Building the Future: Supporting the recovery and reintegration of trafficked children, A Handbook for project staff and frontline workers*. Geneva: Terre des Hommes International Federation.
- Delaney, S. & Cotterill C. (2005). *The Psychosocial rehabilitation of Children who have been commercially sexually exploited. SelfStudy Materials*. Bangkok: ECPAT International.
- Dijke, A. van, Lamers, F., Talhout, M., Terpstra, L., Werson, S. & Wind, A. de (2012). *Wie zijn de meiden van Asja? De gang naar de jeugdprostitutie*. Amsterdam: Uitgeverij SWP.
- Dottridge, M. (2007). *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual*. Brussel: Europese Commissie.
- Dottridge, M. (2012). *What can you do to protect children on the move?* Geneva: Terre des Hommes International Federation.
- Frederick, J. (2002). *Standards and Guidelines for the Care of the Sexually abused and Sexually exploited*. Nepal: Ray of Hope.
- GATE – Guardians Against Child Trafficking and Exploitation (2012). *National Report The Netherlands Extended Version*. Leiden: Defence for Children.
- International Labour Organization (2012). *ILO 2012 Global Estimates of forced labour*. Geneva: International Labour Organization.
- Jong-deKruif, de M.P., Schorsing en terugplaatsing in het kader van de trajectmachtiging gesloten jeugdzorg: is *carte blanche* voor de aanbieders van gesloten jeugdzorg wel zo'n goed idee?, in de congresbundel *90 jaar ondertoezichtstelling* (onder redactie van M.R. Bruning & T. Liefwaard), die in de loop van 2013 bij SDU verschijnt.
- Kinderrechtencollectief (2012). *Kinderrechten in Nederland 2008/2012; Vierde NGO rapportage aan het VN Kinderrechtencomité*. Leiden: Kinderrechtencollectief.
- Kromhout et al. (2010). *Tussen beheersing en begeleiding; Een evaluatie van de pilot 'beschermde opvang risico-amv's'*, Cahier 2010, nr.6. Den Haag: Wetenschappelijk Onderzoeken Documentatie centrum (WODC).
- Nationaal Rapporteur Mensenhandel (2002). *Mensenhandel – Eerste Rapportage van de Nationaal Rapporteur*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2009). *Mensenhandel – Zevende rapportage van de Nationaal Rapporteur*. Den Haag: BNRM.

- Nationaal Rapporteur Mensenhandel (2010). *Mensenhandel: 10 jaar Nationaal Rapporteur Mensenhandel in Nederland – Achtste rapportage van de Nationaal Rapporteur*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2011). *Kinderpornografie – Eerste rapportage van de Nationaal Rapporteur*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (2012). *Mensenhandel in en uit beeld; Cijfermatige rapportage (2007-2011)*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel met het oogmerk van orgaanverwijdering en gedwongen commercieel draagmoederschap*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2012). *Kwalitatieve gegevens over (de vervolging en berechting van) verdachten en veroordeelden in mensenhandelzaken in de periode 2006-2010*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel. Jurisprudentie mensenhandelzaken 2009-2012; Een analyse*. Den Haag: BNRM.
- Nationaal Rapporteur Mensenhandel (2012). *Mensenhandel. Effectieve aanpak op gemeentelijk niveau. Lessen uit de praktijk*. Den Haag: BNRM.
- Repetur, L. & Veenstra, J. (2010). *Vrijbuiters uitgebuit. Minderjarige jongens in de prostitutie, 11 portretten*. Amsterdam: SWP.
- Rigby, P., Malloch, M. & Hamilton Smith, N. (2012). *A report on Child Trafficking and Care Provision; Towards Better Survivor Care*.
- Schwarze, K., Berger M. & Geurts, E. (2006). *Pretty Woman, Praktijkvoorbeeld voor de aanpak van meisjesprostitutie*. Amsterdam: SWP.
- Strehl, T., Vos, S. de & Lieten, C. (2012). *Baantjes en Klusjes: Kinderarbeid in Nederland*. Leiden: IREWOC.
- Terpstra, L., Dijke, A. van (2006). *Publiek Geheim; jeugdprostitutie. Negen portretten*. Amsterdam: SWP.
- United Nations Economic and Social Council (2005). *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Resolutie 2005/20*, Verenigde Naties, New York.
- UNICEF Nederland i.s.m. ECPAT NL (2004). *Ongezien en ongehoord. Kinderhandel in Nederland: en eerste inventarisatie*. Den Haag: UNICEF Nederland i.s.m. ECPAT NL.
- UNICEF (2012). *Technical Note on terms and Concepts around Trafficking in Persons and Children in Migration*. Ongepubliceerd.
- UNICEF Innocenti Research Centre (2009). *Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*. Florence: UNICEF.
- UNICEF Innocenti Research Centre (2011). *Child Trafficking in the Nordic Countries: rethinking strategies and national responses*. Florence: UNICEF.
- UNICEF (2006). *Guidelines on the protection of child victims of trafficking*. UNICEF Technical Notes, New York: UNICEF.
- UNICEF The Netherlands (2012). *Return of separated children to return houses in countries of origin*. Voorburg: UNICEF The Netherlands.
- United Nations Office on Drugs and Crime (2012). *Global report on Trafficking in Persons 2012*. New York: United Nations Office on Drugs and Crime.
- Verwijs, R., Mein, A., Goderie, M. Harreveld, C. & Jansma A. (2011). *Loverboys en hun slachtoffers; Inzicht in aard en omvang problematiek en in het aanbod aan hulpverlening en opvang*. Utrecht: VerweyJonker Instituut.
- Werson, H. (2012). *De fatale fuik. Achter de schermen van mensenhandel en gedwongen prostitutie in Nederland*. Amsterdam: Carrera.
- Werson, H. & Hertog, A. den (2011). *Korpsmonitor Prostitutie & Mensenhandel 2010*. Landelijke Expertgroep Mensenhandel.
- Wiele, D. van der & Ruiter, E. de (2011). *De Kleine Gids. Signalering en Behandeling Slachtoffers Loverboys*. Deventer: Kluwer.

Articles

- 'Mensenhandel; het begrip uitbuiting in art. 273 a Sr', Trema, nr. 7 september 2006.
- Rijken, C. (2012) 'Versterkte bescherming voor slachtoffers van mensenhandel; Is aanpassing van de B9 naar aanleiding van Europese regelgeving noodzakelijk?', Journaal Vreemdelingenrecht, nr. 1 maart 2012.

Documents

- Besluitenlijst Vaste Kamercommissie Veiligheid en Justitie, 20 december 2012.
- Brief aan de Tweede Kamer van de Algemene Rekenkamer 10 maart 2010. *Bevindingen Algemene Rekenkamer instroom, doorstroom en uitstroom (gesloten) jeugdzorg.*
- EU Strategy towards the Eradication of Trafficking of Human Beings 20122016.
- Landelijke Expertgroep Mensenhandel (2008). *Referentiekader Human Trafficking*
- Memorie van Toelichting Wet regulering prostitutie en bestrijding misstanden seksbranche 2009.
- Task Force Mensenhandel (2009). *Voortgangsrapportage; Stand van zaken.*
- Task Force Mensenhandel (2011). *Plan van Aanpak 20112014; De integrale aanpak van mensenhandel verder versterken.*
- Tweede Kamer 20032004, 29291, nr. 3.
- Tweede Kamer 20052006, 28638, nr. 19.
- Tweede Kamer 20122013, 28638, nr. 81.
- Tweede Kamer 20112012, 28638, nr. 57.
- UN Document A/65/221.

Newspaper articles

- Algemeen Dagblad, 'Jonge Nigeriaanse slachtoffers verdwenen', 3 augustus 2006.
- de Volkskrant, 'Jongeren lopen steeds vaker weg uit jeugd inrichtingen', 4 april 2011.
- Trouw, 'Speciale rechters voor zaken rond mensenhandel', 18 oktober 2012.

Websites

- www.unodc.org
- www.nji.nl
- www.movisie.nl
- www.ckmfier.nl
- www.nationaalrapporteur.nl
- www.eerstekamer.nl
- www.trouw.nl
- www.hetccv.nl
- www.bnrm.nl

Relevant reports, literature and guidelines concerning the protection of (child) victims of human trafficking

- Asquith, P., Turner, E. (2008). *Recovery and Reintegration of Children from the Effects of Sexual Exploitation and Related Trafficking*. Geneva: Oak Foundation Child Abuse Programme.
- Bjerkkan, L., Dyrliid, L. 'A Sheltered Life', In: Bjerkkan, L. (ed.) (2005). *A Life of One's Own. Rehabilitation of victims of trafficking for sexual exploitation*. Norway: Fafo information office.
- Defence for Children International-ECPAT Nederland (2011). *Kwaliteitsstandaarden voor voogden van alleenstaande minderjarige vreemdelingen*. Leiden: Defence for Children International-ECPAT Nederland.
- Delaney, S. (2008). *Young Person's Guide to Trafficking in Children & Young People especially for sexual purposes*. Bangkok: ECPAT International/The Body Shop International.
- Delaney, S., Cotterill, C. (2005). *The Psychosocial rehabilitation of Children who have been commercially sexually exploited. Self Study Materials*. Bangkok: ECPAT International.
- Delaney, S. (2012). *(Re)Building the Future: Supporting the recovery and reintegration of trafficked children, A Handbook for project staff and frontline workers*. Geneva: Terre des Hommes International Federation.
- Dijke, A. van, Lamers, F., Talhout, M., Terpstra, L., Wind, A. de (2012). *Wie zijn de meiden van Asja? De gang naar de jeugdprostitutie*. Amsterdam: SWP.
- Dottridge, M. (2012). *What can you do to protect children on the move?* Geneva: Terre des Hommes International Federation.
- Dottridge, M. (2008). *Child Trafficking for Sexual Purposes, Thematic Paper*. Bangkok: ECPAT International.

- ECPAT UK (2011). *On the Safe Side, Principles for the safe accommodation of child victims of trafficking*. London: ECPAT UK.
- ECPAT UK (2010). *Child Trafficking in the UK; A Snapshot*. London: Save the Children UK, ECPAT International.
- Fernandes, G. (2005). *Dealing with child victims of trafficking and commercial sexual exploitation. Manual for social workers*. India: UNICEF, Ministry of Human Resource Development, Department of Women and Child Development.
- Frederick, J. (2002). *Standards and Guidelines for the Care of the Sexually abused and Sexually exploited*. Nepal: Ray of Hope.
- Frederick, J. (2002). *Creating a Healing Environment. Psychosocial Rehabilitation and Occupational Integration of Child Survivors of Trafficking and Other Worst Forms of Child Labour. Volume I: Proceedings*, Kathmandu: International Labour Office.
- International Organisation for Migration (2007). *The IOM Handbook on Direct Assistance for Victims of Trafficking*. Geneva: IOM.
- Kalverboer, M.E., Zijlstra, A.E. (2006). *De schade die kinderen oplopen als zij na langdurig verblijf in Nederland gedwongen worden uitgezet*. Groningen: Rijksuniversiteit Groningen.
- Kalverboer, M.E., Zijlstra, A.E. (2010). *Het belang van het kind in het Nederlands recht. Voorwaarden voor ontwikkeling vanuit een pedagogisch perspectief*. Amsterdam: SWP.
- Lefö (2011). *Quality Standards for risk assessment and the safe return and reintegration of trafficked persons*. Vienna: Lefö/IBF.
- Rigby, P., Malloch, M., Hamilton Smith, N. (2012). *A report on Child Trafficking and Care Provision; Towards Better Survivor Care*. Love 146.
- Rutjes, L., Beek, F. van (2009). *Kwaliteitsstandaarden Jeugdzorg Q4C. Wat kinderen en jongeren belangrijk vinden als ze niet thuis wonen*. Houten: Bohn Stafleu van Loghum.
- Rutjes, L. & Sarti, A., (2012). *Clënten actief met de kwaliteit van zorg. De Q4C standaarden in perspectief en in de praktijk*. Houten: Lannoo Campus.
- Save the Children UK, ECPAT International (2006). *ChildSafe Organisations. Training Toolkit. A practical child protection resource for grassroots organisations*. Bangkok: Save the Children UK, ECPAT International.
- Thompsonstone, G. (2004). *The Development of Quality Standards in Welfare Services for Child Victims*. Bangkok: ECPAT Thematic Reports.
- UNICEF (2006). *Guidelines on the protection of child victims of trafficking*, UNICEF Technical Notes, New York: UNICEF.
- UNICEF (2006) *Reference guide on protecting the rights of child victims of trafficking in Europe*. Geneva: UNICEF Regional Office for CEE/CIS.
- Wiele D. van der, Ruiter, E. de (2011). *De Kleine Gids. Signalering en Behandeling Slachtoffers Loverboys*. Deventer: Kluwer
- Guidelines and explanatory documents*
- Explanatory report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse CETS No. 201.
- General Comments van het Comité voor de Rechten van het Kind:
- General comment No. 6 (2005) Treatment of Unaccompanied and Separated Children Outside Their Country of Origin (UN Document CRC/GC/2005/6).
 - General comment No. 9 (2006) The rights of children with disabilities (UN Document CRC/C/GC/9).
 - General comment No. 12 (2009) The right of the child to be heard (UN Document CRC/C/GC/12).
 - General comment No. 13 (2011): The right of the child to freedom from all forms of violence (UN Document CRC/C/GC/13).
- International guidelines for alternative care children.
- Joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary General on Violence against Children (2011) (UN Document A/HRC/16/56).
- UNHCR Guidelines on Determining the Best Interests of the Child, Mei 2008.

Colophon

Child Trafficking in the Netherlands

Combating child trafficking and protecting child victims in the Netherlands

Authors: *Majorie Kaandorp, Mirjam Blaak*

Case research: *Laura Bosch, Roos de Wildt*

With help from: *Theo Noten, Martine Goeman*

Translation: *Henny van Boekel*

UNICEF Netherlands

www.unicef.nl

Defence for Children – ECPAT The Netherlands

www.defenceforchildren.nl/www.ecpat.nl

Voorburg, May 2013

Translation: May 2014

The report *Child Trafficking in the Netherlands*, by UNICEF Netherlands and Defence for Children-ECPAT Netherlands, describes the state of affairs regarding action against child trafficking and the protection of child victims in the Netherlands in 2013. It is an update of the report *Investigating Exploitation* published in 2005.

Since 2005, the quality of investigating human trafficking and prosecuting human traffickers has improved and cooperation between the various chain partners has increased. Unfortunately however, the protection of child victims received less attention. The Dutch approach to victims of human trafficking failed to focus sufficiently on minor victims. Moreover, human trafficking policy does not specifically take into account the interests and needs of the child victims.

UNICEF Netherlands and Defence for Children-ECPAT Netherlands, in this study, advocate a policy that specifically addresses the protection of child victims in the action against human trafficking.

Majorie Kaandorp is a child rights expert at UNICEF Netherlands and Mirjam Blaak is program manager Youth care at Defence for Children.