



Thematic Study on Child Trafficking

Cyprus

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Executive Summary

1. General anti-child trafficking framework

Despite having ratified most major regional and international conventions against child trafficking and despite a commendable national legislative framework, Cyprus is facing serious trafficking problems which remain to a large extent unaddressed. During 2007 two important legislative tools were enacted which brought national legislation in line with most European and international anti-trafficking instruments; however their impact is yet to be felt as several important features of these laws are yet to be implemented. Very few resources, if any, are allocated to combating child trafficking; the absence of any reference in the national action plan to child trafficking perhaps demonstrates that the government's priorities are not placed in this area. A major gap is located in the absence in practice of an identification system for victims which, in turns, block any further actions in the chain, such as referral and support.

2. General overview of practice

Overall, there is no system in place to identify and recognise trafficked victims in general therefore the general overview of the practice is in the view of the authors not a positive one. As for the identifying and supporting children victims of trafficking there is even less knowledge, systematic monitoring or any system in place. On the positive side, one has to recognise the new legislation is an improvement and that the Bureau for Combating Trafficking (Police) is headed by a competent officer. However, the Bureau is according to NGOs working in the field badly under-staffed, it has no budget and is not autonomous enough to proceed with the necessary measures that would make a difference; but most importantly, the Police has so far failed to implement the relevant provision in the Law requiring the setting up of a system of identification of both the age and trafficked victims. NGOs working in the field express concern that little is being done on the ground to combat trafficking and support victims. Child trafficking has not been tackled at all.

3. Prevention of child trafficking

There is little evidence on prevention of child trafficking: the few general campaigns on trafficking awareness-raising failed to have any impact; there have been no campaigns or any other information about child trafficking so far. It seems that the general attitude that "there is no serious problem of trafficking" is still prevalent in Cyprus and NGOs and experts are concerned that very little, too late is being done to properly inform victims and generally to raise public awareness. **On the question of child trafficking, unfortunately this is still to be addressed in any campaigns.**

4. Appointment of legal guardian

The Cypriot legal framework for the protection of children in general and trafficked children does not have provisions for an independent legal guardian as it exists in other jurisdictions, but based on the combined effect of the colonial legislation on children and the law on Refugees: **the Director of the Social Welfare office, who assumes all parental rights and is responsible for the welfare of children “in need of care”.**

5. Coordination and cooperation

As far as coordination and cooperation, **the setting up of the “multi-thematic coordination team” as provided by the Cyprus/Law 87(I)/2008 promised to make a difference** in providing for a more effective system of cooperation between governmental agencies and non-governmental organisations dealing with trafficking. **However, in practice little has changed from the previous system as the overwhelming bureaucratisation of the system, the fact it these large committees meet every three months and the marginal position of NGOs, has made NGOs justifiably sceptical if the system will work in practice in combating trafficking in general and supporting victims.** More importantly for the purpose of combating child trafficking, with the exception of the Social Welfare Services, none of the other Governmental and non-governmental institutions in the “multi-thematic coordination team” has any expertise or interest on children. As a result the question of combating child trafficking, which has its own particularities is further side-stepped and fares very low in the anti-trafficking agenda. So far the cases that reach the Social Welfare Services have been dealt with taking into account the general provisions of best interest of the child but there is little or no cooperation by the other services.

6. Care and protection

The Cyprus/Law 87(I)/2008 aims to put in place important elements for care and protection of child trafficking. However, given that the most important aspect of the law relating to the identification of age and trafficking is yet to be implemented by the Police, the authors are of the view that the system is not operational; we can only make an assessment of the law as it exist on paper.

7. Best interests determination and durable solutions, including social inclusion/return

There is no formalised process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of the child. **The failure by the Police to implement the relevant provision of the law, as the competent authority to identify and recognise whether a person is a victim of trafficking, has stalled the system before it proceeds any further.**

8. Prosecution

As far as prosecution is concerned, not surprising there have been no convictions based on child trafficking cases or compensation paid to trafficked children (2000-2007). The law in place is only now being implemented.

9. Miscellaneous

When considering the case of Cyprus a number of crucial factors ought to be taken in consideration about the situation of trafficked children, who are likely to be part of migrant communities in Cyprus or other vulnerable groups such as the Cypriot Roma. Firstly, the political, social, legal and cultural context in Cyprus reflects the particular situation, which is de facto split in two by a peculiar demarcation line since 1974, considered to be 'a soft border' of the EU, which creates conditions for trafficking south and north of the demarcation line. Secondly, the generally hostile environment towards migrants and asylum seekers in Cyprus, as various studies indicate is a factor that does not help the situation. Finally, the social position of the Roma in Cyprus is factor that needs to be properly assessed to understand how a number of Roma children can be potential victims of trafficking, as some NGOs complain.

10. Good Practice

Some provisions contained in Cyprus/Law 87(I)/2007 contain good practices, if properly implemented, which can provide a basis for further good practices; however the main problem is they do not refer to child victims of trafficking as such, but to victims of trafficking in general, which theoretically includes child victims and there are relevant provisions in the law. The authors of this report are of view that there needs to be a specific working group to deal directly with child trafficking so as to focus on the subject. Nevertheless, the existence of the multi-thematic coordination team, comprising of key state and non-state actors relevant for anti-trafficking efforts is itself a good practice. These include a various provisions for review and amendment of the National Action Plan is itself a good practice; regular monitoring the implementation and assessment of the Plan, taking measures for its more effective implementation and the assessment of the national mechanism for referral of victims, the collection, exchange of information, data and statistics between members regarding felonies provided for in the current law and the protection of victims are good practice; specific reference of the law to the drafting of manuals and training material for good practices that must be followed by all relevant services and NGOs for the protection of victims; the submission of proposals for the amendment of the current law or other relevant legislation; the organisation of seminars and training/educational programs for officers of competent and relevant services and NGOs; other action aiming at informing and awareness raising particularly on issues of equality and combating discrimination due to gender, race or ethnic origin, colour, religion and generally on themes that are related to the current law; preparation and discussion on protocols of cooperation between NGOs and the relevant public services as provided by the current law and the monitoring and review of international developments and international law in areas that fall under the law.

1. General anti-child trafficking framework

[1]. **International and Regional Conventions on Child Trafficking**

Cyprus has signed and/or ratified the following regional and international conventions:

- The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) was signed by Cyprus on 08.02.2001 and ratified on 06.04.2006. It became part of the Cypriot legal order in the same year by Ratification Law no. 6(III)/2006.
- The United Nations Convention against Transnational Organized Crime was ratified by Cyprus on 22.04.2003. Its protocol on trafficking in persons was ratified on 06.08.2003. The convention and its three protocols were integrated into Cypriot domestic law in 2003 with Law 11(III)/2003.
- ILO Convention Nr. 182 on the worst forms of child labour (1999) was ratified by Cyprus on 27.11.2000.
- The Council of Europe Convention on Action against Trafficking in Human Beings was ratified on 24/10/2007 and entered into force on 1/2/2008. The relevant Cypriot law is the Ratification Law on the Council of Europe Convention on Action against the Trafficking of Persons N. 38 (III)/2007, dated 12.10.2007.
- The Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (2007) was signed by Cyprus on 25.10.2007 but has not as yet been ratified.

[2]. **International and Regional Conventions indirectly related to Child Trafficking**

The following conventions, which are directly or indirectly related to child trafficking, were also ratified and became part of national law:

- European convention on mutual assistance in criminal matters – Law 2(III)/2000.
- European convention between member states on the transfer of proceedings in criminal matters – Law 20(III)/2003.
- European convention between the member states of the European communities on the enforcement of foreign criminal sentences – Law 21(III)/2003.
- European convention on the compensation of victims of violent crimes – Law 2(III)/97;
- Convention on the elimination of all forms of discrimination against women – Law 78/85 and Law 1(III)/2002.
- Convention for the suppression of the traffic in persons and the exploitation of the prostitution of others – Law 57/83.

- Convention on the rights of the child – Laws 243/90 and 5(III)/2000; Criminal law convention on corruption – Law 23(III)/2000.
- Convention drawn up on the basis of article K.3 (2)(c) of the treaty on European union on the fight against corruption involving officials of the European union or member states – Law 2(III)/2004.
- Civil law convention on corruption – Law 7(III)/2004; Convention of cyber crime (child pornography) – Law 22(III)/2004.

[3]. **The Cypriot legislative framework**

- The legislative framework on trafficking (in general, including the trafficking of children) currently applicable in Cyprus includes provisions from the Criminal Code, which criminalize the act of ‘living off the profits of prostitution’ in general, an offence intended to person making a profit (for example, the trafficker or the pimp) and not the person earning an income from prostitution (i.e. the prostituted child or adult).
- Besides the Criminal Code, until 2007 the Cypriot legislative framework consisted of the following laws: The Combating of Trafficking in Human Beings and Sexual Exploitation of Young Persons Law (Law 3(I)/2000); The Prevention and Suppression of Money Laundering Activities Law (L. 61(I)/96), which includes trafficking and prostitution and The Witness Protection Law (L. 95(I)/2001).
- In October 2007 the law ratifying the Council of Europe Convention on Action against Trafficking in Human Beings was enacted.¹ The definition of trafficking and of a victim of trafficking provided in this law is broad and expressly states that the consent of the victim is irrelevant (article 4). The law provides for the enactment of legislation and the adoption of policies and measures to combat trafficking and protect victims of trafficking such as:
 - a) The adoption of measures to discourage demand, such as research into best practices, awareness raising campaigns, educational programs for school children (article 6).
 - b) The adoption of measures to identify and assist victims of trafficking (article 10) and protect their private life and identity (article 11).
 - c) The non-punishment of victims for acts they have been compelled to commit (article 26).
 - d) The conducting of investigations and prosecutions which are not dependent on the report or accusation of the victim (article 27)

¹ Cyprus/ Law N. 38(III)/2007, dated 12.10.2007.

- e) The protection of victims and witnesses from retaliation and intimidation against them and/or against their families (article 28).
- f) The provision of training for officials working in the field of combating trafficking (article 29).
- g) The co-operation between member states by way of exchange of information (articles 33 and 34).
- h) The establishment of a transnational group of experts to monitor implementation of this Convention (article 36).

At the time of writing, the legislation had still not been fully implemented.

- Another law was also enacted in 2007 regulating the protection of persons who are victims of trafficking and exploitation (Law 87(I)/2007).² This law criminalises trafficking, exploitation of persons and child pornography and provides for the adoption of measures for the protection of victims and the creation of a mechanism for the monitoring of the implementation of these measures. The law purports to transpose:
 - a) EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings;
 - b) EU Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography;
 - c) EU Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- Finally, the legal framework on trafficked children must also include the provisions for unaccompanied minors, migrant children and the general provisions of the Law on Children (Cap 252) as the ‘hidden population’ of trafficked children is often contained within these categories. The legal framework concerning unaccompanied minors and other children at risk is governed by the Laws on Refugees from 2000 to 2004,³ the UN Convention of the Rights of the Child,⁴ and European Convention on the Exercise of Children’s Rights,⁵ as well general laws for the protection of

² Cyprus/Law revising the Legal Framework regulating the Special Protection of Persons who are Victims of Trafficking and Exploitation and Related Matters N. 87(I)/2007 (13.07.2007).

³ Cyprus/Law No. 6(I) of 2000 as amended by laws 6(I) of 2002, 53(I) of 2003, 67(I) of 2003, 9(I) of 2004, 241(I) of 2004.

⁴ Ratified by the Republic of Cyprus and incorporated as Law N. 243(II) of 1990, as amended by Law N. 5(III) of 2000.

⁵ Ratified by the Republic of Cyprus and incorporated as Law N. 23(III) of 2005

children⁶ and their right to education. Also, Article 3 of the UN Convention of the Rights of the Child provides that any action taken by the contracting states must ensure that the rights of the child are guaranteed and that the interest of the child is paramount. Moreover, there are general obligations regarding the right to education deriving from the anti-discrimination laws that have transposed EC Directives 2000/43 and 2000/78.⁷

- Specific provisions on the detention of refugees and asylum seekers and on ‘child refugees’ are contained in the Conclusions of the Executive Committee of the Program of the UN High Commissioner on Refugees and are quoted in the Ombudsman’s decision regarding the case of a minor unaccompanied asylum seeker who was detained and subsequently deported.⁸ The Cypriot Law on Refugees⁹ makes specific provisions for the protection of unaccompanied minors, apart from the general protection afforded to asylum-seekers concerning the right to apply for asylum and to be treated fairly with respect to their individual application. In particular article 10 of the law states: ‘ (1) In case where the applicant is an unaccompanied minor, the authorities before which the application is submitted and/or the competent officer, shall immediately notify the Head of this case and the Head shall immediately notify the Director of the Department of Social Welfare Services, who shall act as the guardian of the said minor and shall take all the necessary measures under this Law and its implementing Regulations on his behalf and in his interest. (2) The Council of Ministers shall issue Regulations which shall determine the reception conditions for unaccompanied minors.’ A set of regulations for reception conditions are currently before the House of Parliament for discussion.
- In spite of the abundance of legislative measures, when it comes to enforcement of these provisions, Cyprus is clearly lagging behind. It is estimated that as many as 1000 women are trafficked into Cyprus every six months for the purposes of sexual exploitation¹⁰ but only a handful of cases are taken to Court every year. According to the Cypriot police authorities, none of the cases dealt with involve the trafficking of minors. We are informed by the police that there has been only one case of a trafficked under age woman where no investigation was launched upon the request of herself and her family.¹¹ The impact of the new laws in the combating of the phenomenon is unclear, as evidence suggests that in 2007 police investigations into

⁶ Colonial legislation such the Children law of Chapter 352 of 1959 were subsequently amended to provide for the modern law on children in Cyprus.

⁷ For the state of implementation in Cyprus see Trimikliniotis, N. (2007) *Report on Measures to Combat Discrimination in the EU Countries: A Comparison between council Directives and national legislation on the grounds of racial or ethnic origin, gender, sexual orientation, disabilities, age, religion or belief – Report on Cyprus*, 2007, for EU Commission report on behalf of Human European Consultancy and the Migration Policy Group, at http://europa.eu.int/comm/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#coun

⁸ File. No. A/Π8222/2005.

⁹ Cyprus/The Refugee Law of 2000 No. 6(I) of 2000 as amended by Law 6(I) of 2002, Law 53(I) of 2003, Law 67(I) of 2003, Law 9(I) of 2004 and Law 241(I) of 2004.

¹⁰ Source: Study by the Ombudsman’s office on trafficking of persons, presented at the Seminar on Trafficking in Human Beings held in Nicosia on 06.10.2005

¹¹ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

the trafficking of adult women,¹² court cases and convictions have dropped: In 2007 there was a decline in the number of sex trafficking cases investigated, police raids, undercover investigations, and traffickers convicted. Investigations significantly dropped, as the police launched only 27 investigations in 2007, compared to 60 in 2006. Of the 27 investigations, eight cases are still pending, one was dropped, one was otherwise disposed of, and 17 were sent to court. Of the 17 cases, 11 are still pending trial, four were suspended, and two were dismissed. Of the 36 prosecutions pending at the end of 2006, eight cases resulted in convictions, 14 in acquittals, three were dismissed by the courts, one was withdrawn, one was otherwise disposed of, and nine are still pending trial. Eleven traffickers were convicted with sentences ranging from four months imprisonment to three and a half years. Nine traffickers are still awaiting trial; the Court acquitted 14 suspects, dismissed three, and the two remaining cases were withdrawn. During 2007, the government prosecuted seven police officers for their involvement in two separate trafficking-related cases. Regarding victim protection, efforts to identify victims in Cyprus remained inadequate as the number of identified adult victims declined from 79 in 2006 to 40 in 2007. All 40 of the victims identified by the government assisted law enforcement in the investigation or prosecution of their traffickers; nine left the country without testifying.¹³ In a report presented by the Ombudsman's office at a conference in 2005 at the University of Cyprus it was noted that whilst Cyprus gets "top marks" for entering into international conventions on the subject, the actual implementation of those conventions has been found to be lacking.

- Cyprus continues to be the only country in the EU issuing the 'artiste' work permit, a well-known conduit for trafficking, in spite of international criticisms.¹⁴ It will be interesting to see if, amongst the measures adopted for the combating of trafficking under the new laws enacted in 2007, the Cypriot government decides to revise its policy of issuing visas to foreign "artistes" working in cabarets, most of which operate as fronts for the prostitution of trafficked women of all ages.¹⁵

¹² Given the lack of identification mechanisms, one cannot exclude the possibility that underage women may be trafficked into Cyprus with false papers showing them to be older than what they really are, in order to secure a work permit.

¹³ Source: Country Narratives: Trafficking in Persons Report 2008, United States State Department (<http://www.state.gov/g/tip/rls/tiprpt/2008>)

¹⁴ See for instance *Country Narratives: Trafficking in Persons Report 2008*, United States State Department (<http://www.state.gov/g/tip/rls/tiprpt/2008>). The report, which places Cyprus in Tier 2 Watch List for a third consecutive year, criticises the Cypriot government for not fully complying with the minimum standards for the elimination of trafficking, pointing out that although Cyprus passed a new trafficking law and opened a government trafficking shelter, these efforts are outweighed by its failure to show tangible progress in victim identification and protection. Special criticism is directed against the use of the 'artistes' visa'. The report states that, despite promises in the government's 2005 National Action Plan to abolish the "artiste" work permit, this employment category has not as yet been abandoned.

¹⁵ See for instance the U.S. Department of State Country Report on Human Rights Practices -in Cyprus for 2006, released by the Bureau of Democracy, Human Rights, and Labour on 06.03.2007, available at: www.state.gov/g/drl/rls/hrrpt/2006/78807.htm (18.10.2007); *Mapping the Realities of Trafficking in Women for the*

[4]. Law 87(I)/2007¹⁶ criminalises a wide range of activities related to child trafficking:

- The recruitment, transport, transfer or the receiving of a child, the transfer of control over a child with the purpose of exploiting it, amount to a felony punishable with up to 20 years of imprisonment (article 6).
- The recruitment, transport, transfer or the receiving of a person (whether child or adult), the transfer of control over a victim with the purpose of exploiting or trading the victim's vital organs, amount to a felony punishable with up to 20 years of imprisonment (article 7(1)).
- The exploitation of the labour or services of a person through threats or the use of violence or other forms of coercion, kidnapping, fraud, abuse of power or exploitation of the persons' vulnerable position or the making or collecting of payments or other benefits in order to secure the consent of the person exercising control over another person intending to exploit that person amounts to a felony punishable with imprisonment up to six years if the victim is an adult and ten years if the victim is a minor (article 8)
- The sexual exploitation or prostitution of children is a felony punishable with at least 20 years of imprisonment (article 10).
- The definition of 'exploitation' provided in article 2 of the law includes: the exploitation of the labour or the services of a person, forced or obligatory labour or services, servitude or similar practice or subordination, the removal or trading or trafficking of human organs, the prostitution or other form of sexual exploitation including pornography. In the case of children in particular, the term 'exploitation' includes the worst forms of child labour in accordance with the law ratifying the ILO Convention on the Prohibition of the Worst Forms of Child Labour.
- The term 'sexual exploitation' is defined in article 2 as the forcing of a person to prostitution or the participation in pornographic representations for the making of profit, the import, encouragement or recruitment or the provision of guidance to a person towards prostitution or participation in pornographic spectacles, the sexual activity with a person when there is threat or use of violence or when there is abuse of a recognised position of power or influence over a person or over a person's guardian. 'Sexual exploitation of children' has the meaning ascribed to the term 'sexual exploitation', as aforesaid, but includes also sexual activity with a child when money or other benefit is offered in order to convince a child to participate in sexual activities.

Purpose of Sexual Exploitation in Cyprus, October 2007, by the Mediterranean Institute of Gender Studies, available at: <http://www.medinstgenderstudies.org/wp/?p=322> (22.10.2007).

¹⁶ Cyprus/Law revising the Legal Framework regulating the Special Protection of Persons who are Victims of Trafficking and Exploitation and Related Matters N. 87(I)/2007 (13.07.2007).

- Child pornography is punishable by either ten years of imprisonment or a fine of up to CYP25,000 (Euros 42720.437) or both (article 11).
 - The commission of an offence against a minor of less than 12 years of age is considered to be an aggravating factor (article 12(b)).
- [5]. There are no legal provisions dealing with child trafficking within Cyprus itself. One may perhaps argue that with Cyprus being so small in size, trafficking from one area to the other for the purpose of exploitation is not a common occurrence. However, in an interview to the authors dated 05.08.2008, the representative of NGO Stigma (the only national NGO working exclusively on trafficking) has reported that there is a trafficking problem amongst the Roma community in Cyprus, as parents or other guardians of young Roma children to prostitution. The laws do not specifically address such a situation although most of legal provisions may be said to apply to trafficking within the country.
- [6]. Regional or international conventions, as soon as ratified, are incorporated into national law with a special ratifying law which prevails over other national laws Regarding the EU acquis, a new law which came into force in July 2006 has amended the Constitution to the effect that that EU directives and regulations prevail over national legislation as well as over the Constitution itself (until then the supreme law of the country). No special rules apply in relation to legal instruments on child trafficking. There is no relevant case law.
- [7]. The legal provisions establishing the principle of best interests of the child as a primary consideration in all actions (and decisions) affecting children, including trafficked children are covered by various legislative acts. According to the Law on Children article 12(1), Cap. 352, the Director of Social Services is under a duty to exercise any powers with respect to a child under his/her care “so as to further the best interests and to afford him/her opportunity for proper development of his/her character.” The law ratifying the Council of Europe Convention on Action against Trafficking in Human Beings¹⁷ similarly repeatedly refers to the authorities’ duty to ensure the best interest of the child. Also, Law 87(I)/2007¹⁸ provides that the law must be applied having regard to the best interests of the child (article 36(1)).
- [8]. The national action plan for the coordination of actions on combating trafficking in human beings and sexual exploitation of children was compiled by a ‘Group of Experts’ set up following a decision by the Council of Ministers in 2001. After extensive references to the legislative framework applicable at the time it was drafted (February 2005) the plan lists actions which must be undertaken by the various departments and governmental ministries participating in the Group of experts, namely the Attorney General’s office, the police, the Ministry of Justice

¹⁷ Cyprus/ Law N. 38(III)/2007, dated 12.10.2007.

¹⁸ Cyprus/Law revising the Legal Framework regulating the Special Protection of Persons who are Victims of Trafficking and Exploitation and Related Matters N. 87(I)/2007 (13.07.2007).

and Public Order, the Ministry of Foreign Affairs, the Ministry of Labour and Social Insurance (Services of Social Welfare), the Ministry of Interior (Immigration Department) and a number of NGOs. Most of the actions recommended comprised of the publication and dissemination of information booklets mostly targeting groups at risk, namely women seeking to work or already working in cabarets. In some cases, departments were asked to examine the issue of definition of qualifications and salary amount of the cabaret ‘artistes’, the preparation of a standard employment contract for the cabaret ‘artistes’, the conducting of an investigation to locate the exact number of cabarets and nightclubs operating without licence and possibly revoke others, the preparation of new laws and regulations to adequately regulate the issues of cabaret artistes, the amendment of the legislation regarding private employment agencies and ‘artistic agents’, the investigation of issues of residence and employment of ‘artistes’ in case they leave their employment due to exploitation by their employer, assistance to NGOs by sponsoring some of their existing projects (psychosocial support, shelter for abused women and their children, legal aid, educational programs for ‘artistes’ on the prevention of sexually transmitted diseases). Most importantly, the immigration department is asked to “to examine the possibility of decreasing the work permits in cabarets and nightclubs” and “to abolish the special status for artistes”. Although the latter would have been a significant development towards combating sex trafficking, it was not implemented. The national action plan does not address or even refer to child trafficking.

- [9]. So far there has been no impact assessment of the national action plan against trafficking.
- [10]. The police’s Bureau on Combating Trafficking in Persons maintains a database recording inter alia information regarding trafficking and sexual exploitation of persons, both adult and children. The data base includes information covering the whole of Cyprus. There are no other data collection mechanisms in Cyprus.
- [11]. None of the Ministries contacted referred to a budget allocated on the subject. Even the designated Bureau on Combating Trafficking in Persons, the national anti-trafficking police task force, in response to our specific question for a designated budget for anti-trafficking measures in general, replied that there no budget has been allocated to it.¹⁹ The Bureau is staffed by three full-time police officers and is housed at the Police headquarters in the capital, Nicosia.²⁰ The NGO Stigma has informed the authors that the Bureau is so understaffed and under-resourced that it cannot have any impact whatsoever.
- [12]. The Ministries involved stated there is no specific budget allocated on the subject as part of a national anti-trafficking task force or to support research on child trafficking.

¹⁹ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

²⁰ Information provided by Police Officer Elena Nicoalou 4.8.2008

- [13]. There are no monitoring mechanisms, such as independent National Rapporteurs, covering the trafficking of children. The only independent body competent to monitor the protection of children in general is the Commissioner for the Rights of the Child.²¹ However, the appointment in 2008 of current Child Commissioner Leda Koursoumba was criticised by NGOs such as the Cyprus Pupils' Association (PSEM), the Youth Parliament and the Pancyprian Coordinating Committee for the Protection and Welfare of the Child (PSEPEP) because it does not go far enough: there is no funding/resources for the post, no supporting staff and Ms Koursoumba also heads two other commissions.²² In her speech delivered at OSCE conference entitled "Alliance against trafficking in persons: Child Trafficking - Responses and Challenges at Local Level" which took place in Vienna on 26-27.05.2008, Leda Koursoumba stated that it is *assumed* there is no child trafficking in Cyprus. At the same time, however, she regretted the fact that there is no system in Cyprus for identifying child trafficking cases, no rehabilitation programmes run by the State to ensure that the victim will not return to the exploitation network, no precise mechanisms to provide support to the family or get in touch with the family in the country of origin for the safe repatriation of the child and generally no structured policy on child trafficking. As a result, some child trafficking cases may go undetected and unaddressed, for example unaccompanied minors, children in care institutions, children from ethnic minorities and disadvantaged groups, children in labour situations with false identification documentation, migrant children with no legal status as illegal parents may not seek registration of their child, and migrant children with no legal status who do not usually seek protection for fear of being returned to their country of origin.²³
- [14]. Although the law provides for a referral system as well as an identification mechanism to be operated by the police,²⁴ it emerges that in practice no such mechanism exists. This is an important gap in the system from which several other deficiencies flow: when identification is not made, then any referral system in place would also collapse. The relevant provision in the law more or less states that any person, department or NGO who suspects that a person may be a trafficked must refer such person to the Welfare Services of the Ministry of Labour which will inform the victim of his/her rights and the procedure to be followed, following which he/she will be referred to the police for identification. In an interview to the authors dated 05.08.2008 the representative of the NGO Stigma stated that none of these procedures actually works in practice, in other words no referral is made to the Social Welfare, which does not activate the

²¹ The institution of the Child Commissioner is fairly new, established in 2007 by Law on the Commissioner for the Protection of the Rights of the Child N.74(I)/2007, 22.06.2007.

²² Interview with MP Skevi Koukouma dated 6.4.2008.

²³ The Commissioner's speech at the conference was supplied to the authors upon request.

²⁴ Cyprus/Law revising the Legal Framework regulating the Special Protection of Persons who are Victims of Trafficking and Exploitation and Related Matters N. 87(I)/2007 (13.07.2007), article 29(1).

procedure for informing the victim of his/her rights until it receives a confirmation by the police, and no identification procedure is followed by the police. This latter allegation regarding the non-identification by the police was also confirmed by the Welfare Services, whilst the police's Bureau on Combating Trafficking of Persons sidestepped the issue of identification and restricted itself to describing the procedure before the Welfare Service.

- [15]. The Bureau on Combating Trafficking of Persons informed us that as part of the Police Academy training program police officers are trained generally about how to treat children and referred to "specialised lectures on the treatment of children who are victims of violence or sexual exploitation take place in the framework of programmes offered by the Police Academy to the members of the Police who are dealing with such cases such as the CID course, the Sergeant course, the Inspector course which contain lectures entitled 'Sexual maltreatment of underage persons'".²⁵ Apparently, these "cover areas such identification and dealing with such children" as well as "the lecture with the topic of 'trafficking of persons', which also covers children trafficking". Moreover, "the seminar titled 'combating trafficking of persons' covers general issues of trafficking, whether they are adults or children with an emphasis on the treatment of children."²⁶ The representative of the NGO Stigma told the authors that the training received is little more than seminars offering police officers basic information on how to carry out investigations and questioning of sensitive cases, which by no means render the seminar attendants 'experts', pointing out that the only expert on trafficking issues within the police force is the head of the Bureau on Combating Trafficking of Persons herself.

The Social Welfare Department did not refer to any training strategy for professional actors involved in identification, care and protection of trafficked children,²⁷ but stated that "whenever a child (under 18) ends up at our Department and is need of care and protection, each case is treated immediately and the provisions of [the Law on Children] Cap. 352 are activated". We are informed that when dealing with each case, "immediate attention is given to the specific needs of the child (basic and psychoemotional), in safeguarding the child's rights (religious convictions, communication in language understood, and representation before administrative procedures) and all decisions taken are in the best interest of the child". The preparation of specific procedures for underage victims of trafficking which is targeted by the Services is currently under study.²⁸ The Welfare Services further stated that all officers involved in cases with potential trafficking victims undertake both "in house training" as well as attend various training sessions on the subject: From 2007 about ten officers of the Social Welfare Services dealing with children and potential trafficking victims were given two in house training seminars, one on how to preserve the best interest of the children and one on

²⁵ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

²⁶ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

²⁷ Letter sent to the authors for the director signed by Annita Koni 31.7.2008 [File No. 11.11.19.01].

²⁸ Letter sent to the authors for the director signed by Annita Koni 31.7.2008 [File No. 11.11.19.01].

trafficking in general, a three-day training on trafficking organised by the Council of Europe in February 2007 and attended the relevant trainings of the Cyprus Police academy.²⁹ Currently there is no training specifically on children victims of trafficking or how to specifically deal with the unaccompanied children, but we are informed that this type of training will be developed soon.³⁰

- [16]. According to article 42 of Law N.87 (I)/2007³¹ children who are victims of trafficking are not criminally prosecuted for offences directly related to their status as victims. Furthermore, children who are third country nationals are not criminally prosecuted for offences related to their immigration status, in other words they are not prosecuted for unlawful stay, entry, employment or occupation or violation of their terms of employment irrespective of whether violence or coercion or abuse of power has been used to coerce these children into committing such offences.

2. Prevention of child trafficking

- [17]. No awareness-raising campaigns have been carried out in relation to child trafficking. During 2007 a number of campaigns were carried out in relation to the trafficking of adult women for sexual exploitation: (a) A campaign organised by the Interior Ministry and comprising in the screening of a short film spot shown on television, which indirectly targeted clients but was in a foreign language and was shown pretty late at night;³² (b) a campaign organised by the Mediterranean Institute for Gender Studies, a national NGO which carried out a mapping of the situation by interviewing policy makers and NGOs³³ comprising in the publication and dissemination of a leaflet; (c) an anti-trafficking seminar was organised by Greek-Cypriot and Turkish Cypriot NGOs (the Greek-Cypriot Mediterranean Institute of Gender Studies in collaboration with the with the Turkish Cypriot Association of University Women) entitled “Combating Trafficking in Women in Cyprus” on 07.12.2007. The keynote speaker and trainer was Irina Todorova of the International Organization for Migration (IOM); (d) The U.S. Embassy in Cyprus held a series of events aimed at raising awareness on sex trafficking, spanning from 26.11.2007 until 10.12.2007, which included the screening of films and documentaries, followed by panel discussions with representatives of the MTV anti-trafficking initiative “Exit”, of the U.S. Embassy, of NGOs, members of the media and other foreign embassies in Cyprus.

²⁹ Information provided by the Social Welfare Officer Maria Kyranji, 4.8.2008.

³⁰ Information provided by the Social Welfare Officer Maria Kyranji, 4.8.2008.

³¹ Cyprus/Law revising the Legal Framework regulating the Special Protection of Persons who are Victims of Trafficking and Exploitation and Related Matters N. 87(I)/2007 (13.07.2007).

³² Information supplied by NGO Stigma, as the Interior Ministry did not provide any information on the subject.

³³ *Mapping the Realities of Trafficking in Women for the Purpose of Sexual Exploitation in Cyprus*, October 2007, by the Mediterranean Institute of Gender Studies, available at: <http://www.medinstgenderstudies.org/wp/?p=322>

- [18]. There is no direct participation of children or of NGO's promoting the rights of children in the development/implementation/evaluation of such awareness-raising efforts: in fact, all campaigns were carried out by NGOs or governmental organisations that do not focus and/or have no competency in the area of children's rights.
- [19]. There is no evidence of direct participation of local communities and/or minority groups, such as Roma and Travellers, in preventive efforts.
- [20]. Despite the general duty of the authorities to protect the best interest of children, the more specific duties and powers to combat trafficking and exploitation and protection of persons, including children, who may be victims, the specific legal provisions for protecting migrant and asylum children, the policies to prevent that children in a vulnerable position (such as unaccompanied asylum-seekers) may become victims of child trafficking upon their arrival is inadequate. As far as the practice is concerned, there have been 65 cases of unaccompanied minors referred to the Social Welfare Services since 2004, which include unaccompanied minors asylum seekers, unaccompanied minors with alleged Guardians (relatives, friends etc.) for whom their capacity as 'Guardians' was not verified before entering the Republic; their countries of origin were Russia, Yugoslavia, Ukraine, Moldavia, Congo, Ethiopia, Sri Lanka, Nigeria, Lulumba (Africa), Cameroon, Egypt, Syria, Iraq, Iran, Palestine and Turkey.³⁴
- [21]. Given the absence of an identification mechanism of both the age of the child and its status as a victim of trafficking, Social Welfare Officers recognise that the figure is likely to be under-estimation of this hidden population.³⁵ Nevertheless, it seems that not all cases of unaccompanied minors are referred to the Social Welfare Services, as the report on a case of an unaccompanied minor from Turkey who was unlawfully detained and deported, which was examined by the Cyprus ombudsman illustrates and examined in more detail below: the report noted that the Social Welfare Services were not informed about the unaccompanied minor in question. Moreover, NGOs report that the Asylum Unit and the Police often fail to properly investigate the ages of asylum-seekers and treatment with suspicion as 'bogus asylum-seekers'.³⁶ In another case, a 17year old female unaccompanied minor from Cameroon, was initially unlawfully arrested and detained by the Police and then released by the court, which believed her story and was placed in a children's home; however, she has since disappeared.³⁷ The report from the Ombudsman assessing the situation can be safely relied upon as an 'official' and valid record of what unfolded in the particular case and from that we draw some important general conclusions on the actual practice on the ground. In the particular case, although the Police noted that the date of birth of the complainant

³⁴ Letter by Social Welfare Services (File N. 4.2.06.07./3)

³⁵ Information provided by the Social Welfare Officer Maria Kyranji, 4.8.2008.

³⁶ File. No. A/II8222/2005

³⁷ According to KISA, she is in the occupied north; in fact we are told that this may be a case of trafficking, but this information cannot be verified.

was 14.9.1987 during the issuing of the orders for his detention in March 2005, apparently he did not realize that the complainant was underage. The Ombudsman's report referred to a number of breaches of the law in this case that include the following:

- Firstly, according to art. 10(4)(c) of the Law on Asylum it is forbidden to detain an asylum seeker only due to the fact he/she is an asylum seeker; the detention is only allowed via a court order under very specific circumstances/conditions. The conditions are: (a) for the purposes of the establishment of his/her identity or nationality and where there is he has no nationality from the country he had previously habitually resided, in cases where he destroyed or got rid of his/her travel documents or personal papers or he/she used false documents during arrival in the Republic of Cyprus with the aim of defrauding the Cypriot authorities, providing that he/she does not reveal these actions and his/her real identity during the submission of the application. (b) For the purposes of investigation of new facts that the applicant is willing to submit in support of his/her application, where the application has been rejected at first instance and on appeal and a deportation order has been issued. Moreover, under 10(4)(c) it is explicitly forbidden to detain an underage minor.
- Secondly, according to art. 22 of the UN Convention of the rights of the Child all member states must take measures to ensure that where a minor is applying for asylum, whether he/she must be accompanied by his/her parents or not, measures must be taken to ensure that the minor enjoys appropriate protection and humanitarian support in the enjoyment of the rights guaranteed under the Convention and other human rights international law or other international humanitarian law.
- Thirdly, in the Conclusions of the Executive Committee of the Program of the UN High Commissioner on Refugees (number 44-1986) under the title "Detention of refugees and asylum seekers" it is noted that detention is normally prohibited, whilst Conclusion number 47-1987, under the title "Child refugees" underlines that whatever action taken on behalf of refugees who are minors must be based on the principle that that child's rights are paramount.
- The Ombudsman's report concludes that in the above case the Migration Department set itself above the law contrary to the principle of the rule of law and "was totally indifferent to the complying with the formal guarantees of freedom of the individual as well as the protection of the rights of the child, particularly of a child asylum seeker". Secondly, it violated the explicit prohibition of detention of the minor. Thirdly, the Asylum Unit violated their duty to inform the Director of the Social Welfare Services, so that the latter can exercise his/her duty as Guardian of the minor. The Report notes that "the rights of the complainant, as an asylum seeker who is a minor were wholly and repeatedly violated and

nothing can justify the actions and failures to act by the above mentioned authorities”.

3. Appointment of legal guardian

[22]. Given that there no identification mechanism in place for children victims of trafficking, to consider how legal guardians are appointed whenever an unaccompanied child is identified as a victim of trafficking is a theoretical exercise: we have to examine the current legal framework and practice in dealing with children, who can potentially be victims of trafficking. The Cypriot legal framework for the protection of children in general and trafficked children does not have provisions for an *independent* legal guardian as it exists in other jurisdictions, but based on the combined effect of the colonial legislation on children (Cap. 352)³⁸ and art. 100 of the law on Refugees: the Director of the Social Welfare office, who assumes all parental rights and is responsible for the welfare of children “in need of care”. The Law on Children Cap. 352, article 3, empowers the Director to provide for *all* children “in need of care” and for the Social Welfare Department to intervene if it considers this is “necessary in the interest of the welfare of the child” so that the Director receives the child under his care. The law defines “a child in need of care or protection” as “a person under the age of sixteen who is child who having no parent or guardian [...] requires care or protection”.³⁹ If a child is “found destitute, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale), or found loitering for the purposes of begging or receiving alms [...] shall be evidence that he is exposed to moral danger”.⁴⁰ A “guardian” is defined as “a person appointed by a will or by order of a Court of competent jurisdiction to be guardian of a child.”⁴¹ The current practice is that if the Social Welfare authorities deem necessary, they may refer the legal matters to the attorney general’s office.⁴²

[23]. It is highly questionable whether the current practice of not having a separate and independent legal guardian (from the state) for each of the children, who advocates their specific case, meets the international standards required.⁴³ European Council

³⁸ Colonial legislation such the Children law of Chapter 352 of 1959 were subsequently amended to provide for the modern law on children in Cyprus.

³⁹ Article 63(1)(a), Cap 352.

⁴⁰ Article 63(2), Cap 352.

⁴¹ Article 2, Cap. 352.

⁴² Information provided by the Social Welfare Officer Maria Kyranji, 4.8.2008.

⁴³ It may well be argued that the current practice falls short of the recommendation of the Council of Europe dealing the child protection system which stipulates that each state “must appoint a legal guardian”, which stipulate that, “The role of the legal guardian is to act in the best interest of the child and follow the child through the process. The legal guardian must have appropriate training for assisting the child.”

Resolution 97/C221/03 requires that measures are taken so that the interests of the minor are properly represented at all times.⁴⁴

- [24]. The age limit for qualifying for the appointment of a guardian is, according to article 3(1) of the Law on Children Cap.352, the age of 16. However, article 3(2) of the same law provides that a guardian may be appointed for a child under 18 where it appears that the welfare of the child requires it so.
- [25]. Currently there is no policy on age assessment. The draft law regarding the assessment on the subject is currently under review as there has not been proper consultation with NGOs and interested parties.⁴⁵
- [26]. We have no evidence of specialised training for legal guardians employed for representation of trafficked children
- [27]. We have no evidence of appropriate time for preparation of cases for the legal guardian, including personal contact with the child.

4. Coordination and cooperation

- [28]. As provided by art. 47(1) of law 87(I)/2007 a formalised task force on general trafficking/coordination bodies, called “multi-thematic coordination team”, comprising of key state and non-state actors relevant for anti-trafficking efforts has been set up. The law specifies its functions; it meets regularly and in plenary meetings every three months⁴⁶ and whenever deemed necessary by the national coordinator.⁴⁷ Via the national coordinator it submits, together with a revised National Action plan, an annual report to the Council of Ministers regarding implementation and the situation in the Republic of Cyprus and internationally on combating trafficking.⁴⁸ From the makeup of the multi-thematic coordination team as well as the focus and operation of the institutional and legal framework it is apparent that the issue of child trafficking is not addressed, or even considered, as the Commission for the rights of the Child or any other NGOs dealing with the rights of children or children trafficking.
- [29]. The multi-thematic coordination team⁴⁹ consists of the following:

⁴⁴ It has been suggested that this be achieved in a manner that there “can be an external guarantee that minor’s rights are effectively protected the period pending decision and that the child’s best interest is at all times taken into consideration” [Kristina Touzenis (2006) *Unaccompanied Minors, Rights and Protection*, Cosmopolis XL Edizioni, Roma, p.186.

⁴⁵ Information provided by the Social Welfare Officer Maria Kyranji, 4.8.2008.

⁴⁶ Cyprus/Law 87(I)/2007, art. 47(1).

⁴⁷ Cyprus/Law 87(I)/2007, art. 48(2).

⁴⁸ Cyprus/Law 87(I)/2007, art. 47(3).

⁴⁹ Cyprus/Law 87(I)/2007, art. 47(3).

- The Minister of the Interior or the Permanent Secretary of the Ministry of the Interior or his/her representative, which acts as the “national coordinator”.⁵⁰
- The Attorney General or his/her representative;
- The Permanent Secretary of the Ministry of Justice and Public Order or his/her representative;
- The Chief of the police or his/her representative;
- The Permanent Secretary of the Ministry of Foreign Affairs or his/her representative;
- The Director of the Labour Bureau of the Ministry of Labour and Social Security or his/her representative;
- The Director of the Social Welfare Services.
- The Permanent Secretary of the Ministry of Education and Culture or his/her representative;
- The Permanent Secretary of the Ministry of Health or his/her representative;
- The Civil Registry and Migration Department of the Interior Ministry.⁵¹
- The Head of the Asylum Unit or his/her representative;
- The National Machinery for the Rights of Women;
- Two NGOs: the ‘Mediterranean Gender Institute’ (‘MIGS’) and ‘STIGMA’.

[30]. The mandate of the multi-thematic coordination team is as follows:

- a) Review or amendment of the National Action Plan approved by the Council of Ministers.⁵²
- b) Monitoring the implementation and assessment of the Plan
- c) Taking measures for its more effective implementation and the assessment of the national mechanism for referral of victims
- d) The collection, exchange of information, data and statistics between members regarding felonies provided for in the current law and the protection of victims;
- e) The drafting of manuals and training material for good practices that must be followed by all relevant services and NGOs for the protection of victims
- f) The submission of proposals for the amendment of the current law or other relevant legislation, whenever considered necessary;
- g) The organisation of seminars and training/educational programs for officers of competent and relevant services and NGOs
- h) Initiate other action aiming at informing and awareness raising particularly on issues of equality and combating discrimination due to gender, race or ethnic origin, colour, religion and generally on themes that are related to the current law

⁵⁰ Cyprus/Law 87(I)/2007, art. 2.

⁵¹ This department is responsible for drafting and distributing to the Cypriot Embassies in Eastern Europe an informative brochure, stating the entry, stay and work procedures that apply for migrant women who work as cabaret artistes, the content of which has been criticised by NGOs. This department is also responsible for the issuing of the “artistes” visa and its practices often attract considerable criticism. See for instance *Mapping the Realities of Trafficking in women for the purpose of sexual exploitation in Cyprus* by the Mediterranean Institute of Gender Studies at <http://www.medinstgenderstudies.org/wp/?p=322>

⁵² No. 61.961 dated 12.5.2005.

- i) The preparation and discussion on protocols of cooperation between NGOs and the relevant public services as provided by the current law.
 - j) The monitoring and review of international developments and international law in areas that fall under the law.
- [31]. The first meeting that took place on 7.7.2008, after an overview of the aims and operation of the group, divided into 4 subgroups on the basis of expertise which consists of the subcommittees: (a) On reviewing the visa status of artists (as well as general matters regarding entry, stay and work); (b) on reviewing the number of prosecutions and convictions; (c) awareness raising; (d) the protection of the victims.⁵³ The two participating NGOs do not deal with trafficking. Representatives from both NGOs consider that the operation of the team is slow, bureaucratic and is unlikely to have any real impact on the ground in combating trafficking.⁵⁴
- [32]. We are informed that there is some cooperation but there are no specific agreements concerning child trafficking between relevant Ministries, such as Ministries for the Interior and Ministries for Children/Youth Welfare Affairs. The multi-thematic coordination team referred above shows that there is a basis for an effective system of cooperation; however it is still too early say.
- [33]. So far there have not been any cooperation agreements between state agencies and non-governmental actors, e.g. for the running shelters for trafficked children.⁵⁵ Such protocols of cooperation are provided by art. 34(4) of law 87(I)/2007 but according to the representative of the NGO Stigma no such agreements exist in practice.
- [34]. Article 34(1) (g) of law 87(I)/2007 provides for independent monitoring of implementation of Guidelines aimed at protecting personal data of the trafficked child. The independent authority in charge of this is the Commissioner for the Protection of Personal Data.⁵⁶
- [35]. So far there are no cooperation agreements concerning child trafficking between Cyprus and countries of origin outside the EU.
- [36]. So far there are no support programmes as part of Member States' international development assistance in countries of origin or within the EU-area. There has been however a conclusion of a legal cooperation agreement with Bulgaria dealing with international crime and trafficking. Also, anti-trafficking information leaflets are to be found in Cypriot embassies in various countries mainly in Eastern Europe

⁵³ Information provided by a member of the team Josie Christodoulou from MIGS 5.8.2008.

⁵⁴ Information provided by the member of the team Josie Christodoulou from MIGS 5.8.2008 and Eleni Pissaridou 5.8.2008.

⁵⁵ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

⁵⁶ <http://www.dataprotection.gov.cy> (06.08.2008)

which were until recently the countries of origin of women victims of trafficking and sexual exploitation.

5. Care and protection

- [37]. Art. 30(1) of Law 87(I)/2007 safeguards respect for a reflection period of minimum 30 days, where the immigration officer is obliged to issue a temporary permit for this period.
- [38]. Art. 30(3) of Law 87(I)/2007 safeguards the right/entitlement to residence to trafficking victims, irrespective of cooperation with police/prosecutor for as long as the reflection period of minimum 30 days reflection lasts, where expulsion /deportation is explicitly prohibited.
- [39]. No children have been granted temporary stay on grounds of trafficking (2000-2007).
- [40]. The legal framework concerning administrative detention/detention pending deportation for children (possibly explicit prohibition of detention) is covered by Law N. 163(I)/2005, which technically is not administrative detention as all migrants facing deportations are held in ordinary police cells and centres together with other criminal offences. The Law that provides for the rights of persons arrested and are under detention, refers to the following instances:
- Article 5(2) In case of mental insufficiency a foreign detainee who is apparently not capable of understanding or to be informed that he has the right to contact/correspond or to fully appreciate his right he has the that a member of the police contact the counsel or diplomatic mission in the Republic, the Ombudswoman's Office or the National Organisation for the Protection of Human Rights, as the case may be.
 - Under article 6(a) in the case of an arrest of a person under 18 years old, the parents or guardian have the right to be informed in a language they understand, immediately after the arrest.
 - Under article 20 it is the responsibility of the person in charge of the detention centre to ensure that: (a) the detainees who are under eighteen reside separately from the cells of the rest of the detainees; and (b) the detainees to reside in separate cells from the cells of the other sex.
 - Special safeguards for children who are detained (placement separate from adults, special detention regime and adapted facilities, limited duration, court review etc.) The Bureau for Combating Trafficking (Police)⁵⁷

⁵⁷Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

informs us that “the detention of children is done in separate detention units from adults”; also “when it comes to children, their detention is avoided whenever possible, and each case is considered on its own merits before it is decided whether it is essential that a child be detained”. Moreover, “children facing deportation are not held in police cells, but are referred to the Social Welfare Office, which is responsible for their care pending their deportation”. Relevant here is the legal framework for unaccompanied minors as referred to above. Also, specific provisions on the detention of refugees and asylum seekers and on ‘child refugees’ are contained in the Conclusions of the Executive Committee of the Program of the UN High Commissioner on Refugees are quoted by the Ombudsman’s decision regarding a case of detention and eventual deportation of a minor asylum seeker.⁵⁸

- [41]. Art. 37(5) of law 87(1)/2007 provides that the Immigration officer has a duty to search for the unaccompanied minor’s family to allow for family reunification after assessing child’s best interests.⁵⁹
- [42]. There is no specialised shelter for trafficked children.
- [43]. We have no statistics of children who leave shelters with unknown destination. The allegations about there were only two cases where there is no direct ‘evidence’ that they have become victims of child trafficking. Given that there is an identification system and the strategies to prevent them from going into hiding are being considered, the danger that they may become victims cannot be ruled out.
- [44]. There are legal provisions in place ensuring access to full health care services, including psychosocial care and rehabilitation, to trafficked children (e.g. not just emergency treatment): (a) when a victim of trafficking is given a temporary stay of 30 days in respect of a “reflection period”⁶⁰ medical and pharmaceutical treatment, including psychological support and counselling, is provided for free of charge, if there are insufficient means;⁶¹ (b) following recognition that a person is a victim of trafficking the same provision apply;⁶² and finally, (c) if it is a child victim⁶³ or an unaccompanied minor, then these services are provided free of charge.⁶⁴ There is no record of cases of children receiving such services (2000-2007).
- [45]. There are legal provisions ensuring access to education, in particular to secondary education and to vocational training: all victims of trafficking are entitled to

⁵⁸ File. No. A/II8222/2005.

⁵⁹ The law provides that repatriation is not a foregone conclusion as the authorities are under a duty to act in the best interest of the child: immediate return could lead to re-trafficking, if initially trafficked with support from parents/because parents themselves are in state of dependency of other traffickers.

⁶⁰ Art. 30(1) of Cyprus/Law 87(I)/2007.

⁶¹ Art. 30(3) of Cyprus/Law 87(I)/2007.

⁶² Art. 34(1)(γ) of Cyprus/Law 87(I)/2007.

⁶³ Art. 34(1)(δ) of Cyprus/Law 87(I)/2007.

⁶⁴ Art. 38(2) of Cyprus/Law 87(I)/2007.

vocational training programs available to Cypriots/ EU citizens;⁶⁵ in cases of third country children they have the right to public education offered to Cypriots/ EU citizens,⁶⁶ whilst unaccompanied minors of school age are entitled to the general education facilitation or “alternative special education facilitation depending on the situation the child is in.”⁶⁷ There are no records of trafficked children receiving such education/training (2000-2007).⁶⁸ There is however a policy in place for all schools to demand from children wishing to enrol to school to supply the school with the contact details of their parents, in order for the immigration authorities to ascertain the legality of their stay in Cyprus; this policy has resulted in criticisms from the Ombudsman and from members of Parliament, claiming that it discourages children of undocumented migrants from enrolling to schools thus violating their right to education.

- [46]. In the law there are references to legal provisions ensuring access to legal assistance (e.g. for claiming compensation), as part of the duty of the Social Welfare Office to victims of trafficking; however, these references are of a very general nature referring to the obligation of the Social Welfare Services to provide information to recognised victims of trafficking⁶⁹ and legal assistance⁷⁰ to claim compensation from the perpetrator.⁷¹ There are no records of trafficked children (2000-2007).
- [47]. The law seems to make some provisions that special needs for children coming from different ethnic backgrounds, needs of children with disabilities have been taken into consideration in all relevant contexts and legal procedures: for instance the Social Welfare Services are obliged to provide information in a language the victim understands;⁷² also, there are reference to “special needs” to be taken into account in the provision of medical services.⁷³ However, these are very narrow in scope and do not cover most of the relevant areas. Moreover, we have no evidence that in practice these provisions are implemented and to what extent. So far there are no house rules for shelters, memoranda of understanding with operators of shelters, availability of translations concerning basic information on rights and duties, availability of translators for communication etc.

⁶⁵ Art. 35(b) of Cyprus/Law 87(I)/2007.

⁶⁶ Art. 36(2) of Cyprus/Law 87(I)/2007.

⁶⁷ Art. 38(1) of Cyprus/Law 87(I)/2007.

⁶⁸ Prior to the enactment of the law the Education services knew little of their obligations as regard the rights of unaccompanied minors or victims of trafficking (see Trimikliniotis, N and Demetriou, C. (2007) *The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union - Cyprus Country Report*, Project Title: Vulnerable Groups in Migration: Unaccompanied Minors in an Enlarged European Union (policies practice research)- Funded by the European Commission, DG Justice and Home Affairs under the program DAPHNE, http://www.zrs-kp.si/EN/Projekti/Daphne/MinOrs_Cyprus.pdf).

⁶⁹ Art. 29 of Cyprus/Law 87(I)/2007.

⁷⁰ Articles 29(1)(ε) and 29(1)(σ) of Cyprus/Law 87(I)/2007.

⁷¹ Under art. 22 of Cyprus/Law 87(I)/2007.

⁷² Under art. 29(2) of Cyprus/Law 87(I)/2007.

⁷³ Art.34(1)(d) of Cyprus/Law 87(I)/2007.

- [48]. The hotline reserved as '116000', following Commission Decision of 15 February 2007 does not operate in Cyprus.⁷⁴ We have been informed⁷⁵ of the existence of another hotline, the "citizens line" (telephone number 1460), which operates on a 24-hour basis on any subject and we have been informed that "the line responds also to calls that relate to persons who are trafficked and/or exploited and the caller is referred to a competent and specialised person dealing with the case." The authors called this number and asked to speak to a specialised person to report a case of trafficked child and were referred to the CID, who said that there is no such specialised person but could hear about the case themselves.⁷⁶
- [49]. There is no evidence of similar instruments to report other situations of exploitation of trafficked children in existence in Cyprus.

6. Best interests determination and durable solutions, including social inclusion/return

- [50]. So far, there is no evidence for formalised process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of the child: given that the Police have so far failed to implement the relevant provision of the law that makes them the competent authority to identify and recognise whether a person is a victim of trafficking,⁷⁷ the system is stalled before it proceeds any further. The cases that do reach the Social Welfare Services by direct referral via NGOs or other authorities appear to take into account the general provisions of best interest of the child as part of the general principles of dealing with children. However, given that no 'conclusive' or 'official' determination on the question of trafficking can be made by the Social Welfare Services,⁷⁸ we have no picture of the situation of the cases dealt with by the authorities; victims and potential victims do not get the support the law entitles them and perpetrators are not punished.
- [51]. Legally asylum/subsidiary protection for child victims of trafficking is available but we have no record of such protection afforded.
- [52]. There is no participation of the child in the decision-making/obligatory hearing in all relevant legal procedures (e.g. procedures regarding asylum, subsidiary protection, return, special procedures under Council Directive 2004/81/EC of 29

⁷⁴ The authors tried the number but received the "number error" signal (6.08.2008).

⁷⁵ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

⁷⁶ The authors called the number on 6.08.2008.

⁷⁷ Art. 29(1) of Cyprus/Law 87(I)/2007.

⁷⁸ Given the strict wording of Art.29(1) of Cyprus/Law 87(I)/2007, the Welfare Services are reluctant to come into any conflict with the 'competent authority' (i.e. the Police) to make such determinations.

April 2004 on the residence permit issued to victims of trafficking, provision of translators and translations regarding basic information on rights and duties etc.)

- [53]. So far there has been no access to integration programmes (similar to refugee status), including access to full health care, education and vocational training
- [54]. So far no specialised integration programmes for trafficked children have been established.
- [55]. We have no evidence that special needs for children coming from different ethnic backgrounds, needs of children with disabilities have been taken into consideration in all relevant contexts and legal procedures

7. Prosecution

- [56]. There are some legal provisions offering child-sensitive procedures in front of police/prosecutor/court, allowing for alternatives to direct confrontation with the trafficker victim/witness security and protection. For instance there are specific legislative regulations with reference to the protection of witnesses that need assistance.⁷⁹ By presumption of fact, when the victim of an offence in violation of the Combat against Trafficking of Persons and Sexual Exploitation of Children Law of 2000⁸⁰ is a witness in criminal processing with reference to the said offence, this victim is considered “as a witness in need of assistance.”⁸¹ Furthermore, a witness in need of assistance is any other person under the age of 18.⁸² Accordingly, when the witness is a minor and/or victim of a trafficking offence, the protective provisions of the Cyprus/ Law 95(I)/2001 are implemented. The Court is granted the power to order the conduct of the trial behind closed doors, as well as to take the deposition of the witness, in such a way that the accused and the victim are not in direct contact (placing of a special partition or use of closed television circuit or of any other electronic means).⁸³ Furthermore, the Court may accept a video recorded deposition by the witness provided that all presuppositions set by the Law are abided by.⁸⁴
- [57]. There have been no convictions based on child trafficking cases (2000-2007).⁸⁵

⁷⁹ See the Protection of Witnesses Law of 2001 (Cyprus/Law 95(I)/2001).

⁸⁰ Cyprus/Law3(I)/2000

⁸¹ Article 3(4) of the Cyprus/Law3(I)/2000.

⁸² Art. 3(1) of the Cyprus/Law 3(I)/2000.

⁸³ Art. 5 of the Cyprus/ Law 95(I)/2001.

⁸⁴ Art. 9 of the Cyprus/ Law 95(I)/2001.

⁸⁵ Letter sent to the authors signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

- [58]. There are legal provisions granting trafficked children access to justice, including right to compensation: the provisions include procedures for action against the perpetrators (art. 22), which provide also for exemplary damages [art. 22(3)]. Also under a different law⁸⁶ victims of trafficking are entitled to damages from the state. Moreover, there are provisions for costs incurred by victims who cooperate with the prosecution services,⁸⁷ whilst it is explicitly stipulated that any legal action that a victim is involved, including any claim for compensation, must not be adversely affected a possible repatriation of a victim.
- [59]. There has been no compensation paid to trafficked children (2000-2007).⁸⁸

8. Miscellaneous

- [60]. There are crucial factors that need to be taken in consideration about the situation of trafficked children, who are likely to be part of migrant communities in Cyprus.
- The political, social, legal and cultural context in Cyprus reflects the particular situation, which is de facto split in two by a peculiar demarcation line since 1974, considered to be ‘a soft border’ of the EU, regulated by a special regulation was passed at EU level, often referred to as “the Green Line regulation”.⁸⁹ Since 2003 it is possible to cross between the two areas but there are serious problems in trying to monitor the situation and control that crosses to and remains in the northern territories as the Republic of Cyprus authorities do not recognise the breakaway TRNC.
 - A second factor that needs to be borne in mind is the generally hostile environment towards migrants and asylum seekers in Cyprus, as various studies indicate.⁹⁰ The Third ECRI Report published in May 2006 confirms the findings of the Second ECRI Report that third country nationals continue to form the most vulnerable group despite institutional

⁸⁶ Cyprus/Law 2(III)/1997. This law is also referred to in Cyprus/Law 87(I)/2007.

⁸⁷ Art. 40(3) of Cyprus/Law 87(I)/2007.

⁸⁸ Letter sent to the authors from the police signed by G. Charalambous 11.7.2008 [File No. TAE/432/3(VI)].

⁸⁹ In an effort to regulate the problems deriving from “the de facto partition of Cyprus” there was a Regulation passed: Corrigendum to Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession (OJ L 161, 30.4.2004), [http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R\(01](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R(01)

⁹⁰ Many studies have been conducted that illustrate this (see Trimikliniotis, N. and Pantelides, P. (2003) “Mapping Discriminatory Landscapes in Cyprus: Ethnic Discrimination in the Labour Market”. *The Cyprus Review*, Vo. 15, Spring 2003; Trimikliniotis, N. (2004a) “Mapping Discrimination in Cyprus: Ethnic Discrimination in a Divided Education System”, *The Cyprus Review*, vol. 16:1, Spring 2004, pp. 53-86; Χαράκης, Κ., Σήτας, Α., Σωτηριάδης, Δημητρίου, Λ., Χαράκης, Κ., Αλεξάνδρου, Ε. (2005) *Αντικοινωνική συμπεριφορά των Νέων, Ρατσιστικές Τάσεις, Έρευνα για το Ίδρυμα Προώθησης Έρευνας Κύπρου*, Εκδόσεις Αντ. Ν. Σάκουλα, Αθήνα – Κομοτηνή.

developments brought about by Cyprus' EU accession in 2004.⁹¹ Amongst migrants, evidence shows that domestic workers are in a most vulnerable position, along with asylum seekers whose right to access the labour market is restricted to farming and agriculture, the most low-status and low-paid jobs in the market, whilst evidence of violation of contract terms by employers is abundant.⁹² The specific needs of refugees and asylum-seekers need to be addressed in a manner that enhances their participation, rights and integration in society.⁹³

- Finally, the social position of the Roma in Cyprus⁹⁴ is a factor that needs to be properly assessed to understand how a number of Roma children can be potential victims of trafficking, as some NGOs complain: a visit to Limassol, the poor sector where the Roma of Limassol live will witness children, who are allegedly sent by their parents to bring money home, offering sexual services to passersby.⁹⁵
- A controversy was caused in 2007 by the refusal of the Attorney General to acknowledge Cyprus' trafficking problem in his meeting of 06.11.2007 with Celia de Lavarene, an international expert and author on human trafficking, also the founder of the international NGO Stop Trafficking of People (STOP). De Lavarene, who was visiting Cyprus in order to raise awareness on sex trafficking, told the press that the Attorney-General "denied everything" and told her "no such thing existed" and that their meeting lasted between seven to ten minutes. The issue was further inflamed by the parliamentary human rights committee chairman MP Sophocles Fytis of the ruling party DIKO who on 7.11.2007 responding to De Lavarene's accusations about Cyprus' sex trafficking problem, flatly denied the problem existed. NGOs expressed concern particularly about the Attorney General's stand, since he is the officer charged with implementing the

⁹¹ See at http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Cyprus/Cyprus_CBC_3.asp

⁹² For a recent review on the trends and developments and work on racism and xenophobia towards migrants and asylum seekers see Trimikliniotis, N. & Demetriou, C. (2006) *Migration, Racial Discrimination and promoting equality in Cyprus: Trends and developments 2000 – 2005*, Special Study for RAXEN and Trimikliniotis, N. & Demetriou, C. (2005) *Active Civic Participation of Immigrants, Cyprus*, POLITIS: An Inquiry into the Civic Participation of Naturalised Citizens and Foreign Residents in 25 Countries <http://www.uni-oldenburg.de/politis-europe/download/Cyprus.pdf>

⁹³ See Trimikliniotis, N. (2005) *Improving conditions of reception of asylum seekers and assisting with their integration into Cypriot Society, including the promotion of a multi-cultural society and the combating of racism and xenophobia, Needs Assessment Analysis*, for ERF Project of INEK-PEO.

⁹⁴ See Trimikliniotis, N. And Demetriou, C. (2008) "The Cypriot Roma and the Failure of Education: Anti-Discrimination and Multiculturalism as a Post-accession Challenge", in Nicholas Coureas and Andrekos Varnava (eds.) *The Minorities of Cyprus: Development Patterns and the Identity of the Internal-Exclusion*, Cambridge Scholars Publishing, forthcoming, 2008/2009.

⁹⁵ Interview with the Officer of STIGMA Eleni Pissaridou 5.8.2008. However, so far no action or prosecution has been taken by the authorities, perhaps fearing that it would disturb the fragile 'peace' in these underdeveloped neighbourhoods of Limassol whilst the negotiations for resolving the Cyprus problem are currently in a very delegate phase serve as a background that affects the life of all in the country.

National Action Plan against human trafficking, claiming that his refusal to admit the existence of the problem means that no steps are taken to combat it.⁹⁶

9. Good practice

[61]. Some provisions contained in the law⁹⁷ include elements of good practices, if properly implemented. As such, these provisions can be built upon to provide a basis for further good practices; however the main problem is they do not refer to child victims of trafficking as such, but to victims of trafficking in general, which theoretically includes child victims and there are relevant provisions in the law. The authors of this report are of view that there needs to be a specific working group to deal directly with child trafficking so as to focus on the subject. Nevertheless, the existence of the multi-thematic coordination team, comprising of key state and non-state actors relevant for anti-trafficking efforts is itself a good practice that may be used as a precedent: it also contains elements for improving its own operation and as such may become more effective if properly directed by the national coordinator.

- The fact there are provisions for review or amendment of the National Action Plan is itself a good practice,⁹⁸ that has focused goals and practices that are in themselves good practices:
 - a) For the purposes of combating and effective suppression of all the crimes contained in the law
 - b) The protection and support of the victims and their social integration as long as they remain in the Republic
 - c) The prevention of crimes contained in the law and awareness-raising of society on human rights violations
 - d) The cooperation of countries of origin and transit or other destination countries for the development of combating relevant crimes and protecting victims⁹⁹
- The regular monitoring the implementation and assessment of the Plan,¹⁰⁰ as well as taking measures for its more effective implementation and the assessment of the national mechanism for referral of victims,¹⁰¹ the collection, exchange of information, data and statistics between members regarding

⁹⁶ In a press release dated 15.11.2007, the Mediterranean Institute of Gender Studies criticizes the statement by the authorities that research should be conducted in order for the government to be in a position to rebut the accusations made against Cyprus by international organizations regarding sex trafficking, stating that it demonstrated an unwillingness to combat the phenomenon.

⁹⁷ Art. 77(2) of Cyprus/Law 87(I)/2007.

⁹⁸ Art. 47(2) of Cyprus/Law 87(I)/2007.

⁹⁹ Art. 47(2)(a)(i), (ii), (iii) and (iv) of Cyprus/Law 87(I)/2007.

¹⁰⁰ Art. 47(2)(b) of Cyprus/Law 87(I)/2007.

¹⁰¹ Art. 47(2)(c) of Cyprus/Law 87(I)/2007.

felonies provided for in the current law and the protection of victims are good practice;¹⁰²

- Moreover, a good practice can be considered that there are specific reference of the law to the drafting of manuals and training material for good practices that must be followed by all relevant services and NGOs for the protection of victims;¹⁰³
- Also good practices include references to the submission of proposals for the amendment of the current law or other relevant legislation;¹⁰⁴ the organisation of seminars and training/educational programs for officers of competent and relevant services and NGOs;¹⁰⁵ the initiation of other action aiming at informing and awareness raising particularly on issues of equality and combating discrimination due to gender, race or ethnic origin, colour, religion and generally on themes that are related to the current law;¹⁰⁶
- Finally, good practices include the preparation and discussion on protocols of cooperation between NGOs and the relevant services as provided by the current law¹⁰⁷ and the monitoring and review of international developments and international law in areas that fall under the law.¹⁰⁸

¹⁰² Art. 47(2)(δ) of Cyprus/Law 87(I)/2007.

¹⁰³ Art. 47(2)(ε) of Cyprus/Law 87(I)/2007.

¹⁰⁴ Art. 47(2)(στ) of Cyprus/Law 87(I)/2007.

¹⁰⁵ Art. 47(2)(z) of Cyprus/Law 87(I)/2007.

¹⁰⁶ Art. 47(2)(η) of Cyprus/Law 87(I)/2007.

¹⁰⁷ Art. 47(2)(θ) of Cyprus/Law 87(I)/2007.

¹⁰⁸ Art. 47(2)(ι) of Cyprus/Law 87(I)/2007.

Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking	0	0	0	0	0	0	0	0
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	0	0	0	0	0	0	0	0
Number of trafficked children receiving education/training, in particular secondary education and vocational training	0	0	0	0	0	0	0	0
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	0	0	0	0	0	0	0	0
Number of final convictions based on child trafficking cases, per year	0	0	0	0	0	0	0	0
Total of amount of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0

Average of amounts of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0
Range of amount of compensation paid to trafficked children, per year	0	0	0	0	0	0	0	0