



Child Trafficking in the Nordic Countries

Rethinking strategies and national responses

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Prepared by the UNICEF Innocenti Research Centre
in collaboration with the National Committees for UNICEF
in Denmark, Finland, Iceland, Norway and Sweden

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Stacks of folders containing applications for asylum in the Office of the Commissioner General for Refugees and Stateless Persons in Brussels. © Dieter Telemans / Panos



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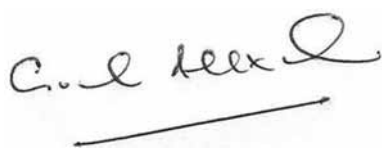
This study, *Child Trafficking in the Nordic Countries: Rethinking strategies and national responses*, was initiated with twin aims: improving understanding of child trafficking and responses in the region; and contributing to the international discourse on child trafficking by examining the linkages between anti-trafficking responses and child protection systems. With these objectives in mind, in early 2010 the UNICEF Innocenti Research Centre and the National Committees for UNICEF in Denmark, Finland, Iceland, Norway and Sweden set out to gather data and information. Two years later, following an intensive period of literature review, interviews, round-table discussions, analysis and peer review, the final product has brought us further than we originally anticipated.

Although the study was conceived with a primary focus on trafficking, its scope is much broader. It analyses how the general principles of the Convention of the Rights of the Child are applied in relation to those children vulnerable to trafficking and other forms of exploitation. By examining child trafficking responses from a child rights perspective, the study was able to identify effective responses as well as gaps in policy and practice. These related not only to children vulnerable to child trafficking specifically, but to all migrant children at risk of exploitation.

The study confirms that the Nordic countries have indeed made significant – and continuously evolving – attempts to address the issue of child trafficking, including through setting up relevant institutions, developing action plans and allocating budgets. However, while this has meant that specialized expertise is available for specific groups of children, it has sometimes led to fragmentation of services, leaving some children unprotected.

The research also finds that many existing gaps may be bridged by consistent and strengthened implementation of the Convention on the Rights of the Child. This simple message resonates all over the world. The Convention has been in existence for more than 20 years, and its far-reaching and holistic nature provides a framework for addressing even the most serious crimes against children. One of the many advantages of addressing child exploitation within such a framework is that services available to exploited and at-risk children need not depend on their identification as victims of trafficking. This is particularly important in light of the study's finding that there is little or no consistency in the way the concept of trafficking is understood among stakeholders within the region. This in turn prohibits the fair and consistent application of the definition of trafficking to children.

At the same time, the study highlights that there is a way to achieve a fuller realization of rights for children who are vulnerable in the context of migration. In particular, we still need to improve our understanding of how to interpret and apply the concept of a child's 'best interests'; we need to learn how to strengthen our ability and determination to seek and listen to the views of the child, including allowing them to express concerns or complaints; and we need to put a stop to discrimination based on factors such as a child's nationality, status or citizenship, so that no child is left without the protection or services that he or she is entitled to. For, irrespective of status or administrative category, a child is first and foremost a child.



Gordon Alexander
Director
UNICEF Office of Research, Innocenti

It has now been 11 years since the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ('UN Trafficking Protocol'). This period has been marked by a major increase in international attention to trafficking, the adoption of new international guidelines, and the implementation of multiple initiatives aimed at preventing trafficking in persons, identifying and providing support for victims, and apprehending and prosecuting perpetrators of the crime of trafficking.

As yet, however, information on the issue remains limited. There is no consensus on the number of people trafficked and scant evidence of success of these actions and initiatives, with few evaluations of the outcomes and impact of trafficking programmes. From the information that is available, it is clear that there is usually no single factor that leads to a person being trafficked; children's vulnerability to trafficking is complex and multifaceted. Patterns in reported cases suggest that children who have been trafficked have often had earlier exposure to domestic violence, social and economic marginalization, or exclusion and exploitative relationships. Structural issues, including a precarious migration status, or patterns of discrimination against children on the grounds of their gender, ethnic or national origin, and legal or other status, constitute additional risk factors that may cause, sustain or exacerbate a child's vulnerability to exploitation.¹

In line with these findings on multiple causes of vulnerability, and also noting the difficulty of applying the definition of child trafficking to individual cases in a way that is both consistent and beneficial to trafficked children, there has been a growing recognition among practitioners that responses to child trafficking might be more effective when embedded in comprehensive and systemic approaches that are based on the rights of the child as afforded under international standards.² One of the features of such approaches is that they seek to cater to children's individual needs and rights, rather than on a 'categorization' of children according to a specific legal or other status, such as 'trafficked' or 'not trafficked'.

It was against this background that the UNICEF Innocenti Research Centre (IRC), in partnership with the UNICEF National Committees in Denmark, Finland, Iceland, Norway and Sweden, initiated a study on child trafficking in the Nordic region in early 2010. Covering the five Nordic countries, the study aims to generate a better understanding of child trafficking and national responses to the issue, from a child rights perspective.

Although primarily focused on child trafficking, the authors of this study sought at the outset to locate their analysis within a discussion of child protection responses to other vulnerable migrant children in the Nordic countries. This decision has proved significant. As evidence was gathered, it became increasingly clear that child trafficking cannot be adequately addressed independently of other vulnerabilities faced by children, migrant children in particular. This leads to the core finding of the study: that the Convention on the Rights of the Child offers a stronger framework for the protection of trafficked (and other exploited) children than the child trafficking framework. In line with this finding, the study goes considerably beyond identifying strengths and gaps in existing responses to child trafficking. It examines the potential that strategies for implementation of the Convention on the Rights of the Child hold for addressing child trafficking in a broader context, as well as for the protection of those referred to in the report as vulnerable migrant children.

The Convention offers a number of advantages over a narrow child trafficking focus, notably in transcending the challenges of how the concept trafficking is defined, understood and applied in practice. It can also help ensure that services for exploited children are geared more to the nature of their

exploitation than to how they came to be in an exploitative situation, e.g. by ensuring that similar services are available for child victims of sexual exploitation, whether or not they are identified as having been trafficked. Although the question of resource allocation was not specifically addressed in the study, a framework that safeguards the right of all exploited and abused children to special protection measures would appear to facilitate a more efficient use of resources, particularly where, as in the Nordic countries, the number of confirmed trafficking cases is low.

At the same time, the child trafficking lens proves a useful one through which to identify both effective initiatives and response gaps within existing child protection systems. Using trafficking as a starting point, the study has also been able to identify several areas in which the countries concerned might do more to fulfil their commitments to child protection, as set out in the Convention on the Rights of the Child.

This report seeks to highlight the major themes and key points identified in the accompanying technical study. It is divided into five main parts, followed by a section on conclusions and recommendations. Each part starts with a general finding, followed by additional specific findings, as appropriate.

Part I of the report outlines the considerations involved in the core finding on the relative protection merits of the child trafficking framework and the Convention on the Rights of the Child. It examines the concept of trafficking in human beings and identifies variations in how this is understood in the Nordic region, particularly in relation to children. It highlights difficulties in applying the trafficking definition in a consistent and equitable manner, and also questions the value of determining services for children based on their categorization as trafficking victims or otherwise. Lastly, Part I covers emerging attempts to address the difficulties identified with the trafficking framework and briefly introduces the Convention as an alternative.

The considerable action taken by the Nordic countries in addressing child trafficking and related issues is the focus of Part II. This includes legal reform, establishment of specialized institutions, cooperation and coordination mechanisms, and development of tools and measures for the identification of adults and children who have been trafficked. It also encompasses a wide range of assistance measures for trafficked persons. These have gradually been extended to possible trafficking victims and others who may be vulnerable through the introduction of the concept of 'potential victim of trafficking'.

Part III examines responses to trafficking and related issues in the Nordic countries against Convention on the Rights of the Child commitments, focusing on the four general principles of the Convention: best interests of the child; right to non-discrimination; right to participation; and right to life, survival and development. Several potential gaps are identified in each area, many relating to differential treatment of children based on nationality and/or legal or other status. The difference in guardianship arrangements for officially identified child trafficking victims and other vulnerable migrant children is highlighted as an example. The importance of strengthening child complaint mechanisms across the region is also discussed.

Part IV of the report outlines issues relating to vulnerable migrant children and the associated legal, judicial and administrative processes. These include the rights of children as victims of crime, the importance of protection from prosecution for offences committed as part of the trafficking process, and concerns identified with regard to the deprivation of liberty among child victims of trafficking and other non-national children. Part IV goes on to examine the question of return or transfer to countries of origin and other countries, with particular reference to the 'Dublin II Regulation'

(Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national). The short and long-term alternatives to return, including asylum, are also addressed.

The study found numerous examples of promising policies and interventions that are worthy of wider consideration throughout the region and beyond. Brief information on selected interventions is included in Part V. Based on the issues raised, the study then concludes with recommendations for strengthening systemic and rights-based approaches to prevent the exploitation of vulnerable migrant children, and to assist children who have already been exploited, including, but not restricted to, victims of trafficking.

About the Study

This study was based primarily on a comprehensive literature review, complemented by key informant interviews and a consultative review process. Selected country examples were also documented. The research was guided by international standards, in particular the Convention on the Rights of the Child and the 'UN Trafficking Protocol', as well as regional standards, instruments and initiatives developed within the Council of Europe (COE) and the European Union (EU). The study was also informed by the work of the Council of the Baltic Sea States (CBSS) and its Expert Group for Cooperation on Children at Risk, and the Separated Children in Europe Programme.

The research was implemented in consultation with a steering committee, made up of the focal points for this study from the National Committees for UNICEF in each of the five countries, and an advisory group. Members of the advisory group included representatives from the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford; CBSS; Save the Children; School of Sociology and Social Policy at the University of Nottingham; Child Rights Advocacy and Education Section, UNICEF Private Fundraising and Partnerships (PFP) Division, Child Protection Section, UNICEF New York; and an independent expert. The preliminary findings and recommendations from the study were presented at technical round-table discussions in four Nordic countries (excluding Iceland). During the meetings, initial results were shared with key informants and further input, comments and clarifications solicited. Between May and June 2011, the study was also peer reviewed by experts from each of the countries.

Key Concepts: Child protection and best interests

In this report, the term 'child protection' refers to the protection of children from all forms of violence, exploitation and abuse. UNICEF defines child protection as "preventing and responding to violence, exploitation and abuse against children – including commercial sexual exploitation, trafficking, child labour and harmful traditional practices."³ International agencies such as UNICEF and Save the Children are increasingly advocating the benefits of a holistic response to issues affecting children, rather than an issues-based approach that can lead to fragmentation of services. The 'best interests of the child' is a central and all-embracing principle under the Convention on the Rights of the Child. Article 3 of the Convention stipulates that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."⁴ The right to non-discrimination, survival and development, and respect for the child's views are all considered relevant in the assessment and determination of the best interests of the child.⁵ However, there are no international instruments that specify how best interests considerations should be applied in practice. The guiding principle has been introduced into several sectoral laws, regulations and policy plans in the Nordic countries. The application of this principle in practice is a core focus throughout this study.



A variety of passports used as props at the Medininkai Border Guard School in Lithuania, where students learn to distinguish between real and fake passports. The students here will work along the border between Lithuania and Belarus. © Fredrik Naumann / Panos

General finding 1: The Convention on the Rights of the Child offers a stronger framework for the protection of trafficked (and other exploited) children than the child trafficking framework.

Specific finding 1: Significant differences exist across and within Nordic countries as to how trafficking is defined and understood.

Specific finding 2: Some migrant children face risks and exploitative practices that are not adequately covered by the 'trafficking' / 'non-trafficking' distinction.

Specific finding 3: The provision of services for children based on the categorization 'trafficked' versus 'not-trafficked' may be neither feasible nor desirable.

The definition of trafficking

An internationally recognized definition of trafficking in persons is contained in the 'UN Trafficking Protocol', which states in article 3:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the 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;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.⁶

The Protocol supplements the United Nations Convention against Transnational Organized Crime, a criminal justice instrument. It has been extremely influential in raising the profile of trafficking and has stimulated a wide range of responses. Not surprisingly given its origins, the provisions of the Protocol are particularly relevant in relation to the apprehension and prosecution of offenders involved in human trafficking. While in many jurisdictions most of the composite crimes involved in trafficking are already offences, the crime of trafficking allows targeting of the entire trafficking chain, across borders and jurisdictions where necessary.

At the same time, however, there are major complications related to how the definition of trafficking is understood and applied to real situations (see *Box 1, page 6*). One consequence is limited effectiveness as a protective instrument for those who are victims of, or vulnerable to, human trafficking.

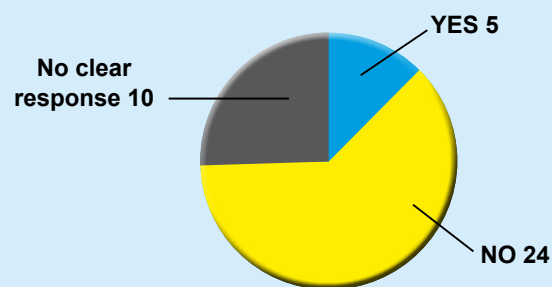
Box 1: Definitional and conceptual challenges related to trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children, supplementing the United Nations Convention against Transnational Organized Crime ('UN Trafficking Protocol') defines trafficking in adults as comprising at least one 'act' of recruitment, transfer, harbouring or receipt of persons, at least one illicit 'means' such as coercion, threat and use of force, and a 'purpose' of exploitation. The definition of child trafficking is essentially derived from the definition related to adults, modified to require only an act and an exploitative purpose, not an illicit means.

There are, however, challenges related to applying this definition in practice. These include:

1. The term 'exploitation' is not clearly defined in the 'UN Trafficking' Protocol or any other international legal instrument. Further, the Protocol explicitly leaves it up to individual states to decide what constitutes 'sexual exploitation', increasing the likelihood of inconsistent definitions being used across different jurisdictions. The term 'trafficking victim' is also not defined.
2. There are differences in the way the definition is understood among policymakers and practitioners. For example, as shown in Figure 1 below, the study did not find consensus on whether trafficking requires a movement component. A significant proportion of officials and practitioners view kidnapping for adoption as a form of trafficking.⁷ The *travaux préparatoires* (official records of the negotiations) of the Protocol, however, state that only "where illegal adoption amounts to a practice similar to slavery...it will also fall within the scope of the Protocol".⁸

Figure 1 Key informants' responses to the question "Do you consider 'movement' to be a part of the trafficking concept?"



3. It is often difficult to consistently apply the trafficking definition to on-the-ground realities across different organizations and states. Indeed, it seems logical that a victim support agency, with the primary role of assisting those in need, would wish to apply a more generous definition of what constitutes a trafficking victim than a criminal justice agency, which is charged with applying finite resources to the investigation and prosecution of criminal cases. Responding to child trafficking in the context of the protection framework provided by the Convention on the Rights of the Child has the major advantage of transcending these definitional and conceptual difficulties. From a child protection perspective, the importance of the trafficking definition can be greatly reduced by focusing on the needs and rights of individual children, independently of their status as a trafficking victim.

Difficulties in identifying trafficked children

Identifying child victims of trafficking in the Nordic countries poses numerous challenges. Some are related to definitional issues, as noted above. While the ‘act’ of human trafficking, i.e. the “recruitment, transportation, transfer, harbouring or receipt of persons” is reflected in the relevant sections of the criminal codes of all five countries, differences occur in relation to what constitutes exploitative purposes. In Denmark, Iceland and Norway, national law provides an exhaustive list. In Finland and Sweden, the scope of exploitation is left open by the reference to “other demeaning circumstances” or “other (exploitative) activity”.⁹ An exhaustive list is in effect more limited than the ‘minimum’ provision of the ‘UN Trafficking Protocol’, since new and emerging forms of exploitation may not be covered.

Although each country has an agency with specific responsibility for victim identification, the process often involves many different agencies, which sometimes use different screening tools.¹⁰ At present, the authorities responsible for victim identification may also not be in contact with all groups of children affected by trafficking. National authorities report, for example, that it is difficult to reach and identify accompanied children who may have been trafficked, and that limited means exist to identify children trafficked within the EU.¹¹

Even where authorities are in contact with trafficked children, they may not be identified as having been trafficked. For example, the study highlighted that there is limited consideration of trafficking experiences or risks for children transferred under the ‘Dublin II Regulation’, which regulates which country is responsible for examining a person’s asylum application (see *Part IV*). In Finland and Sweden, children may not be identified as victims of trafficking if their exploiters are charged with a crime other than trafficking, such as procurement.¹² Further, while under the definition of child trafficking a child “cannot consent to being trafficked”, study respondents suggested that this concept has not yet been fully understood and applied in criminal proceedings.¹³

Victims of trafficking are often perceived to undergo severe psychological distress but may not always show signs of harm when in contact with the authorities or service providers. If signs of distress are absent, authorities may not recognize the child in question to be a victim of trafficking. Exploitative situations may cause severe psychological distress to some children, but may also be accepted by others as a harsh reality of life and as the only way to earn an income in the absence of safer or more viable alternatives.¹⁴ Children may also resist being assigned the status of a victim of trafficking particularly when, as highlighted throughout this study, it may serve to limit their mobility and freedom of choice. Some children who are exploited in illegal activities may not consider themselves victims but simply children in trouble with the law.¹⁵

Taken together, these factors suggest major difficulties in the fair and consistent application of the trafficking definition as it relates to children. In terms of consistency at least, this appears to be supported by the differences in national statistics. Only six child victims of trafficking were identified in Denmark between 2006 and 2010,¹⁶ while Norway, which uses the broader definition of ‘potential victim’, found 217 potential cases of child trafficking in a shorter period, 2007–2009.¹⁷ It seems unlikely that this signifies a much greater trafficking problem in Norway than in Denmark. Certainly, policymakers and service providers in the Nordic countries recognize that children who are victims of trafficking or vulnerable to trafficking and associated exploitation may somehow slip through the existing web of protection systems.

Trafficking in the Nordic countries

Across the Nordic region, the number of officially identified trafficking victims is low.¹⁸ From existing information, it can be concluded that adults and children are trafficked to and within the region and they experience different forms of exploitation. Sexual exploitation takes place in prostitution and pornography.¹⁹ Labour exploitation was reported or considered probable in labour-intensive sectors and those that primarily employ non-nationals, such as construction, restaurants, cleaning, agriculture and berry picking. Trafficking is also possible in relation to domestic work, begging, forced marriage and child marriage.²⁰

The recruitment of children into trafficking is believed to take place mostly outside the Nordic region, with traffickers ranging from small groups of people to larger international networks.²¹ Case analysis from Sweden noted differences in forms of exploitation according to the age of the child. Children trafficked into sexual exploitation were mostly between 15 and 17 years. Children aged 10–14 years were exploited in begging and thievery under the control of organized criminal groups. The age of criminal liability (15 years in Sweden) was considered relevant in this context, since younger children do not risk prosecution when identified by the police.²²

Limited information and analysis is available on the backgrounds of children identified as actual or potential victims of trafficking. Even where common characteristics have been identified among victims, such as difficulties in finding employment in countries or areas of origin,²³ it is not clear whether these factors also apply to non-trafficked migrants or indeed to most citizens of the countries concerned. This lack of information hampers the development of responses to child trafficking, particularly preventive responses.

Other risks faced by vulnerable migrant children

While, as noted above, few children are officially identified and registered as trafficking victims, the study highlighted a range of other risks and vulnerabilities faced by migrant children, both accompanied and unaccompanied. Across the region, there are reports of exploitation of migrant children in various forms at source, in transit and at destination countries. Such children often face severe risks to their health and even to their lives.²⁴ The necessity for many migrants, notably asylum-seekers, to engage with criminal networks (smugglers) adds to their vulnerability, although in some cases such networks can also protect children from harm.²⁵ Studies have suggested that the risk factors faced by vulnerable migrant children tend to be intertwined and cumulative.²⁶

Other groups specifically identified as vulnerable to exploitation in the context of migration include children who have disappeared from the asylum-seeking process, children from Roma migrant communities, and children who are unaccompanied but not seeking asylum, including EU citizens.²⁷ Little information is currently available on issues affecting the third group, or how local child protection services, which have the responsibility to care for these children during the three months they are entitled to remain in the Nordic countries, would become aware of and respond to their needs and concerns.²⁸

Overall, the information gathered with respect to vulnerable migrant children supports the view that clear identification or ‘categorization’ of children according to a specific status may not always be practical, and that a child’s status does not necessarily reflect the needs of the individual child concerned. Children may be victims of trafficking or other crimes while they are also accompanied or unaccompanied asylum-seekers, regular or irregular migrants, or members of minority groups. Moreover, children often move between different statuses or ‘categories’ depending on their options

and choices of migration, as well as on decisions taken by immigration authorities when their applications are being assessed or reassessed.²⁹

Provision of services based on identification as a victim of trafficking

Against this backdrop, there are major questions related to the underlying protection value of the trafficking categorization. The concept of trafficking distinguishes cases based on how children and adults came into an exploitative situation, rather than the nature of the exploitation itself. In other words, the presence or absence of factors such as recruitment, transportation, harbouring or receipt is treated as more significant than how children have actually been exploited. Among children who have been exposed to trafficking, however, service and assistance needs vary according to the age and sex of the child, and the way in which he or she has been exploited. A child who has been sexually exploited, for example, is likely to have different needs than a child who has been exploited in begging. The need for psychosocial counselling, access to health care and legal assistance may be common among child victims of trafficking and other crimes, as well as migrant and asylum-seeking children. Access to the asylum procedure and return programmes is potentially relevant to all non-national children. Safety and security are essential considerations for all child victims and witnesses of crime, including child victims of trafficking, as well as for other vulnerable child migrants and asylum-seekers.

This does not mean that the concept of trafficking should be ignored. Trafficking is an important and often not very visible means by which children are placed and held in exploitative situations. It is thus very important that all those working with migrant children are fully aware of the risks, nature and manifestations of child trafficking. This offers important opportunities to identify and assist children at risk as well as children who have been exploited. Incorporating training on child trafficking into the standard curricula of all relevant professionals and officials working with and for children can improve the rate at which vulnerable children are identified.

From a child protection point of view, however, the value of providing services solely based on a determination of a child as a victim of trafficking is not readily apparent. In short, a child should be afforded special protection and assistance not only on the grounds of being a victim of trafficking, but on the grounds of being a child.

Moving beyond the trafficking framework

The limitations of the trafficking concept are increasingly being recognized by different countries and organizations, particularly in regard to support for exploited and vulnerable persons. The Council of Europe Convention on Action against Trafficking in Human Beings, for example, has broadened the approach to victim assistance. It provides that a person should have access to appropriate services when the competent authorities have 'reasonable grounds' to believe that he or she has been trafficked.³⁰ The International Organization for Migration (IOM) is expanding its trafficking victim assistance programmes to include other 'vulnerable migrants', making services less dependent on a person being categorized as a victim of trafficking. This initiative was endorsed by a recent evaluation of IOM, funded by the Norwegian Agency for Development Cooperation (NORAD).³¹

Within the Nordic region, Denmark, Finland and Norway have introduced the concept of 'potential victim' to describe persons who may be victims of trafficking or are considered at risk. More widely, several international organizations are exploring the concept of 'children on the move', which seeks to address issues relating to migrant children in a holistic manner.³²

These initiatives are essentially attempts to ensure a better fit between the existing trafficking paradigm and the realities faced by vulnerable and exploited migrants. Yet, while a solution to the definitional problems described above is not readily apparent in relation to adults, an alternative, grounded in international law, does exist in relation to children. This is the framework provided by the Convention on the Rights of the Child.

Safeguarding children through the Convention

The Convention on the Rights of the Child prohibits the exploitation of children in any form and context. Significantly, it affords the same rights and safeguards to all children who have been exposed to exploitation, irrespective of the context in which the exploitation has occurred. Children who have been exposed to exploitation in any form are considered 'child victims of crime' and as such are entitled to the same support and assistance for recovery and (re)integration, and enjoy special rights and protection in the context of legal and judicial proceedings, as child victims of trafficking. Further, the Convention provides broad protections for children, irrespective of their status.

Responding to child trafficking in the context of the protection framework provided by the Convention thus has the major advantage of transcending definitional and conceptual difficulties. It facilitates a focus on the needs and rights of individual children, independently of their status as a trafficking victim or otherwise. Assigning a specific label to a case of child exploitation, such as 'trafficking', 'sale', 'procurement' or other, can be considered secondary. In prevention and response measures under the framework of the Convention, the primary obligation is that the individual situation and needs of a child are assessed, and that his or her rights are fully safeguarded to prevent exploitation or to offer appropriate services once exploitation has occurred.

This study has demonstrated how, in responding to child trafficking and related forms of exploitation, a review of existing and planned responses vis-à-vis the rights guaranteed by the Convention can guide the process of policy and planning.

General finding 2: To date, all the Nordic countries have made serious and continuously evolving attempts to address the issue of child trafficking.

Specific finding 4: The response could be further strengthened by additional measures to ensure that the specialized mandates of the many agencies working in the child protection field, an advantage in terms of expertise, do not result in the fragmentation of services.

Overall response to child trafficking

All of the Nordic countries have ratified the 'UN Trafficking Protocol' and the Convention on the Rights of the Child. They have all introduced special articles or sections in their national criminal laws that prohibit and criminalize trafficking in human beings, including special provisions to criminalize child trafficking, as well as laws around composite crimes such as rape and kidnapping. In all of the countries, except for Denmark, the offence is considered 'aggravated' or 'gross' when committed against a person under 18 years of age, and it carries a higher sentence.

Significant progress has been achieved in regard to incorporating the general principles of the Convention into constitutions, child rights statutes and sectoral laws, as recommended by the Committee on the Rights of the Child. In Norway, the Convention and several other international human rights standards have been incorporated into the Human Rights Act and its provisions are to take precedence over national law.³³ In Finland, the Convention is also applicable law.³⁴ In Denmark, it has the status of a relevant source of national law and can be invoked in court and applied directly by courts and administrative authorities.³⁵ The Danish Institute for Human Rights, however, suggests that its application is limited in practice.³⁶ Sweden has not yet incorporated the Convention and its Optional Protocols into law. In its October 2011 'Concluding Observations' on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child recommends that the Swedish Government address the issue as a matter of urgency.³⁷

All of the Nordic countries have also developed national plans of action to address trafficking in human beings, all of which provide special measures for children. These cover multiple forms of exploitation, with the exception of the Swedish plan, which is limited to prostitution and exploitation for sexual purposes. In Denmark and Sweden, a specific budget has been allocated to the plans. The plans in Finland and Sweden have expired but their provisions are considered to continue to guide policy and practice in the respective countries.³⁸

Four Nordic countries have interministerial working groups or comparable institutionalized mechanisms that are mandated to coordinate and oversee implementation of the national action plans against trafficking in human beings. The exception is Sweden, where the National Method Support Team against Prostitution and Human Trafficking plays a key role by providing a forum for the collaboration of agencies involved in the response. Along with Finland, Sweden has also established a National Rapporteur on Trafficking in Human Beings.³⁹

Each country has assigned a specific authority with an official mandate to assess and verify a person's victim status although, as noted previously, in practice this role is played by many different institutions. Denmark, Finland and Norway have generous interpretations of the definition of a trafficking victim. In Norway, there is a particularly low threshold for persons who are assessed by service providers as 'potential victims of trafficking' to access services.⁴⁰ Denmark and Finland also provide broad definitions and simply require 'reasonable grounds' to believe that a person has been trafficked.⁴¹

Other than some instances involving deprivation of liberty and child participation, both discussed later in this report, few concerns have been raised about services for children who have been officially identified as ‘trafficked’ or ‘potentially trafficked’.

Numerous examples of good practice have been developed, several of which are highlighted in Part V of this report. Moreover, the study discusses how trafficking responses have continued to evolve in light of new challenges, recent information and ongoing developments at policy level in Europe. Although outside the scope of this study, it should be noted that Nordic countries also continue to fund anti-trafficking initiatives in lower-income countries.

Broader child protection responses

In the Nordic countries, the responsibility for policy planning and operational tasks relating to the rights and protection of national and non-national children is often divided among different institutions. Furthermore, matters concerning child victims of trafficking, and migrant and asylum-seeking children, usually fall under the mandates of different ministries, with multiple institutions and authorities involved in their implementation. As elsewhere, it is also not always clearly established how action plans and strategies addressing child trafficking relate to other action plans and strategies that are relevant to specific child rights and protection themes.

Local authorities adopt a more unified approach to the provision of services for child protection and care and are responsible for all children who reside in a particular municipality. However, they may not be fully aware of national standards and obligations. Key informants for this study reported that little information appears to be available, for example, on the extent to which Best Interests Determinations take place in regard to the return of non-national children directly from municipalities.⁴²

Study respondents further noted that state authorities and services assess the best interests of the child from the perspective of their specific mandates and areas of work. As noted by the Government Migration Policy Programme in Finland, “the concept of a child’s best interests is used in different meanings in refugee and asylum policy. Different sectors of [the] administration have different ideas of how the best interests of a child should be established and what expertise should be employed in doing so.”⁴³

Evidence from Finland, Norway and Sweden suggests that immigration authorities, for example, tend to carry out formal Best Interests Determinations with a specific focus on whether a child should remain in the country or return to his or her country of origin. Social welfare and child protection authorities on the other hand, are likely to assess best interests with a specific focus on care arrangements, possible risks or experiences of violence, exploitation or abuse. Representatives and guardians for unaccompanied children, including child victims of trafficking, may assess the child’s best interests in relation to accommodation and well-being.⁴⁴ Taken together, these issues can lead to fragmented approaches. In Denmark, for example, an evaluation of the Action Plan to Combat Trafficking in Human Beings concluded that the responsibilities and mandates of the various authorities and organizations involved in working with vulnerable migrant children lacked cohesion and required further refinement.⁴⁵

As a first step towards identifying and addressing possible gaps and discrepancies resulting from different organizational mandates, each country may consider undertaking a detailed mapping of how child trafficking, exploitation and the broader situation of non-national children are addressed in policy and practice, with a view to making any necessary adjustments.

Expanding services from identified trafficking victims to ‘potential victims’

Assistance and services for child victims of trafficking are generally provided through existing protection structures for unaccompanied asylum-seeking children. Local child protection or social welfare services play a key role in providing care for these children. Under national legislation, many provisions regulating children’s access to protection and care are available regardless of a child’s status, and the provision of services is based on individual case and needs assessments. In practice, however, the study has highlighted how a child’s status matters in multiple ways, including in relation to immigration status, national origin and status as a victim, or potential victim, of trafficking. Examples are provided in Part III of the paper, particularly in the section relating to the principle of non-discrimination.

One measure that countries have taken to address this issue is the adoption of the concept of ‘potential victim of trafficking’, initially promoted by the Group of Experts on Trafficking in Human Beings of the European Commission and the Organization for Security and Co-operation in Europe (OSCE), and taken up by the Council of Europe Convention on Action against Trafficking in Human Beings.⁴⁶ In Norway, this concept is applied in a particularly broad manner.⁴⁷ It describes both persons who are considered likely to be victims of trafficking but not yet formally identified as such, and those thought to be at risk. They may be referred to the specific services in place for victims of trafficking while their cases are further assessed.

The status of ‘potential victim of trafficking’ appears to offer opportunities for prevention when it allows the early identification of children at risk of exploitation and their referral to assistance. At the same time, as highlighted throughout the study, a child should be afforded special protection and assistance not only on the grounds of being a victim of trafficking, but on the grounds of being a child. It is important to ensure that the concept of potential victim does not reinforce existing disparities in the ability of children to access their rights. Customized services for specific ‘categories’ of children should not create discrimination, but rather should be tailored to the needs of individual children and complement basic child protection services.



A Georgian migrant travelling on the so-called 'patera' train without a visa reaches the French-Spanish border. The train, which traverses French, Italian and Spanish boundaries, has acquired a reputation for carrying undocumented migrants, largely from Eastern European territories, into the affluent EU communities in the west. © Lorena Ros / Panos

General finding 3: Despite considerable efforts by the Nordic countries, some gaps remain in policy and practice with respect to ensuring implementation of the general principles of the Convention on the Rights of the Child.

Specific finding 5: The general principle of the best interests of the child has been introduced into laws, policies and plans in the Nordic countries.

Specific finding 6: Best Interests Determinations and assessments for non-national children, including child victims of trafficking, are often conducted in a sector-specific way.

Specific finding 7: Discrimination against children can be found across the region based on factors ranging from nationality and language to age and, most commonly, status.

Specific finding 8: Gaps exist with regards to the right of the child to have his or her views heard and taken into account. Child-sensitive complaint mechanisms could be strengthened throughout the region.

General principles

This part of the report assesses the current policies and practices relating to child trafficking and associated exploitation in the Nordic countries in accordance with the Convention on the Rights of the Child. While it contains a total of 54 articles, a solid basis for analysis is provided by the four ‘general principles’ of the Convention, as articulated by the Committee on the Rights of the Child. These are:

Article 2: The right to non-discrimination

Article 3: The best interests of the child as a primary consideration

Article 6: The right to life, survival and development

Article 12: The right of the child to have his or her views heard and taken into account

The right to non-discrimination

The Convention affords children broad and comprehensive protection against discrimination. It provides that State parties shall ensure that the rights in the Convention apply to all children within their jurisdiction without discrimination of any kind – race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The rights afforded under the Convention therefore apply to non-national children, including children who are visiting a state, refugees, children of migrant workers and undocumented children.⁴⁸

The right to non-discrimination is reflected in different ways in the national legislation of the Nordic countries, although to date only Finland has ratified Protocol No. 12 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, which provides for a general prohibition of discrimination and guarantees fundamental rights to all persons within its jurisdiction. All countries have enacted specific anti-discrimination laws in addition to general provisions in their constitutions. Most have also established institutions to promote the right to non-discrimination and monitor implementation of national anti-discrimination laws.⁴⁹

The above prohibitions are, however, often limited to discrimination on specific grounds or in specific sectors. A general prohibition of discrimination in line with article 2 of the Convention on the Rights of the Child is not yet fully guaranteed. The study identified examples across a wide range

of areas, notably in relation to immigration status and status as a trafficking victim. This has affected access to, among other things, health and education, social services, guardianship and Best Interests Determinations.

In Norway, for example, outreach workers reported that authorities usually took action immediately to assist children who had received a residence permit. In the cases of non-national children without such permits, however, it is often less clearly established which authority is responsible, particularly when a child's legal status and place of registry in Norway cannot be clearly identified.⁵⁰ Differences in funding availability for services at the local level, based on children's nationality and immigration status, were noted throughout the region. In Finland, for example, while the right to free basic education for 'everyone' is provided for under the Constitution, this is interpreted to apply only to children who are permanent residents or have temporary residence status.⁵¹

Victims may also be discriminated against based on the crimes with which their exploiters are charged. In Finland, a child victim involved in a trafficking case is an interested party in criminal proceedings, whereas a child victim involved in a procurement case is regarded solely as a witness.⁵² This severely affects children's entitlements in terms of legal assistance, compensation and access to services. Similar concerns were reported in Sweden, including specifically with regard to children exploited in procurement.⁵³ In Norway, the broad law on human trafficking makes it easier to try cases of procurement that involve children under child trafficking charges and grant trafficking victim status to the exploited child.⁵⁴

In some cases, children are discriminated against due to their age. In Norway, for example, care for unaccompanied children over the age of 15 falls under the responsibility of immigration authorities rather than social services. The Ombudsman for Children states that "the level of follow-up... is considerably inferior to that provided to Norwegian children without caregivers in the country and unaccompanied minor asylum-seekers under the age of 15".⁵⁵

Undocumented children are a particularly vulnerable group and are not always afforded access to the same services as children who have regularized status or national children. Even where rights clearly exist on paper, service providers are not always aware of them. There may be a need to more clearly stipulate rights in relation to issues such as education and health in the national legislation, since this is often left to the discretion of municipal authorities.⁵⁶

The best interests of the child

The general principle of the 'best interests of the child' is a central and all-embracing principle under the Convention on the Rights of the Child. Article 3 of the Convention stipulates that "in all actions concerning children...the best interests of the child shall be a primary consideration". The Committee on the Rights of the Child recommends that this principle be integrated in all legal provisions, projects and services relevant for children as well as judicial and administrative procedures and decision-making processes affecting children, including in the context of parental custody, alternative care and migration.⁵⁷

Progress has been made in this regard throughout the Nordic countries, particularly in relation to child protection, parental custody and alternative care, as well as the reception and assessment of children seeking asylum.⁵⁸ The wording of best interests provisions is often vague, however, with the result that other decision-making processes relating to more precisely worded laws may take precedence.⁵⁹ As noted in Part II, the implementation of formal Best Interests Determinations, as well as best

interests assessments for children, tends to differ among the Nordic countries, and among different professionals, sectors and groups of children.⁶⁰ Concerns were also raised in a 2010 study by the United Nations High Commissioner for Refugees (UNHCR) on unaccompanied Afghan children in Europe, which noted that there was no clear understanding of the meaning and scope of the concept of the best interests of the child, in particular in relation to unaccompanied asylum-seeking children.⁶¹

Operational guidelines for the determination of the best interests of the child have been developed by UNHCR.⁶² Although intended for use in the specific context of refugee children, many of the methodological and procedural elements might inform processes in other areas, including child trafficking cases. The guidelines distinguish between best interests assessments and Best Interests Determinations. A best interests assessment is made by staff taking action with regard to an individual child, such as deciding on the child's accommodation. A Best Interests Determination, on the other hand, is a formal process for particularly important decisions affecting the child, such as identifying a "durable solution" (*see below*), which may involve return to the child's country of origin. The methods and outcomes of both processes should always be documented and explained in written form, and give due consideration to the child's views and to assessing a child's psychosocial situation, including past and present experiences of violence, exploitation and abuse.

Despite some potential shortcomings, as noted above, there have been several positive initiatives within the Nordic region to ensure an increase in coverage, quality and consistency of best interests assessments and Best Interests Determinations. One example comes from the Child Welfare Act in Finland, which states that when assessing the interests of the child, consideration must be given to the extent to which alternative measures and solutions safeguard the following seven criteria: balanced development and well-being and close, continuing human relationships; understanding and affection as well as supervision and care; education; personal safety and physical and emotional freedom; a sense of responsibility and independence; the right to participation; the child's linguistic, cultural and religious background.⁶³ Another Finnish initiative, which is to develop a psychosocial interviewing model that strengthens best interest assessments, is discussed in Part V, along with another relevant programme, the Children's House models in Iceland and elsewhere.

Overall, concerns with regard to upholding the general principle of the best interests of the child can be summarized in two categories. First, the current sectoral approach appears to contribute to a situation in which some children may be excluded from having their best interests assessed and determined by the competent authorities. Second, current arrangements do not ensure that procedures to assess and determine the best interests of the child are consistent for all children and take into account all the rights of the child, including the right to be heard. In the case of non-national children, mechanisms to combine assessments made by social welfare or child protection services with those conducted by the immigration authorities can inform a holistic approach and promote greater understanding of a child's best interests. Countries that have not already done so may also consider elaborating criteria to be considered in assessing the best interests of the child.

In doing so, countries may draw on the concept of durable solutions. In its General Comment No. 6, the Committee on the Rights of the Child stated that the "ultimate aim in addressing the fate of unaccompanied or separated children is to identify a *durable solution* [emphasis added] that addresses all their protection needs, takes into account the child's view and, wherever possible, leads to overcoming the situation of a child being unaccompanied or separated."⁶⁴ As opposed to short-term measures such as emergency assistance, reflection periods or temporary residence permits, a durable solution is oriented towards longer-term objectives that ensure the child's safety and promote his or her development.⁶⁵

In an effort to ensure more systematic identification of durable solutions, the Committee of Ministers of the Council of Europe adopted a recommendation on 'life projects' in 2007 that called upon member States to strengthen their policies and practices in responding to the situation of unaccompanied migrant children.⁶⁶ The 'life project' is an individual tool designed to help unaccompanied children and competent State authorities to jointly confront the challenges that result from the child's migration. Stronger consideration of implementation of the Council of Europe recommendation, in light of the international standards that it refers to, would help to shape more systematic and rights-based approaches to assisting vulnerable migrant children, including victims of trafficking.

The right of the child to have his or her views heard and taken into account

The Convention on the Rights of the Child imposes legal obligations on states to ensure that a child who is capable of forming his or her views has the right to express those views in all matters affecting him or her, and that these views be given due weight in accordance with the age and maturity of the child. This right has been enshrined in numerous sectoral national laws and policies in the Nordic countries. The study found that the practical application of this principle was inconsistent, however, notably in regard to the judicial and administrative proceedings and services provided to trafficked and potentially trafficked children. This includes issues related to deprivation of liberty, court hearings, opportunities for employment, and return or transfer to countries of origin or other countries, particularly under the 'Dublin II Regulation'.

Decentralization poses particular challenges to the consistent implementation of a child's right to be heard. Feedback from Denmark, Norway and Sweden has highlighted concerns about gaps in the systematic recognition of this right at the local level, particularly in cases relating to care and immigration issues.⁶⁷ The Committee on the Rights of the Child noted that in Finland, in some cases a child's views were related to the court by a third party, with the risk that the third party had not consulted with the child before submitting these views to the court.⁶⁸ A useful example of how application of the child's right to be heard may be improved comes from Sweden. Whenever a judgement or ruling that affects children is made, the court or government agency is required to explain how they have assessed the investigation. At present, however, they are not similarly required to explain how the views of the child have been taken into account.⁶⁹ Addressing this gap would appear a relatively easy matter since it involves a small modification to an existing process. Other countries may wish to consider adopting a similar requirement.

In relation to the provision of services, in Norway, for example, children designated as potential victims of trafficking cannot refuse the assistance offered.⁷⁰ By contrast, children in Finland are free to choose whether they wish to accept or decline the services available to victims of trafficking.⁷¹ Children without a valid permit of stay who decline these services will remain in the reception centre for asylum-seekers and receive the general assistance available to children seeking asylum.

Different age limits have been defined in relation to the right of the child to be heard in judicial and administrative procedures. As a result, the right of younger children to be heard is not addressed in the same way as the right of adolescents.⁷² Specific concerns in several countries were also noted in regard to the role of interpreters.⁷³ In Sweden, for example, problems included inaccurate translations, editing of responses, and even pressure exerted by interpreters on the children. A lack of sufficient training for interpreters, for example on asylum procedures, was also noted.⁷⁴ In Norway, concerns were raised by the Norwegian Ombudsman for Children about difficulties in gaining access to qualified interpretation services for children who do not speak or understand Norwegian.⁷⁵

Confirmation of these concerns about children's views not being taken into account by authorities comes from one of the few documents identified in this study that emphasized the views of children. Twenty asylum-seeking children interviewed by the Swedish Committee for UNICEF reported that they had not been consulted or listened to during the asylum procedure, and in many instances had not received information about their rights in relation to the asylum procedure, access to health services and education at school.⁷⁶

Notwithstanding the above responses, surprisingly little information is available from the Nordic countries on how children are consulted on the services available to them, how they perceive these services, how they view their situations, and the aspirations guiding their decisions and actions. The creation of standard procedures to address child participation across all relevant sectors may help to overcome these challenges. Areas addressed by these procedures might include: participation in court proceedings; use of interpreters; and measures to ensure children's views are taken into account with regard to services provided, Best Interests Determinations and decisions on return.

Child-sensitive complaint mechanisms

Given the gaps and difficulties in the practical implementation of the child's right to be heard, the lack of easily accessible child-sensitive complaint mechanisms across the Nordic region is of concern. The main barrier does not appear to be a lack of suitable institutions, but rather that these institutions follow processes that are not particularly appropriate for children.

Functioning national human rights structures are already in place in the Nordic countries, including ombudspersons for children and parliamentary ombudsmen. The exception is Denmark, where the National Council for Children acts as an independent body for children's rights. However, none of the ombudspersons for children in the Nordic countries are mandated to receive individual complaints, a source of repeated criticism from the Committee on the Rights of the Child. While parliamentary ombudsmen in all of the countries may receive individual complaints on violations of children's rights, before a complaint can be lodged, the complainant needs to seek administrative redress through the relevant national authorities, ministries, or specialized appeals bodies.⁷⁷ This condition poses significant obstacles to children who wish to lodge a complaint on their own initiative.

These issues are recognized within the countries themselves. Numerous institutions and organizations have called for the establishment of easily accessible and child-sensitive reporting and complaint mechanisms where children can also seek information, advice and counselling.⁷⁸ As well as upholding the child's right to be heard, effectively functioning mechanisms are likely to provide new and relatively up-to-date information on problems and gaps in current responses. With this in mind, governments throughout the Nordic region are encouraged to view this as a priority.

The right of the child to life, survival and development

The Committee on the Rights of the Child has stated that the right to life, survival and development "can only be implemented in a holistic manner, through the enforcement of all the other provisions of the Convention, including rights to health, adequate nutrition, social security, an adequate standard of living, a healthy and safe environment, education and play."⁷⁹ While this section has a primary focus on education and health, these issues are briefly discussed throughout the study.

While the right of the child to education is subsumed under the right to life, survival and development, it is also specifically recognized in articles 28 and 29 of the Convention. The study highlighted

difficulties in policy and practice with regard to access to education for children who are undocumented or irregular migrants, asylum-seeking children and children whose asylum claims have been denied. For example, while asylum-seeking children, including child victims of trafficking who are assisted at asylum reception centres, have the right to access school education, concerns were expressed that the quality of education offered in reception centres is significantly lower than in public schools. In Denmark, for example, national non-governmental organizations (NGOs) have noted that the level of education in reception centres may not be comparable to the standard of regular education, which would facilitate children's integration into the mainstream education system.⁸⁰

Across the region the responsibility for organizing school education, including for asylum-seeking children, lies with the municipal authorities and is often subject to their discretion.⁸¹ Reports exist of children with undocumented status being excluded from school, while research from Denmark, Finland and Norway shows that many non-national children, including in some cases trafficking victims, are not consistently guaranteed access to education of a quality commensurate with that afforded to local children.⁸²

Similar difficulties were noted with regard to the responsibility to provide children with “the highest attainable standard of health”, as recognized in the Convention. In all the Nordic countries, access to emergency health care is guaranteed for every child.⁸³ Provisions regulating the access of non-national children to more comprehensive medical treatment differ, however, and problems with implementation at the local level are reported from several countries. Differences were noted in Sweden, for example, in the ways in which asylum-seekers and undocumented migrants are granted access to health services at the local level, based on local interpretations of national guidelines.⁸⁴ Similar concerns have been expressed in Denmark and Norway.⁸⁵

In Finland, non-national children may access health care under the same conditions as Finnish citizens and permanent residents, only after having obtained a residence permit.⁸⁶ Further, while children have access to mental health care through the Children's House (described in Part V) there are few services for mental health care or therapy for child asylum-seekers.⁸⁷

Box 2: Representation and guardianship⁸⁸

In all of the Nordic countries, the system of guardianship is administered primarily by public authorities. Guardians or representatives of non-national children (including unaccompanied children and child victims of trafficking) hold a key function in representing non-national children in specific situations. A strong guardianship system is thus important to ensure that the views of each child are heard and taken into account, that their best interests are respected, and that services provided to children contribute to durable solutions in line with the child's right to life, survival and development. The issue of non-discrimination based on status is also relevant in this context.

The study highlighted the importance of uniform guardianship arrangements. In Denmark, for example, guardians appointed for child victims of trafficking are specially appointed professionals, while the comparable support persons for unaccompanied children work as volunteers. They do not receive a salary and, in some cases, even meet expenses from their own pockets.⁸⁹ In Finland, a change in law adopted on 1 September 2011 made guardianship mandatory for all unaccompanied asylum seeking children, which was not the case previously.⁹⁰

In Sweden, consultations in the context of the development of the *UNICEF Guidelines on the Protection of Child Victims of Trafficking* were instrumental in clarifying that the existing guardianship system applies equally to all children, irrespective of their status.⁹¹ Prior to this, professionals were left without clear instructions on what to do when a child victim was in need of a guardian but not seeking asylum. There is now a uniform system of guardianship in Sweden, as well as Iceland, that covers all unaccompanied children, irregular migrant children and victims of trafficking.

In recent years Sweden has, however, experienced a large increase in asylum applications from unaccompanied children. Save the Children reported in 2011 that a guardian is not always appointed promptly and, in some cases, children may have to wait for several weeks or a couple of months.⁹² Problems were also noted in Finland, where it was reported that "some of the persons appointed as representatives have had no contact with social welfare or child welfare work and do not necessarily even have an understanding of the asylum process."⁹³

In Norway, a guardian is appointed to support all children, independent of their age, during the asylum process. The guardian is paid for participation in interviews and has expenses covered. There is no difference between victims and non-victims of trafficking as long as they are seeking asylum; however, no information was obtained about arrangements for children who do not fit into either of these categories.⁹⁴

The study also found that the use of volunteer guardians creates difficulties in ensuring appropriate training and qualifications. Further, in at least one country (Finland), the laws regulating the screening of a person for a possible criminal record do not apply to volunteers who will be working with and for children.⁹⁵ It may be useful for Nordic countries to review the system of guardianship/representation with a view to confirming and addressing such issues, to ensure the system provides good quality and non-discriminatory support for non-national children.

A 20-year-old Lithuanian girl who was a victim of human trafficking. Eventually she escaped, and was referred to POPPY, a shelter for trafficked women in the United Kingdom. © Karen Robinson / Panos



General finding 4: The study identified concerns with regard to the realization of children’s rights in relation to criminal justice and immigration processes. These included: non-prosecution; deprivation of liberty; return; and access to asylum procedures.

Specific finding 9: In some cases, child victims of trafficking are being deprived of their liberty, including through detention in closed shelter facilities. This practice is questionable under international law and appears inconsistent with the protections afforded under the Convention on the Rights of the Child article 37(b) that this be done “only as a measure of last resort and for the shortest appropriate period of time.”

Specific finding 10: There are concerns about the process by which Best Interests Determinations are carried out and followed through in relation to return of non-national children. These include returns undertaken by local municipalities and, in particular, transfers under the ‘Dublin II Regulation’.

Non-punishment

The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime define ‘child victims and witnesses’ as “children and adolescents, under the age of 18, who are victims of crime or witnesses to crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders.”⁹⁶ The Guidelines pertain primarily to the rights of child victims and witnesses in the criminal justice system. While of direct relevance to child victims of trafficking, the rights apply to all children exposed to exploitation.

The Guidelines set forth standards to protect children from unnecessary hardship during the criminal justice process and recommend that procedures are child-sensitive, including through providing interview rooms designed for children; ensuring interdisciplinary services for child victims integrated in the same location; reducing the number of interviews; and eliminating unnecessary contact with the justice process, for example by videotaping children’s statements. The Children’s House model described later in this study appears to play a significant role in helping authorities to fulfil these standards. However, their use is discretionary rather than mandatory.

Multiple international instruments highlight the importance of not bringing charges against victims of trafficking for crimes committed as a result of being trafficked. This is important within the Nordic region where trafficked children are exploited in criminal activities, including petty crime, burglary and drug selling. Many trafficked children may also be irregular migrants.⁹⁷ The protection of child victims from prosecution for unlawful actions committed as a result of being trafficked should, however, not be dependent on the official identification and verification of their status as victims of trafficking. As noted above, international standards afford rights to all child victims and witnesses of any crime “regardless of their role in the offence”.

The protections currently offered against criminalization of children differ across the region. In Denmark, national law does not specifically protect children who may be trafficking victims from being detained for offences they committed in connection with their situation (such as carrying false documentation).⁹⁸ The other Nordic countries all have various provisions that offer options to defer, abate or abandon a criminal action.⁹⁹ In Norway, however, application of these procedures remains at the discretion of the judge concerned.¹⁰⁰

The study was unable to identify information on how these rather general non-punishment provisions are being applied to children who have been exposed to trafficking or other forms of exploitation

in the Nordic countries, and children's experiences in this regard. However, a broader study of EU member States concluded that there has been limited discourse on the status and rights of child victims in the context of criminal justice processes, and that certain groups of child victims, in particular victims of sexual offences and trafficking in human beings, have received more attention than others.¹⁰¹ More research may be useful on the application of children's rights in the criminal justice system, including how these rights are affected by issues of status.

Deprivation of liberty

Under the Convention on the Rights of the Child article 37(b), "no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time." The Committee on the Rights of the Child emphasizes that this provision also protects children from the deprivation of liberty in the context of protective measures.¹⁰² In regard to trafficking, the 2010 Commentary on the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking stresses that "the detention of victims of trafficking is inappropriate and (implicitly) illegal."¹⁰³

In the Nordic countries, children are deprived of their liberty for various reasons and the standards and practices in place differ. Accompanied and unaccompanied children can be held in immigration detention, including prior to being returned.¹⁰⁴ Children taking drugs or demonstrating other forms of self-harming behaviour may be referred to closed institutions or safe houses. This includes child victims of trafficking or children considered to be at risk of being trafficked. Children are further referred to closed institutions to prevent them from leaving reception centres (that is, open centres for those seeking asylum) when there is a perceived risk that they might be recruited into trafficking.¹⁰⁵

The authorities consulted during the study were generally aware of issues related to deprivation of liberty but highlighted the problems created when children disappear from reception centres. They expressed particular concerns about child victims of trafficking and the possibility that they may still be under the influence of their traffickers. These are valid concerns but do not detract from state obligations to ensure that children are deprived of their liberty only as a measure of last resort and for the shortest appropriate period of time. Information collected as part of this study suggests that most Nordic countries could pay more attention to this issue, with a focus on developing and strengthening safeguards in relation to detention and seeking alternatives, such as closer monitoring and supervision.

Finland provides an example of safeguards which, in principle, may offer guidance for other countries. When police officers or border guards in Finland are considering holding a non-national child in detention, they are obligated to contact social welfare authorities, inform them about the case and seek the opinion of a social worker, which is then entered into the detention decision. This practice applies to accompanied and unaccompanied children.¹⁰⁶

Issues relating to return of children to their home countries

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals ('EU Return Directive') regulates the return of third country nationals to countries of origin or transit countries. It makes reference to the best interests of the child and highlights the importance of considering issues of family life, the state of health of the returnee, and the principle of non-refoulement.¹⁰⁷ The Committee on the Rights of the Child emphasizes that the return of an unaccompanied or

separated child needs to be done in a safe, child-appropriate and gender-sensitive manner. These basic safeguards would appear equally relevant for children who have been trafficked. In the Nordic countries, approaches differ regarding the return of children to their countries of origin. In Denmark, for example, the Government organizes the return of unaccompanied children, including child victims of trafficking, in collaboration with relevant organizations and authorities, to their countries of origin.¹⁰⁸ A network of more than 100 NGOs, based in the countries to which migrants are being returned, supports the process locally.¹⁰⁹ In contrast, children who are citizens of EU member States and identified as being in trouble with the law in Denmark are often returned directly from the closed institutions where they were kept in custody.¹¹⁰

Nordic governments are cooperating with IOM on the return of non-nationals to their countries of origin through 'assisted voluntary return' programmes.¹¹¹ The programmes include children and young people who were under 18 years of age when they entered the Nordic countries, and also offer special modules for victims of trafficking. Although the programmes contain a number of safeguards, the monitoring period for children on return is just three months. A 2011 evaluation of IOM also questioned the use of the term 'voluntary return' in contexts where children had few other options.¹¹²

In Finland and Sweden, municipal authorities are reported to be returning children – mainly adolescents from EU member States – to their countries of origin. The municipal authorities collaborate directly with the embassies or consulates of the child's country of origin.¹¹³ Little information is available about this alleged practice and how the rights of the child are safeguarded in this context. Limited information is also available regarding the return of accompanied children who may have been exposed to trafficking. More research would be useful to better understand the conditions of return, how it impacts children and how their situations evolve after having been returned.

In Norway, an evaluation of return and reintegration programmes specifically for victims of trafficking suggests they would benefit from stronger and more systematic attention to individual case and risk assessments.¹¹⁴ In order to ensure that the rights of the child are fully safeguarded after return, as well as before and during the process, improved and longer-term monitoring of children is also important. Although these observations are made in the context of trafficking, they may be further extended to other returned children.

Overall, existing regulations and practices on the return of children have been much debated, with UNHCR noting that stakeholder views range from the automatic equation of return to the child's best interests on the one hand, to an assumption that return to an insecure or unstable poor country can never be in a child's best interests.¹¹⁵ As noted by the Norwegian return and reintegration programme, it seems clear that longer-term monitoring of children after return is particularly important.

Transfers under the 'Dublin II Regulation'

The Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ('Dublin II Regulation') is an agreement among EU member States and additional countries, including Iceland and Norway. For separated and unaccompanied children, the 'Dublin II Regulation' provides that the child's asylum application may be examined either by the country where the child has first submitted the application, or where he or she has parents or other relatives if this is in the child's best interests. When a child has started an asylum application in another country, the child may be transferred to that country. It is important to note, however, that states may decide to accept the responsibility to

examine a protection application and not to transfer the individual concerned, for example when such a decision would be in line with the best interests of the child.¹¹⁶

The 'Dublin II Regulation' is based on the important premise that common and comparable standards for asylum reception systems are in place in participating countries, including for children. In reality, as pointed out by the European Court of Human Rights and UNHCR, the goal of comparable standards in all member States has not been achieved.¹¹⁷ This has significant implications for the children involved.

Additional concerns were also reported from Finland and Sweden, as follows:

- Unaccompanied children, including victims of trafficking, have been transferred from the Nordic countries under the 'Dublin II Regulation' without benefiting from a Best Interests Determination.¹¹⁸
- Children have been transferred under this agreement even when they have been known to be victims of trafficking or considered very vulnerable.¹¹⁹
- Children have been transferred under the 'Dublin II Regulation' without proper consideration of appeals they have made against this decision.¹²⁰
- Children have been transferred to a third country, despite having expressed the wish to return directly to their country of origin.¹²¹

The limited safeguards for children transferred under the 'Dublin II Regulation' appear to be cause for concern. The need for such protections was confirmed in a 2010 study on the asylum procedure, which found that children are exposed to risks, threats or actual violence in countries participating in the Regulation.¹²² These findings underline the need to strengthen the accountability of member States to ensure that common standards and safeguards are in place. Until this is the case, stronger efforts should be made to ensure that the transfer of children under the Regulation is guided by a Best Interests Determination and individual case assessment for each child.

Regularization of Stay: Reflection periods, temporary residence permits and asylum

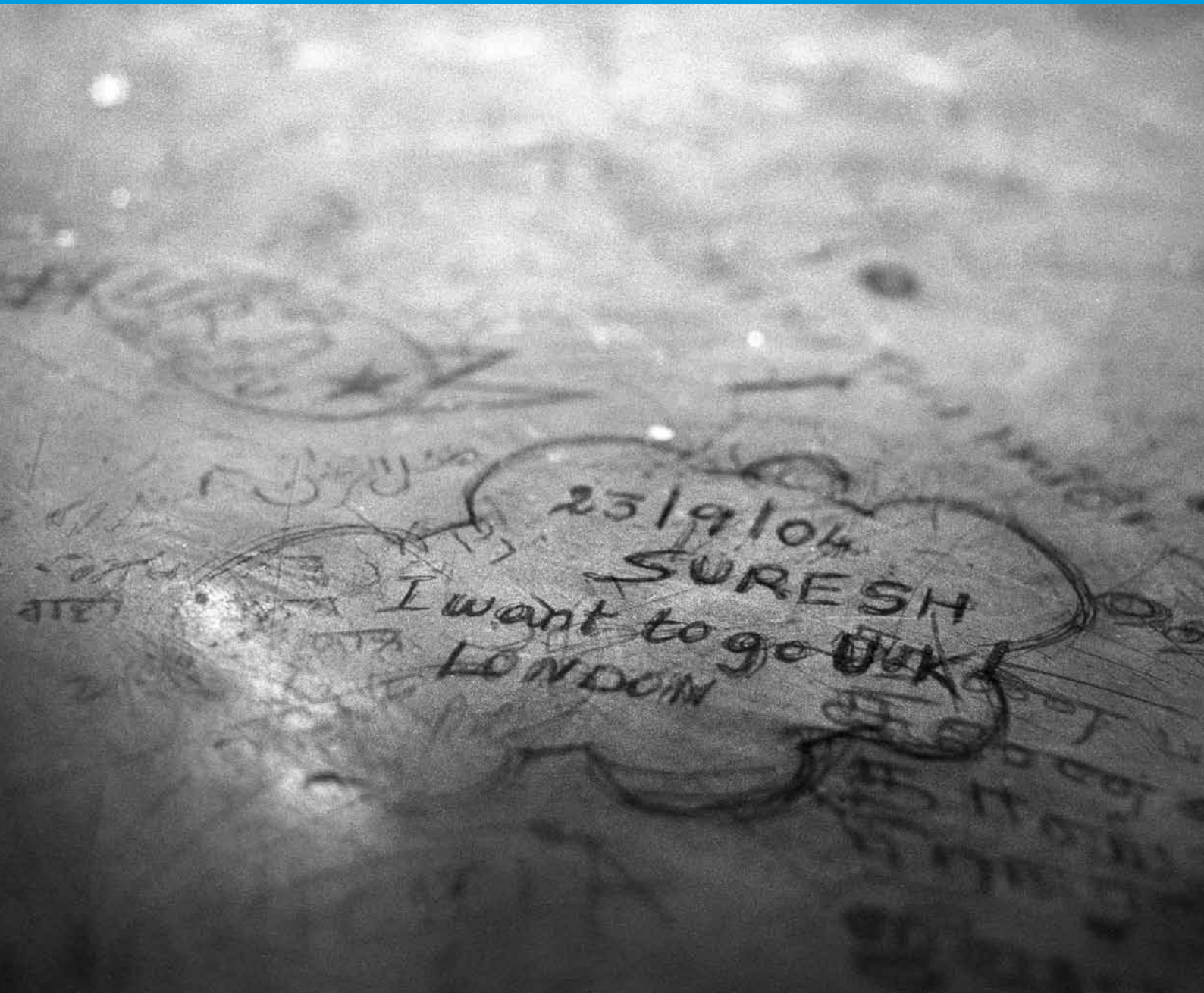
Different options exist in the Nordic countries to regularize the stay of non-national children who have been exposed to trafficking or are considered to be at risk. In the first instance, a child victim of trafficking can apply for a reflection period, which aims to allow victims or potential victims to recover from the exploitation they have experienced or been exposed to; to escape the influence of their exploiters; and to make an informed decision on cooperating with the competent authorities. The Council of Europe Convention on Action against Trafficking in Human Beings affords that States parties shall legislate for a 'recovery and reflection period' of at least 30 days.¹²³ Finland's 2008 Revised National Plan of Action against Trafficking in Human Beings also emphasized that the reflection period must be as long as possible in cases where its use is considered feasible.¹²⁴

A second option is temporary residence permits, which are available in Finland, Norway and Sweden specifically for victims of trafficking, and in Denmark and Sweden for victims or witnesses of crimes more generally.¹²⁵ These measures are often conditional on the child's cooperation with law enforcement or are connected to criminal proceedings. However, as Finland's 2008 Revised National Plan of Action points out, a child cannot reasonably be expected to cooperate with law enforcement agencies. A prior assessment by an expert would determine whether such cooperation is in the child's best interests.¹²⁶

The Council of Europe Convention on Action against Trafficking in Human Beings clearly states that “The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions”.¹²⁷

The third option for regularization of stay is asylum. Under international standards, child trafficking may be recognized as a child-specific grounds for asylum when the child has a well-founded fear of persecution, as outlined in the UNHCR *Guidelines on International Protection*.¹²⁸ There is increasing recognition of the potential overlap between children (and adults) who have been, or are at major risk of being trafficked, and those seeking asylum, including by IOM and UNHCR. Both organizations have been collaborating to develop joint checklists for use by those reviewing asylum cases and those working with possible trafficking victims.¹²⁹

Child trafficking is not, however, the only violation that may amount to child-specific persecution. Any form of exploitation in the home or transit country, including worst forms of child labour, sexual exploitation and child pornography, could amount to child-specific persecution, and the child may be recognized as a refugee if the other criteria in the law are met.¹³⁰ It is therefore important that adequate measures are in place for recognizing child trafficking and child exploitation as forms of child-specific persecution – and ensuring that child victims have access to the asylum procedure.¹³¹ For example, persons working on asylum claims should have an understanding of the appropriate action to take when encountering a victim or potential victim of child trafficking or exploitation, and those working on trafficking and related forms of exploitation should be aware of the option of asylum.



Graffiti in a holding cell where undocumented migrants are kept after being caught by the maritime police of Zeebrugge (Belgium) trying to enter the harbour. © Dieter Telemans / Panos

General finding 5: There are a significant number of insightful and promising interventions that are worthy of consideration by other countries.

This study identified numerous examples of interventions, including laws, programmes and processes, that are worthy of wider consideration, both within and outside the Nordic region. A non-exhaustive list of some of these interventions is provided below. As not all of these initiatives have been evaluated, they are offered here as noteworthy examples for consideration rather than confirmed best practice.

The Children's House – Iceland, Norway and Sweden

The Children's House in Iceland is a specialized institution that offers a comprehensive set of services in response to cases of actual or suspected child sexual abuse. As well as welfare services, this includes a child-friendly process for interviewing children involved in criminal justice processes. Children are questioned by a trained professional interviewer. The judge, prosecutor, the child's lawyer and the defence lawyer, as well as representatives from the police and the child protection services, can look on through video and can communicate with the interviewer to pose questions to the child. The child does not have to appear in court.

The institution offers multidisciplinary services from under one roof, an integrated approach that helps to prevent repeat interviews and helps to ensure that a child victim is referred to all the relevant services. The model further creates a forum for collaboration between court judges, prosecution services, police and child protection services. One shortcoming is that the police and district court judges are not obliged by law to use the services of the Children's House. Services are being extended to actual and potential child victims of trafficking. Children's Houses have also been set up in Norway and Sweden; Finland has plans along these lines, and proposals also exist in Denmark and Greenland.¹³²

Outreach services: Norway

Social outreach work focuses on children and youth who spend most of their time out on the street and in public places, including some children who live on the street. Many children and youth in contact with social outreach services face multiple difficulties and risks, including alcohol and substance abuse, involvement in crime, exposure to violence, exploitation and abuse, discrimination, psychological problems, and conflicts in families, at schools or in the workplace. Outreach work facilitates contact with young people insufficiently reached by public services and enables their difficulties to be analysed and addressed in a holistic manner.

In Norway, social outreach services operate as part of the municipal social services. There are about 85 such services that function with a high degree of flexibility at local level. Outreach workers try to establish contact with children and youth and offer help as early as possible after contact in order to reduce the risks to which the children are exposed. Services are unconditional and do not impose any obligations on the child. The experiences of outreach workers not only enable them to assist children in need but also to identify gaps in the public system that leave children unprotected.¹³³

Standardizing psychosocial interviewing procedures: Finland

In Finland, the general principle of the best interests of the child is reflected in numerous laws and policies. The child welfare association All Our Children (Yhteiset Lapsemme ry) noted, however,

that there is a lack of clarity on how this principle is to be understood and implemented in practice, specifically in relation to unaccompanied asylum-seeking children. This led to the development of a standardized psychosocial interviewing model. The model ensures a comprehensive response and gives particular attention to assessing the child's experience of violence, exploitation and abuse, including in the context of trafficking.

The model has two main parts: An initial mapping is done on the child's arrival at the reception centre and focuses on the child's immediate needs and his or her experiences up to that point. This is followed by an in-depth interview, which helps to plan the services needed and to assess the best interests of the child. This results in a recommendation in relation to the asylum procedure. A checklist of human trafficking indicators and advice on how to proceed if human trafficking is suspected is included as part of the model.

Closing discrimination gaps: Sweden

In 2008, the National Board of Health and Welfare (NBHW) in Sweden and the Swedish Committee for UNICEF produced a handbook for professionals who come into contact with trafficked children. The handbook is based on the *UNICEF Guidelines on the Protection of Child Victims of Trafficking* and adapted for the Swedish context. The NBHW and the Committee worked closely with a reference group made up of representatives from key departments, including law enforcement officers, prosecutors, social workers and immigration officials. This proved crucial as the process helped to identify a range of issues that needed to be resolved.

Specific attention was given to the Convention on the Rights of the Child principle of non-discrimination. Although the principle was not disputed, members of the reference group found it difficult to define exactly what this entailed in the possible scenarios that professionals may be confronted with when seeking to assist trafficked children and children at risk of being trafficked. For example, available guidance on guardianship for non-national children focused only on children in the asylum system. There was no professional guidance available on dealing with child victims who were in need of a guardian but not seeking asylum. As noted in Box 2, on page 21, consultations within the reference group and with experts from the Ministry of Justice helped to clarify that the existing guardianship system applies equally to all children, irrespective of their status. This example clearly highlights the importance of inclusive processes to identify and address potential gaps and uncertainties within the child protection framework and reduce the likelihood of fragmented approaches.

A coordinated response: Denmark

The Danish Centre against Human Trafficking (Center Mod Menneskehandel, CMM) was established in 2007 as one of the measures under the Action Plan to Combat Trafficking in Human Beings. It plays a key coordinating role in the Danish response to trafficking, bringing together a network of authorities and NGOs. It is responsible for collecting, analysing and disseminating data on trafficking, and offers service providers access to specialist trafficking expertise.

The European Union Agency for Fundamental Rights noted that the coordination role of CMM does not by itself guarantee that the rights of child victims of trafficking are safeguarded, but offers a "permanent platform for dialogue, development and evaluation of measures that may, in the long term, contribute to and effectively accommodate the needs of trafficked children in Denmark, and thereby slowly enhance their rights."¹³⁴

Conclusions

The Nordic countries have placed a high priority on addressing trafficking in human beings. With the collaboration of both state and non-state actors, significant progress has been achieved in the reform of criminal, immigration, social welfare and child protection laws that give special consideration to trafficking in human beings and child trafficking. There is also visible action in relation to the establishment of specialized institutions, cooperation and coordination mechanisms, and the development of tools and measures for the identification of trafficked adults and children and their referral to assistance.

Assistance and services for child victims of trafficking are provided primarily through existing protection structures for unaccompanied asylum-seeking children, and local child protection or social welfare services play a key role in providing care for these children. Under national legislation, many provisions facilitate children's access to protection and care, regardless of their status.

In practice, however, the study stresses that a child's status is significant. In the countries studied, responses to children's needs and situations were largely based on the categories into which they had been placed. These included unaccompanied asylum-seeking children, child victims of trafficking, child victims of crime in general, and children living and/or working on the streets.

The study has further highlighted how this categorization has a significant impact on the extent and nature of services provided to children, including on the availability of budgetary support for service providers, and the criteria used for assessing the circumstances, needs and best interests of different children. One consequence of this is that it appears to place unnecessary importance on the official identification of a child as a victim (or possible victim) of trafficking. While throughout the study examples were provided of areas in which the rights of trafficked children were not always realized, such as the right to be heard and the right not to be deprived of liberty, respondents suggested that identification as a victim of trafficking generally led to access to a better quality of services than those available to other vulnerable migrant children. Ensuring that children who have been trafficked have access to appropriate services is essential. Yet, the privileging of children who are identified as having been trafficked appears to represent a form of discrimination against other vulnerable groups of migrant children whose rights are not fully met, as well as trafficked victims who, for various reasons, have not been identified as such.

Further, as indicated throughout the report, many of the child rights and protection themes related to child trafficking are mutually interrelated and affect diverse groups of children. A clear identification or 'categorization' of children according to a specific status may therefore not always be attainable.

Indeed, in line with problems identified outside the Nordic region, the study discusses inconsistencies with the way in which the trafficking definition is understood and applied in practice. For example, the majority of study respondents expressed the view that movement was not a necessary component of trafficking. This would effectively make trafficking synonymous with exploitation, raising the question of the additional relevance of the trafficking concept.

Taken together, these factors suggest that the specification of services to children based on a fair and consistent application of the trafficking definition may be neither feasible nor desirable. Various attempts have been made to circumvent these definitional problems, particularly by expanding the concept of victim to also encompass potential victims (a concept that incorporates both presumed but unconfirmed victims of trafficking as well as those who might be vulnerable). This has clear

advantages in terms of making services more widely available, but does not address the core issue of differential treatment of vulnerable migrant children based on status.

The study thus proposes the Convention on the Rights of the Child as an alternative framework for meeting the needs of child victims of trafficking and other vulnerable child migrants in a way that matches services to individual needs, while reducing the importance of categorization. This promises to result in three positive outcomes: (i) to reduce the negative impact on children exploited in the context of migration who are overlooked in the identification of trafficking victims; (ii) to improve access by other vulnerable migrant children to their rights; and, as a consequence, (iii) to help ensure that all rights for all groups of children (including victims of trafficking) are met consistently and in a non-discriminatory manner. As such, it is envisaged that this finding may have significant application outside the Nordic region, where many of the same challenges discussed above are also present.

Integrating services for child victims of trafficking into other structures and systems for children need not be in contradiction to developing targeted and issue-specific approaches to trafficking in human beings, including child trafficking. Persons working with vulnerable migrant children need to be aware of the existence and nature of child trafficking, how it may impact on their work and how to respond to it. Specific expertise on the identification and management of child trafficking cases complements specialized structures and systems already in place to protect children. It also contributes to the apprehension and prosecution of traffickers. While not a core focus of this study, effective action against traffickers, particularly those involved in exploitation at the end of the trafficking chain, is essential to make trafficking a less profitable and more risky criminal activity, therefore reducing the number of children and adults affected.

Addressing the challenges identified in this study is not always a straightforward process. Many of the issues discussed are complicated and frequently touch on a range of sensitive political, social and cultural factors. With this in mind, it is encouraging that throughout the region discourse on trafficking and related issues is vivid, well informed by evidence and the expertise of numerous state and non-state actors, and guided by national responses in light of international standards and principles. The findings and recommendations in this paper are offered as a contribution to the discourse.

Recommendations

The recommendations arising from this study are grouped according to subjects that follow the general outline of the study. The 18 consecutively numbered recommendations are not listed in order of importance.

1. Governments are encouraged to consider addressing child trafficking primarily as part of a broader approach to child protection, placing at the forefront the child rights framework provided by the Convention on the Rights of the Child.
2. Governments are encouraged to incorporate the Convention on the Rights of the Child into national law, where this has not already been done, and to consider more detailed elaboration of its provisions in law and policy.

National and institutional responses

Strengthening capacity and coordination

3. Governments are encouraged to clarify institutional responsibilities in responding for the implementation of child rights and protection measures, and to strengthen coordination, monitoring and reporting. Ideally, organizational mandates should be integrated and incorporate all children, regardless of national origin or status. To assist in this process, it is also recommended that each country consider undertaking a mapping of how child trafficking, exploitation and the situation of non-national children are currently addressed in policy and practice, with a view to making any necessary adjustments.
4. Governments are encouraged to strengthen collaboration between different sectors to ensure a more holistic and consistent approach to Best Interests Determinations.
5. It is recommended that institutionalized expertise on child rights and protection, including child trafficking, be strengthened in all the Nordic countries and be accessible to professionals and officials working with and for children at all levels, including those involved in legal and judicial proceedings.

Services for exploited and vulnerable children (national and non-national)

6. Governments are encouraged to consider strengthening social outreach work for children to monitor the situation of children who live in situations of particular marginalization and vulnerability.
7. Governments are encouraged to consider the establishment of the Children's House model in countries where it is not yet in place and to make efforts to ensure that the services are also available for non-national children. Where such institutions already exist, governments are encouraged to consider making their use mandatory by the court system where this would be in the best interests of the child.

Child trafficking-specific responses

8. Governments are encouraged to strengthen knowledge and awareness of the specific concept and meaning of child trafficking and how to respond to it among professionals and officials working with and for children. This could involve incorporation of training on child trafficking into the standard curricula of all relevant professionals and officials working with and for children, including in social services, law enforcement and the judiciary. Where identification tools for trafficking are in use, such as indicators or checklists, they should be streamlined and standardized, using a broad definition in line with the Council of Europe Convention on Action against Trafficking in Human Beings.

General principles of the Convention on the Rights of the Child

Best interests of the child

9. Governments are encouraged to ensure that the provision of services is always primarily guided by an individual assessment of the child's case and best interests, regardless of the child's status, and that the child is able to participate in this process commensurate with his

or her age and level of maturity. Governments are further encouraged to ensure a consistent and coordinated approach to such assessments and to undertake formal Best Interests Determinations across different organizations working with vulnerable migrant children.

Non-discrimination

10. Governments are encouraged to ensure that all children are afforded consistent protection in law and practice from discrimination on the grounds of status. This includes the right of non-national children to protection and assistance on the same terms and conditions as national and resident children, a right that should not be overridden by immigration concerns.

It is recommended that governments review the system of guardianship with a view to ensuring the consistent and equitable provision of services to children in need, regardless of nationality and status. Training, monitoring and consistent compensation of guardians/representatives is required. All candidates should be screened for criminal records.

Right to be heard

11. Governments are encouraged to ensure that the right to be heard is consistently afforded to all children, regardless of their age and immigration status. This might include:

- Ensuring that all children involved in criminal proceedings have the right to be heard as guaranteed by law, including through training professionals on the use of child-sensitive interviewing techniques, and training and monitoring professional interpreters
- Establishing and publicizing child-sensitive reporting and complaint mechanisms, in particular linked to existing independent human rights institutions
- Developing stronger systems and practices to ensure that, commensurate with their age and maturity, children receiving services are given the opportunity to participate in decisions that affect their lives, including services to be made available to them, and to provide feedback on their satisfaction with those services; and
- Consultations with children to better understand possible deterrents, inhibiting factors and other aspects that may discourage them from talking to the authorities, disclosing their experiences and accepting assistance.

Legal, judicial and administrative processes

12. Governments are encouraged to ensure that all children who have been exposed to exploitation are considered victims of crime and afforded appropriate protection in line with international standards and principles, including non-punishment of those who have been exploited in criminal activities or who have contravened immigration regulations. This may include a review of national legislation, policies, guidance and practice regulating the rights of children in criminal proceedings.

13. Governments are encouraged to consider removing any provisions that make reflection periods and temporary residence permits for children conditional on the child's cooperation with law enforcement or connected to criminal proceedings.

14. It is recommended that governments review current procedures involving the placement of trafficked and other vulnerable children in closed institutions with a view to provisions under

international law that deprivation of liberty is to be ordered only for the 'shortest appropriate period of time' and as a 'measure of last resort', and are subject to periodic review.

15. In the processing of asylum applications for children, governments are encouraged to give due consideration to child-specific forms of persecution, including child trafficking and other forms of exploitation.

Return of non-national children

16. Governments are encouraged to ensure that the principle of the best interests of the child is taken into account in relation to all transfer or return decisions. Before transferring a child under the 'Dublin II Regulation' or returning a child to a country of origin or transit, a formal Best Interests Determination should be carried out to ensure that any decision on a possible durable solution is made in the best interests of the individual child concerned. The feasibility of monitoring systems should also be considered, both for children transferred through the 'Dublin II Regulation' and children returned to countries of origin under other arrangements, particularly those identified as victims of trafficking.

17. It is recommended that governments document and analyse return procedures, including those conducted through municipalities, and provide capacity-building of municipal and local authorities, as appropriate.

Other

18. It is recommended that additional data collection and discussions proceed on a range of topics, with a view to further strengthening systematic protection of non-national children. Consultations with children should be an integral part of these data-collection efforts. The topics might include:

- How to assess and determine the best interests of a child
- How to strengthen the capacity of local child protection services to follow-up with non-national children
- How to address the challenges posed by decentralization of the public administration
- How to better protect accompanied children from EU member States
- Structural challenges that prevent children from fully exercising their rights as afforded under international standards and national law, and that may thereby cause or exacerbate children's vulnerability to exploitation and trafficking; and
- How to strengthen collection and analysis of data, including on child victims of trafficking and vulnerable groups of children, with a view to better informing the development of prevention and response measures and facilitating evaluation of their impact.

Country-specific recommendations

Denmark

Denmark does not yet have an Ombudsperson for Children. The Government is therefore encouraged to establish this institution in line with the Principles relating to the Status of National Institutions (the 'Paris Principles') or the Committee of the Rights of the Child General Comment No. 2 (on the Role of Independent National Institutions in the Protection and Promotion of the Rights of the Child).

Guardianship

It is recommended to have a uniform guardianship system in place in terms of incentives and quality of training for all unaccompanied asylum-seeking children and trafficked children, national or non-national, independently of their status. It is important that all children receive the same level of services.

Non-punishment of children

In line with international standards, it is recommended to protect exploited and potentially trafficked children from detention for offences that they committed in connection with their situation, such as carrying false documentation.

Fragmentation of authority mandates

In Denmark, the evaluation of the Action Plan to Combat Trafficking in Human Beings concluded that the responsibilities and mandates of the various authorities and organizations involved in working with vulnerable migrant children are fragmented. It is recommended that these mandates are clarified and their complementarity is ensured.

Children's House model

Plans for the establishment of Children's Houses are being developed. It is recommended that the new institutions are based on the proven models implemented in the other Nordic countries, and that the services of the Children's House are extended to non-national children and child victims of trafficking.

Finland

Ratification of international instruments

It is recommended that Finland ratify the Council of Europe Convention on Action against Trafficking in Human Beings and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Victim status

It is recommended to review how the treatment of victims of exploitation, including possible victims of trafficking, is affected by decisions on the crimes for which the perpetrators are charged. It is further recommended that persons exposed to procurement be considered injured parties in criminal proceedings rather than witnesses. This should particularly be the case where children are involved.

Access to the right to education

It is recommended that action be taken to address the fact that children in reception centres may not have access to education. This problem arises especially when the children have not been registered in a municipality.

The Children's House model

It is recommended to establish a Children's House for victims of crime, including victims of trafficking.

Iceland

Ratification of international instruments

It is recommended that Iceland ratify the Council of Europe Convention on Action against Trafficking in Human Beings and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

Extraterritorial legislation

It is recommended that Iceland remove the requirement of double criminality as established in the General Penal Code article 5.

Minimum age for a child to be heard in judicial and administrative procedures

The minimum age for a child to be heard in Iceland is 12 years. It is recommended to revise the minimum age to be heard under the Child Protection Act in order to allow younger children to express their views and have them taken into account.

Expansion usage of the Children's House

At present, police and district court judges are not obliged by law to use the services of the Children's House. Given the demonstrated advantages of doing so, it is recommended that courts make consistent use of Children's Houses where they exist.

Norway

Age discrimination

All unaccompanied and separated children under the age of 18 should be under the care and assistance of child welfare services. The quality of care for both national and non-national children should be equal and consistent.

Application and implementation of law on all governance levels

It is important that national laws affecting vulnerable children are consistently implemented throughout the country, including at central, regional and municipal levels of government. Of particular importance is stronger collaboration between outreach work, social services and referral mechanisms.

Strengthening coordination and action among authorities

It is important to ensure that authorities take action immediately to assist children who have received a residence permit as well as non-national children without such permits. In the latter case, there needs to be clarity of responsibility among authorities, particularly when a child's legal status and place of registry in Norway cannot be clearly identified.

Sweden

National Action Plan on trafficking in human beings

It is recommended that Sweden develop a new Action Plan that would cover all forms of exploitation of children (not only trafficking for sexual purposes). This would take into consideration exploitation of children in a range of situations including, but not limited to, human trafficking.

Implementation of the Convention on the Rights of the Child and the OPSC within national legislation

The Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) should be fully incorporated into national legislation.

Data collection

Strengthened collection and disaggregation of data is needed. An overview of the situation and a breakdown of the number of trafficking victims are both lacking. Reported cases from the Swedish Police and data from the Swedish Migration Board are not disaggregated by age and sex. Swedish authorities are encouraged to produce more detailed statistics, including data on reported cases, convictions and persons identified to be at risk of being trafficked.

Acronyms

CBSS	Council of the Baltic Sea States
CMM	Center mod Menneskehandel (Centre against Human Trafficking, Denmark)
COE	Council of Europe
COMPAS	Centre on Migration, Policy and Society (University of Oxford, United Kingdom)
EU	European Union
IOM	International Organization for Migration
IRC	Innocenti Research Centre (UNICEF)
NBHW	National Board of Health and Welfare (Socialstyrelsen, Sweden)
NGO	non-governmental organization
NORAD	Norwegian Agency for Development Cooperation
OPSC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
OSCE	Organization for Security and Co-operation in Europe
PFP	Private Fundraising and Partnerships (section, UNICEF Geneva)
UNHCR	United Nations High Commissioner for Refugees

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- 7 See for example: Minister of Social Affairs and Social Security, 'Report of the Minister of Social Affairs and Social Security Ásta R. Jóhannesdóttir on the Action Plan against Human Trafficking', Presented before the Althingi in its 136th legislative session 2008–2009, p. 13, <http://eng.felagsmalaraduneyti.is/media/acrobat-enskar_sidur/The_Icelandic_Action_Plan_against_Trafficking_in_Human_Beings.pdf>.
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- 10 **Denmark:** Minister for Ligestilling, Ministeriet for Flygtninge, Invandrere og Integration, Udenrigsministeriet, Jusstitsministeriet (Minister of Gender Equality, Ministry of Refugees, Immigration and Integration, Ministry of Foreign Affairs and Ministry of Justice), *Action Plan to Combat Trafficking in Human Beings 2007–2010*, Copenhagen, 2007, p. 12, http://uk.lige.dk/files/PDF/Handel/Menneskehandel_4K.pdf; **Finland:** See: I Exist, <www.humantrafficking.fi/in_english>, accessed 14 May 2010; Orama, Kristina, Maija Mustaniemi-Laakso and Martin Sheinin, *Thematic Study on Child Trafficking: Finland*, European Union Agency for Fundamental Rights, pp. 6–7, <<http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-fi.pdf>>; **Iceland:** Minister of Social Affairs and Social Security, 'Report of the Minister of Social Affairs and Social Security Ásta R. Jóhannesdóttir, on the Action

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- 39 See: European Commission, ‘Fight against Trafficking in Human Beings’ (webpage), <<http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=90764da1-9ea5-49be-94a1-a69e46bebf6d>>.
- 40 Koordineringsenheten for Ofre for Menneskehandel (Coordination Unit for Victims of Human Trafficking), Rapport fra koordineringsenheten for ofre for menneskehandel, Årene 2009 (Report of the Coordination Unit for Victims of Human Trafficking, 2009), April 2010, p. 11.
- 41 Finland: Aliens Act, Chapter 1, Section 3(23); Act on the Integration of Immigrants and Reception of Asylum seekers (493/1999; amendments up to 324/2009 included), Chapter 1, Section 2.
- 42 Feedback from participants in round-table discussions in Denmark, 28 April 2011; Finland, 13 May 2011; Norway, 5 May 2011; and Sweden, 3 May 2011.
- 43 Government of Finland, Ministry of Labour, Government Migration Policy Programme: Government Resolution, Government of Finland, Ministry of Labour, 19 October 2006, p. 33, <www.mol.fi/mol/en/99_pdf/en/90_publications/migration_programme2006.pdf>.
- 44 Interviews with participant 429 in Norway, participant 510 in Sweden, participants 244 and 233 in Finland.
- 45 Ligestillingsafdelningen (Department for Gender Equality), Evaluering af den nationale indsats til bekæmpelse af menneskehandel 2007–2010, Evalueringsrapport (Evaluation of the Danish Action Plan for combating of trafficking in human beings, 2007–2010, Evaluation report [in Danish]), July 2010, p. 96, <www.lige.dk/Files/pdf/Handel/evaluering_indsats_menneskehandel.pdf>.
- 46 Council of Europe, Council of Europe Convention on Action against Trafficking in Human Beings, CETS No. 197, Warsaw, 16 May 2005, accessed from: <<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=8&DF=15/02/2011&CL=ENG>>13. See, for example: Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *National Referral Mechanisms, Joining efforts to protect the rights of trafficked persons, A practical handbook*, OSCE/ODIHR, Warsaw, 2004, accessed from: <www.osce.org/odihr/13967>, p. 17. Also see: European Commission, Directorate-General Justice, Freedom and Security, *Report of the Experts Group on Trafficking in Human Beings*, European Commission, Brussels, 2004, p. 101.
- 47 Koordineringsenheten for Ofre for Menneskehandel (Coordination Unit for Victims of Human Trafficking), Rapport fra koordineringsenheten for ofre for menneskehandel, Årene 2009 (Report of the Coordination Unit for Victims of Human Trafficking, 2009), April 2010, p. 12.
- 48 See: United Nations, Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children outside their country of origin, Office of the United Nations High Commissioner for Human Rights, Geneva, <[www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2005.6.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2005.6.En?OpenDocument)>.
- 49 **Denmark:** The Danish Institute for Human Rights is overseeing a Complaints Committee for Ethnic Equal Treatment, which receives and investigates individual complaints in this area. This function was added to the mandate of the Institute in light of EU Directive 2000/43/EC and the related Act No. 374 (28 May 2003) on Ethnic Equal Treatment. See: The Collaborating Group on the Children’s Convention in Denmark, *Supplementary NGO Report to the Danish Government’s 3rd Periodic Report Submitted to the UN Committee on the Rights of the Child*, Amnesty International, The Danish Youth Council, The Danish Council of Organisations of Disabled People, DUI – LEG og VIRKE, The Danish Institute for Human Rights, Save the Children Denmark, Save the Children

- Denmark Youth, and UNICEF Denmark, January 2005, p. 8, <www.crin.org/docs/resources/treaties/crc.40/Denmark_ngo_report.pdf>. **Finland:** Relevant institutions in Finland include the Equality Ombudsman and the Ombudsman for National Minorities. See: United Nations Committee on the Elimination of Discrimination against Women, Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Sixth periodic report of States parties, Finland, CEDAW/C/FIN/6, 8 November 2007, para. 12, <www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING_COMMENTS/Norway/Norway-CO-7.pdf>; Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, para. 111, <www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>. **Norway:** The Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the United Nations High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Norway, Convention on the Rights of the Child/C/NOR/4, 11 May 2009, para. 97–99: <www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.NOR.4.doc>. **Sweden:** The Swedish Anti-discrimination Act established an Equality Ombudsman that is mandated to promote implementation of the Act (Chapter 4). See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations Sweden, CRC/C/SWE/CO/4, 12 June 2009, Advanced Unedited Version, para. 5(a), <www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf>.
- 50 Landsforeningen for utekontakter (The Norwegian Association for Outreach Work with Youth at Risk), Enslige mindreårige asylsøkere/mindreårige uten tilknytning til Norge (*Unaccompanied Asylum-seeking Minors/Minors Without Connections to Norway*), Oslo, November 2009, p. 4. Information provided by Uteseksjonen, Oslo, 23 June 2010.
- 51 Basic Education Act (628/1998). See: Parsons, Annika, *The Best Interests of the Child in Asylum and Refugee Procedures in Finland*, Publication 6, Finnish National Rapporteur on Trafficking in Human Beings, Helsinki, 2010, pp. 45–46, <[www.intermin.fi/intermin/vvt/home.nsf/files/VV%20lapsen%20etu%20-selvitys_englanti/\\$file/VV%20lapsen%20etu%20-selvitys_englanti.pdf](http://www.intermin.fi/intermin/vvt/home.nsf/files/VV%20lapsen%20etu%20-selvitys_englanti/$file/VV%20lapsen%20etu%20-selvitys_englanti.pdf)>.
- 52 Finnish National Rapporteur on Trafficking in Human Beings, *Report 2010: Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland*, Publication 7, Helsinki, 2010, pp. 109–110.
- 53 Informed by participants in round-table consultation in Sweden, 3 May 2011.
- 54 Interview with participant 419 in Norway.
- 55 The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, p. 11, <www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf>.
- 56 Informed by participants in round-table discussions in Sweden, 3 May 2011 and in Norway, 5 May 2011.
- 57 United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, para. 23, accessed from: <www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf>.
- 58 See, for example: **Denmark:** Consolidation Act on Social Services (Sections 58(2); 65; 68a; and 71a); Act on Parental Responsibility No. 499 of 6 June 2007 (Section 4). See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, Convention on the Rights of the Child/C/DNK/4, 22 January 2010, para. 63, <www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc>. **Finland:** Child Welfare Act (417/2007), Section 4; Aliens Act (301/2004), Section 6; Act on the Integration of Immigrants and Reception of Asylum Seekers (324/2009), Chapter 4, Section 19; Government Migration Policy Programme, 2006; National Plan of Action ‘A Finland Fit For Children’, 2005; Policy Programme for the Well-Being of Children, Youth and Families. **Iceland:** Child Protection Act No. 80/2002 (Article 4); Child Welfare Act No. 58/1992, as amended by Act No. 160/1998. See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the United Nations High Commissioner for Human Rights, Geneva, Periodic Reports of

State Parties due in 1999, Iceland, CRC/C/83/Add.5, 5 July 2002, para. 118: <[www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument)>. The Children's Act No. 76/2003 (Article 34(2) and 47(1)). See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the United Nations High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, para 52: <www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc>.

Norway: Amendments to the Children's Act 2006, in the context of child protection in cases of custody (Chapter 7, Section 48); the case treatment regulations of 2004, in the context of child protection in cases of custody; the Immigration Act of 2008, in the context of decision making processes when children's application for asylum or residence on humanitarian grounds are examined: Section 38 states that the best interests of a child are to be a fundamental consideration in assessing applications of children. See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, para 22: <www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf>. **Sweden:** Social Services Act of 2001: Chapter 1, Section 2 (Socialtjänstlagen (2001:453), SoL); Care of Young Persons Act of 1990: Section 1 (Lag (1990:52) med särskilda bestämmelser om vård av unga, LVU). See: Eriksson, Maja K., Thematic Study on Child Trafficking: Sweden, European Union Agency for Fundamental Rights and ECPAT Sweden, pp. 16–17 <<http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-se.pdf>>. Aliens Act (SFS 2005:716): Chapter 1, Section 10; Children and Parents Code (SFS 1949:381): Chapter 6, Section 2a. See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations Sweden, Advance Unedited Version, CRC/C/SWE/CO/4, Office of the United Nations High Commissioner for Human Rights, Geneva, 12 June 2009, para. 27, <www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf>.

- 59 Interview with participant 511 in Sweden. Also informed by participants in round-table discussions in Denmark, 28 April 2011.
- 60 Interviews with participant 429 in Norway; participant 510 in Sweden and participants 244 and 233 in Finland.
- 61 Mougne, Christine, *Trees Only Move in the Wind, A study of unaccompanied Afghan children in Europe*, Policy Development and Evaluation Services, United Nations High Commissioner for Refugees, Geneva, 2010, pp. 33-34, <www.unhcr.org/4c1229669.html>. The study was based on interviews with 150 unaccompanied boys from Afghanistan who were seeking asylum in France, Greece, Italy, the Netherlands, Norway and the United Kingdom, as well as additional input. See p. 3.
- 62 United Nations High Commissioner for Refugees, *Guidelines on Determining the Best Interests of the Child*, UNHCR, Geneva, May 2008, <www.unhcr.org/refworld/pdfid/48480c342.pdf>.
- 63 Child Welfare Act (417/2007), Chapter 1, Section 4(2) (Finland).
- 64 United Nations, Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, Office of the United Nations High Commissioner for Human Rights, Geneva, 1 September 2005, para. 79, <[www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2005.6.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2005.6.En?OpenDocument)>.
- 65 United Nations Children's Fund, 'Guidelines on the Protection of Child Victims of Trafficking', Provisional Version, UNICEF Regional Office for CEE/CIS, Geneva, September 2006, p. 3 (Glossary), <www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf>.
- 66 Council of Europe, Committee of Ministers, Recommendation CM/Rec(2007) 9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies, <www.coe.int/t/dg3/migration/Source/Recommendations/Recommendation%20CM%20Rec_2007_9_en.pdf>, accessed 15 November 2011.
- 67 The National Social Appeals Board, Ankestyrelsens praksisundersøgelser, Anbringelse af børn og unge, 2008; cited in: National Council for Children, 'Report to the UN Committee on the Rights of the Child', Supplementary Report to Denmark's 4th Periodic Report, May 2009, p. 18. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Norway, CRC/C/NOR/CO/4, Office of the United Nations High Commissioner for Human Rights, Geneva, 29 January 2010, para. 24, <www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf>.

- 68 United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/15/Add.272, Office of the United Nations High Commissioner for Human Rights, Geneva, 20 October 2005, para. 22, <[www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.272.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.272.En?OpenDocument)>.
- 69 United Nations Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), CRC/C/SWE/Q/4/Add.1, Office of the High Commissioner for Human Rights, Geneva, 24 April 2009, p. 2, <www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf>. See: Statskontoret (Agency for Public Management, Sweden), Barnpolitikens myndighetsstruktur och styrning 2007:15 (*The authority structure and management of the child policy 2007:15*), 2007, <www.statskontoret.se/upload/publikationer/2007/200715.pdf>.
- 70 Koordineringsenheten for Ofre for Menneskehandel (Coordination Unit for Victims of Human Trafficking), *Information to Persons Identified as Possible Victims of Human Trafficking*, p. 4, <www.politi.no/vedlegg/rapport/Vedlegg_396.pdf>.
- 71 Act on the Integration of Immigrants and *Reception of Asylum Seekers, Chapter 4 a, Sections 25(a)-25(f)*; Finnish National Rapporteur on Trafficking in Human Beings, *Report 2010: Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland*, Publication 7, Helsinki, 2010, pp. 41–42.
- 72 **Denmark:** The Children’s Reform provides that children have a “... right to be involved from the age of 12 years in all aspects including complaints about assignment of special support, repatriation from a placement or a foster family or other angles on children’s life” (The Danish Children’s Reform, passed by Parliament in June 2010 and entered into effect in 2011); cited in The NGO Reporting Group in Denmark, Supplementary Reporting from NGOs in Denmark, September 2010, p. 2, <www.crin.org/resources/infoDetail.asp?ID=23458&flag=legal>. The Consolidation Act on Social Services states that “the opportunity for the child or young person...may be dispensed with if the child has not attained the age of 12, or where it is deemed to be harmful to the child or young person” (Article 74(2)). **Finland:** Under the Child Welfare Act, a child is always considered a party to a proceeding in child welfare matters. As of the age of 12 years, children have full procedural rights in most child welfare matters affecting them (Government of Finland, Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child, July 2008, para. 140–142, <www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>. **Iceland:** Under the Child Protection Act, a child aged 12 years or above shall always be given the opportunity to express his or her views. As of the age of 15 years, a child is entitled to act as a party to a child protection case concerning him or herself, and as a litigant if the case is taken to court (Child Protection Act No. 80/2002, Article 46). See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the United Nations High Commissioner for Human Rights, Geneva, Iceland’s Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, para. 59, <www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc>. **Norway:** A child has the right to be heard as of age seven under the Children’s Act, the Child Welfare Act, and the Immigration Act. For younger children, the possibility to be heard is provided for as well but it is not obligatory. See: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Advance Unedited Version, Concluding Observations: Norway, CRC/C/NOR/CO/4, Office of the United Nations High Commissioner for Human Rights, Geneva, 29 January 2010, para. 24, <www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf>. **Sweden:** The Care of Young Persons Act provides the right to be heard in legal and administrative procedures only to children aged 15 or above, whereas younger children shall be heard if that is likely to benefit the investigations and not to cause harm to the child (Section 36).
- 73 For example, Keselman, Olga, *Restricting Participation, Unaccompanied children in interpreter-mediated asylum hearings in Sweden*, Linköping Studies in Arts and Science No. 501, Studies for the Swedish Institute for Disability Research No. 31 Linköpings universitet, Institutionen för beteende vetenskap och lärande (The Swedish Institute for Disability Research), Linköping, 2009, p. 31.
- 74 Keselman, Olga, *Restricting Participation, Unaccompanied children in interpreter-mediated asylum hearings in Sweden*, Linköping Studies in Arts and Science No. 501, Studies for the Swedish Institute for Disability Research

- No. 31, Linköpings universitet, Institutionen för beteendevetenskap och lärande (The Swedish Institute for Disability Research), Linköping, 2009, p. 31.
- 75 Ombudspersons for Children, Submission to the Universal Periodic Review of Norway, 6th UPR Session, November/December 2009, 20 April 2009, www.barneombudet.no/sfiles/80/73/1/file/norwegian-ombudsman-for-children-upr-submission-norway.doc.pdf; Ombudspersons for Children, Supplementary Report to the UN Committee on the Rights of the Child, Oslo, 2009, pp. 11–12, <www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf>.
- 76 Larsson, Nina, *Lyssna på oss! Rapport om barns upplevelser som asylsökande i Sverige (Listen To Us! A report on children's experiences as asylum-seekers)*, UNICEF Sweden, Stockholm, 2007, pp. 4, 8, 11-12, 14, 18, 20, 2010. The study was implemented during 2006 and builds upon interviews with 20 adolescents living in the Stockholm area. Respondents were under the age of 18 and had been granted a residence permit when the interview took place. There was gender balance among the participating children and they came from different countries. See p. 4.
- 77 See for example: **Denmark:** For appeal under the Consolidation Act on Social Services: The National Social Appeals Board (Ankestyrelsen) Ministry of Social Affairs and Integration, Social Issues, <<http://english.sm.dk/social-issues/Sider/Start.aspx>>, accessed 19 August 2011. **Finland:** Administrative courts (asylum matters: Helsinki Administrative Court); Supreme Administrative Court Finnish Immigration Service, Immigration Issues in Finland, <www.migri.fi/netcomm/content.asp?article=2643>, accessed 19 August 2011. **Iceland:** Appeal is made to the relevant ministry. See: United Nations Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fourth Periodic Report, Iceland, CCPR/C/ISL/2004/4, Office of the United Nations High Commission for Human Rights, Geneva, 28 June 2004, para. 38, <[www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument)>; United States Department of State, Bureau of Democracy, Human Rights, and Labour, *2008 Human Rights Report: Iceland, 2008 Country Reports on Human Rights Practice*, 25 February 2009, p. 6, <www.state.gov/g/drl/rls/hrrpt/2008/eur/119084.htm>. **Norway:** Appeal on administrative decisions relating to immigration issues is made to the Immigration Appeal Board (UNE). See: Thorud, Espen, Eva Haagenen and Finn Ola Jølstad, *International Migration 2007–2008, SOPEMI-report for Norway*, Oslo, 2008, p. 9, <www.regjeringen.no/upload/AID/publikasjoner/rapporter_og_planer/2008/R2008_migration_sopemi.pdf>. **Sweden:** Appeal against administrative decisions regarding immigration issues are made to the Migration Courts. See: Econ Pöyry, *The Enforced Return of Irregular Migrants: Rules and practices in Norway, France, Poland and Sweden*, Commissioned by the Norwegian Directorate for Immigration (UDI, Utlendingsdirektoratet), Report 2009-026, Oslo, 2009, pp. 7, 83, 90, <www.econ.no/stream_file.asp?iEntityId=4400>. See also: Jonsson, Anna and Dominika Borg, 'Return: The Swedish approach', *Working Papers* No. 108, Department of Eurasian Studies, Uppsala University, Uppsala, 2006, p. 17, <www.temaasyl.se/Documents/EU-dokument/EMN/Return%20The%20Swedish%20Approach.pdf>.
- 78 Children's Rights Convention Network, *Supplementary Report by Children, Young People and Adults in Sweden to the UN Committee on the Rights of the Child: Comments to the Government of Sweden's Fourth Periodic Report from the Swedish NGO Children's Rights Convention Network*, 25 June 2008, p. 10, <www.crin.org/resources/info-Detail.asp?ID=20372&flag=legal>; Ombudspersons for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, p. 8, <www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf>. National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 4th Periodic Report*, May 2009, p. 8.
- 79 Committee on the Rights of the Child, General Comment No. 7 (2005): Implementing child rights in early childhood, CRC/C/GC/7/Rev.1, 20/9/2006, Office of the High Commissioner for Human Rights, Geneva, 20 September 2006, para. 10, <[www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/7cfdace016acd61c1257214004713a4?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/7cfdace016acd61c1257214004713a4?Opendocument)>.
- 80 The Collaborating Group on the Children's Convention in Denmark, *Supplementary NGO Report to the Danish Government's 4th Periodic Report to the UN Committee on the Rights of the Child*, The Rights of All Children, Amnesty International Danish Section, The Joint Council for Child Issues, Children's Welfare in Denmark, Disabled Peoples Organisation Denmark, DUI – Leg og Virke, Save the Children Denmark, Save the Children Youth Denmark, The Danish Red Cross Youth, The Danish National Committee, and UNICEF, May 2009, English translation June 2010, pp. 21–22, 23.
- 81 **Finland:** Government of Finland, Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child, July 2008, para. 317, <www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>. **Norway:** Directorate of Immigration, Unaccompanied Minor Asylum Seekers,

- (updated) 30 December 2009. **Sweden:** Committee on the Rights of the Child, 'Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4)', Office of the High Commissioner for Human Rights, Geneva, 24 April 2009, p. 11, <www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf>.
- 82 Brunovskis, Anette and Lise Bjerkan, 'Research With Irregular Migrants in Norway: Methodological and ethical challenges and emerging research agendas', *Learning about Illegals: Issues and methods*, FoU-Report June 2008, Utlendingsdirektoratet (Norwegian Directorate for Immigration), Oslo, 2008, pp. 8–63, <www.udi.no/upload/FOUrapport%20SSB%20FAFO.pdf>. See also: Parsons, Annika, *The Best Interests of the Child in Asylum and Refugee Procedures in Finland*, Publication 6, National Rapporteur on Trafficking in Human Beings, Helsinki, 2010, pp. 45–46. The Collaborating Group on the Children's Convention in Denmark, *Supplementary NGO Report to the Danish Government's 4th Periodic Report to the UN Committee on the Rights of the Child*, The Rights of All Children, Amnesty International Danish Section, The Joint Council for Child Issues, Children's Welfare in Denmark, Disabled Peoples Organisation Denmark, DUI – Leg og Virke, Save the Children Denmark, Save the Children Youth Denmark, The Danish Red Cross Youth, The Danish National Committee for UNICEF, May 2009, English translation June 2010, pp. 21–22, 23.
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