**2015-4-6/ ECPAT Germany**

1. Elements that are necessary for a comprehensive and right-based care and recovery system of child victims of sale and sexual exploitation

In order to provide adequate protection and support for children affected by trafficking as well as in the attempt to avoid re-traumatization and re-victimization, a well-structured and trusting cooperation between all concerned actors is crucial and inevitable. On the *Länder*-level (federal states) this cooperation works as round tables or working groups on the issue of human trafficking, the focus on child trafficking is however mostly missing. Another crucial step in providing a comprehensive and right based approach is the implementation of international conventions. Only if a country manages to implement the EU directives, e.g. on victim protection, there is a valid foundation for all further measures which have to be taken in order to protect children from human trafficking. These international legislations provide the foundation for all further measures since they give definitions, guidelines, implementation obligations as well as precise instruments. In regard to child victim protection most international conventions advise to go beyond government authorities when it comes to handling the child’s status and stresses the importance of counselling centers working with boys and girls who have experienced sexual violence, public health offices, international law enforcement offices, social welfare agencies, education authority, trauma therapeutic specialists or the customs. Furthermore, with each suspect of child trafficking the situation and circumstances of the child need to be evaluated. In case of an unaccompanied minor refugee or an underage asylum seeker, authorities such as the foreigners' registration office, the ministry for migration and refugees or the international social service has to be contacted as well.

Looking at German legislation, the Federal Child Protection Law of 2012 (Bundeskinderschutzgesetz) provides the framework for a network structure which is able to strengthen and further develop the cooperation between actors on a federal level. Even though this law provides a very good overall framework it still lacks some important points indicated by international legislations. For instance, the Federal Child Protection Law does not include that certain enterprises and public health institutions such as hospitals or professions such as doctors or delivery nurses have to comply with the criteria of the law.

Currently a professional group is working on a concept paper (Bundeskooperationskonzept) which will be presented to the different *Länder* soon (latest autumn 2015) and is intended to provide an action guideline for a national referral mechanism (NRM). In order to provide all necessary assistance and rehabilitation measures for child victims of human trafficking there are some starting points to ensure adequate assistance and protection measures for the child victim. Amongst others, the points include that all legally bound actors are entitled to further training and sensitizing on the topic of child trafficking. The financial means for these further qualifications should be provided. In the different professional fields such as the police or the district attorney’s office, those handling the case should be a designee for offenses concerning child trafficking and therewith also in contact with the other cooperation partners. Concerning the cooperation with the youth welfare services, the police as well as the district attorney’s office should have a local contact person for matters concerning issues such as housing and the supervision of the child.

1. Examples of good practices and successful initiatives of assistance and rehabilitation

In regard to successful assistance and rehabilitation initiatives the German model is still lacks effective measures. Even though in certain federal states, some NGOs and counseling centers take appropriate actions and initiatives, a general and comprehensive approach is however still missing in Germany.

Looking at some of these national practices there are a few local shelters and NGOs such as *Berliner Jungs* or *IN VIA* which accomplish good results on a local level and recognizing the weak points of victim protection for instance by supporting boys who have been victims of sexual exploitation.

Another good practice example is the concept paper on the cooperation between the specialist counselling services and the police for the protection of victim witnesses. On base of that, a group of professionals is drafting a concept paper on the cooperation between relevant actors responsible for the protection of children who have been victims of human trafficking. This concept paper will include also an indicator list which can be used as a guideline when identifying a potential victim.

Taking the example of the identification process, meaning the recognition that the child is a victim of human trafficking, this is the precondition for the child to receive the adequate protections measures[[1]](#footnote-1).

1. Challenges of assistance and rehabilitation programs for child victims

In the face of tackling the issue of child trafficking and looking at the situation of assistance and rehabilitation programmes for child victims, Germany being a source, transit and destination country is confronted with different challenges. The situation of child victims is much more comprehensive than for adult victims of trafficking since more actors are involved in the assistance and rehabilitation process of these children. Germany does not have a comprehensive policy or National Action Plan to combat THB. In the year 2011 the ”Action Plan of the Federal Government to protect children and young people from sexual violence and exploitation” was adopted but it contains only three pages on the topic of child trafficking and only a few isolated measures against trafficking of children. There is a Federal Working Group on Human Trafficking (former name till 2013: Working Group on Trafficking in Women), but the focus of the work of this body lies on the issue of sexual exploitation of adults. The topic of child trafficking is processed in separate structure of a monitoring group in the context of the imple­men­tation of the Action Plan 2011. On a federal state level child trafficking is not a subject matter in any committee.

Whereas in regard to general human trafficking the Working Group on Human Trafficking drafted a concept paper on cooperation between the specialist counselling services and the police for the protection of victim witnesses, Germany still lacks such a concept paper solely for child victims. As states in Question 1, the elaboration of such a cooperation model is ongoing. Such a concept paper is necessary since, to name only a few examples, in Germany the legal, by definition distinction between child trafficking and human trafficking is not clear enough.

Furthermore, the German Penal Code does not provide a precise differentiation between trafficking of minors and sexual abuse of minors. Since these two offences are often interlinked it is quite difficult to separate them in practice. Many times preliminary investigations of human trafficking are due to the complexity and the high standard of evidence dismissed as cases of sexual abuse of minors. In this case the minor cannot be recognized as a victim of human trafficking for the purpose of sexual exploitation and therewith also does not get the adequate and required assistance and rehabilitation measures which the child would be entitled to in the case of trafficking. As a consequence the structures behind the crime of human trafficking remain unrecognized and therewith unpunished. In order to improve the situation of child victims in those cases, a concept paper provides for all *Länder* the fundamental determination that already the suspicion of child trafficking is sufficient enough for the minor to receive the access to assistance to protection measures.

Another challenge provides the law on which actors have to be involved. By German law the following actors have to be included in cases of child trafficking: the family court, youth welfare service, police, the district attorney’s office as well as a legal guardian. The law does however not go beyond the authorities and lacks to name the importance of specialized counselling services (NGOs) in cases of child trafficking. Moreover, it cannot be expected that the above mentioned authorities also have the required knowledge on the topic of child trafficking whereas counsellor’s centres or NGOs specialized in the protection of children from any forms of exploitation might have a much better expertise.

One of the major problems faced by those fighting against child trafficking is the gap in the German legislation on the group of victims. Until now almost all laws concerning the exploitation of children exclusively refer to those victims affected by sexual exploitation. Other and especially newer forms such as labour exploitation, organized theft or organ transplantation do not find much attention on both the legislation as well as assistance and rehabilitation level. Also, there is no special treatment of minor victims of human trafficking when it comes to the issue of the residence permit although the Convention of the Council of Europe requires it. The Legal regulations in § 59 ( 7), 25 (4) and (5) Residence Act are not sufficient.

Furthermore, many criticise the often still established emphasis on female child victims. Even though the assistance and protection for boys is increasing, many governmental as well as non-governmental actors focus mainly on girls who have been victims of human trafficking for the purpose of sexual exploitation. There are no specialized and safe shelters for child victims of human trafficking in Ger­ma­ny. For a future imple­men­tation of specialized shelters, there is a gender difference when it comes to the need of the children affected.

Question 4 and 5 are not relevant to ECPAT Germany as our organisation does not work directly with child victims of human trafficking.

4.  How do you ensure that the views and needs of children are duly taken into account in the design and provision of care and recovery services?

5.  How do you ensure access of child victims to support services?

1. In the case of Great Britain, national referral mechanisms were introduced which allocate the responsible actors and arrange the identification process of the potential child trafficking victims. Great Britain is also a good example for the indicator list which can be used as a guideline when identifying a potential victim. Of course this list cannot be universally applied since each case is different and requires an in depth evaluation, it does however functions as a good base for the identification process. [↑](#footnote-ref-1)