

CBSS Conference (OSLO, 29 and 30 May 2018)

GOOD PRACTICES IN IDENTIFYING CHILDREN AT RISK OF EXPLOITATION AND TRAFFICKING

“Strengthening systems of identification and referral of children on the move, victims of trafficking or other forms of exploitation”

by Maud de Boer-Buquicchio
UN Special Rapporteur on the sale and sexual exploitation of children and President of Missing Children Europe

- **Thank** the organizers (particularly Turid) for the invitation
- **Commend the goals** of the “PROTECT children on the move” project
- express **appreciation** for being able to **contribute** to the **process** and project **outcome** and the **OSLO conclusions** which we will discuss at the end of our meeting
- **Commend** the work of the **Children at risk Unit** at the Council of the Baltic Sea States in promoting child rights and comprehensive and sustainable child protection, including protection of migrant children and child victims of exploitation and trafficking.
- Express pleasure of having taking part in **September 2014** in the third Expert Meeting focusing on concrete experiences and learning, and case examples (from countries of destination and origin) of children exposed to trafficking and exploitation, and children at risk in the context of returns and transfers.¹

¹ “Children exposed to exploitation, trafficking and children at risk” is the term used by the organizers. However, consider using the term child victims of trafficking and exploitation, and potential child victims (or children in vulnerable situations who risk falling victims of abuse and exploitation).

- Much has happened since in CBSS and **other European regional organisations** or institutions (CoE, EC) for standard setting work, particularly activities based on Member States 's treaty obligations by monitoring bodies: Lanzarote, GRETA etc.
- Contribution by the Special Representative of the SG of the Council of Europe on migration.
- European Commission: Communication on the protection of children in migration in April 2017. ²
- EP Resolution for the Protection of Children in Migration that has been approved on 03/05 by the European Parliament (for which the EP Intergroup on Children's Rights was instrumental)
- CSO's: Commission's Communication immediately followed **MCE's first Conference in Malta "Lost in Migration"**, hosted by HE ML Coleira Preca, President of Malta and **recent 2nd edition of "Lost in Migration"**³ held in Brussels.
- At **global** level: after NY Declaration, ongoing negotiations on **Global Compact on Migration (GCM) and the global Compact on Refugees (GCR)**.

² The Communication addresses many key actions that can have an important impact on the protection of children before and after having crossed European borders. Among others, the Commission calls for a joint commitment of European Institutions and Member States in strengthening child protection systems along migratory routes and within Europe. It calls for collecting and exchanging comparable data to facilitate the cross-border tracing of missing children and the verification of family links. It also calls for ensuring that a person responsible for child protection is present at an early stage of the identification and registration phase.

³ Has become a forum to exchange expertise and to elaborate strategies and recommendations for decision makers, with the final goal to make sure that young newcomers feel safe, integrated and respected in Europe.

Last Conference identified the need of a guiding document at European level, promoting a comprehensive and structured approach to the protection of children in migration that may help the child to exit from situations of exploitation.

Need to put emphasis on prevention at local level in order to avoid children in migration from becoming victims of trafficking and exploitation. Building a safety net around them. Two specific approaches particularly successful in local communities: early integration and individualised approaches. (cf below)

- **CRC** : joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return
- **Report** by MGG, UN SR on trafficking and myself to the UN-GA on **the vulnerabilities of children to sale, trafficking and other forms of exploitation in situations of conflict and humanitarian crisis**, and the findings and recommendations we issued. Report available: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/218/83/PDF/N1721883.pdf?OpenElement>
- **UNICEF**: Remarkable research and advocacy work.
- I will examine today's topic under the wider spectrum of migration of children, even if domestic trafficking of children is also cause of great concern.

- Some figures/trends: Around the world today, 50 million children have migrated across borders or been forcibly displaced within their own countries. More than half – a shocking 28 million – have been uprooted by horrific conflicts. The number of child refugees jumped by roughly 75 per cent between 2010 and 2015. It's no coincidence that the same time period saw 15 conflicts either break out or reignite – from the Syrian Arab Republic to South Sudan, from Yemen to Afghanistan ⁴
- Children account for approximately 28% of trafficking victims globally⁵.
- As one of the main destinations for children on the move who are

⁴ ("Uprooted, the growing crises for refugee and migrant children" (UNICEF 2016))

⁵ UNICEF « A child is a child : Protecting children on the move from violence, abuse and exploitation

fleeing violence, conflict and humanitarian crisis, Europe is at the heart of the sale of, trafficking in and other forms of exploitation of children

- 170.000 unaccompanied children applied for asylum in Europe in 2015-2016. 7 in 10 children seeking asylum in Europe in 2016 were fleeing conflict in Syrian Arab Republic, Afghanistan and Iraq.
- High rates of trafficking in and exploitation of children have been documented on the central Mediterranean route from North Africa to Italy. Unaccompanied and separated children accounted for 92 % of all children arriving to Italy by sea in 2016 and the first months of 2017.
- However **little do we know what happens to these children once they have set foot on European soil**. Europol provided us in 2016 with startling and probably underestimated figures about children disappearing and we can only guess their fate, vulnerable as they are to become prey for unscrupulous traffickers and other criminal networks
- In 2017, almost 6000 unaccompanied children were unaccounted for in Italy. In Sweden, the equivalent of 60 school classes missing between 2014 and 2017.
- In the absence of safe and regular migration channels, as well as permanent and accessible mechanisms for children and their families to access long-term regular migration status or residence permits, children are forced to search for precarious alternatives that increase their exposure to risks of sale, trafficking and other forms of exploitation
- Threats and risks faced by boys and girls do not end when they leave their home countries as a result of war, conflict, humanitarian crises, poverty, gang violence, harmful practises and more. As they travel onward, often paying their way through dangerous routes by using exploitative smuggling and trafficking networks, children are subject to further violence, abuse and

exploitation, including at borders owing to pushbacks and interceptions by border control officials. Unaccompanied children and those separated from their families face heightened risks, both along the route and upon arrival in transit countries

- Factors contributing to the sexual exploitation of children on the move include their lack of financial resources, the failure of child protection and welfare systems to act as a safety net, the prolonged exposure to inhumane living conditions and a protracted and overly burdensome path to residence status.
- The **lengthy processing of family reunification and resettlement solutions or inefficient family reunification procedures** (when they are available at all), in addition to poor living conditions experienced in camps and the possibility to be placed in detention, are all factors driving migrant children to avoid the child protection system in transit and destination countries.
- In Greece, children in or outside refugee camps are sexually exploited, generally through deception about the amount they would need to earn in order to pursue their journey. Unable to collect enough money to cover their onward journey, many get discouraged and get involved in drugs, shattering any hope of continuing their journey
- Similarly, girls are trafficked for sexual exploitation in temporary reception centres and informal settlements. In northern France, some children were transported to Spain, where they were sexually exploited in order to cover the cost of their onward journey to London of around €9,000. In the same area, some children claiming to be adults were sexually exploited for the promise of passage to the United Kingdom or in order to pay for the journey by receiving around €5 a time for sexual services, revealing the level of pressure that they were under to raise the €5,000 to €7,000 charged for their passage

- Living in limbo for long periods owing to delays or inefficiencies in or the absence of legal paths to migration may drive children who have depleted their financial resources to seek alternative ways, whether legal or illegal, to earn money either to survive or to continue their journeys. Moreover, when they are out of school for long periods, undernourished and without health care, impoverished and beset by mounting anxieties as uncertainty drags on, children become increasingly vulnerable and desperate.

Ladies and Gentleman

- Trafficking in and sale of children are among the worst crimes against children brought to the forefront at varying degrees in the last few decades. **Both crimes are very similar, though not identical.**
- distinguishing them is not just an academic exercise but importance for criminalisation under domestic law in order to ensure accountability
- Both crimes are referred to in conjunction with each other and without clear distinction in the UN Convention on the Rights of the Child (CRC) and ILO Convention 182.
- The Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (OP-SC) defines the sale of children (Article 2 (a)) 6). Sale of children requires both the transfer of a child from person to person and a transaction, consisting of some form of remuneration, which is not necessarily the case for trafficking, which is often related to deceit.
- Human trafficking is defined by the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and

⁶ “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.

Children. The Palermo Protocol includes trafficking of children. It is important to note that when the victim is a child, the “means” by which the crime is achieved is irrelevant. For the act to constitute the crime of trafficking where a child is concerned, what matters is the end result by which a person takes control over the child.

- The qualification of the crime as either trafficking or sale very much depends on the circumstances of each case: was there a commercial transaction?, what was the purpose ? etc.
- Whether the result of trafficking or sale of a child, the reality is that children are being treated as **commodities**, which is exactly what the CRC, the OP-SC and the Palermo Protocol tend to prohibit.
- Let's take a classic scenario of child (early and forced) marriage: Sana is a 15 year old girl. She lives with her family in a refugee camp where they struggle to get access even to basic necessities like food and water. Sexual abuses in the camp are rife and the parents want to make sure their daughter is safe. An acquaintance in the camp tells them about a 40 year old man abroad who is looking for a bride and who would rescue Sana from such risky environment. In addition, the family will receive a dowry, which will reduce their economic burden. Eventually, Sana's family decides to marry her to this unknown stranger expecting that she would embrace a happier life. Soon after her marriage and once abroad, her husband repudiates her and sells her to a brothel.
- Other classic trafficking scenarios evolve around young boys or girls travelling alone who place their scarce money and trust in the hands of traffickers who promise them employment abroad but who equally end up exploited on the labour market or in the sex industry, deprived of their ID's, covered in debts and with no one to turn to.
- In the face of such horrendous crimes, what is the assistance,

support and protection available for these children on the move?

- The international community, and in particular Member States, have an international obligation to address those risks and prevent the sale, trafficking and other forms of exploitation of children from happening, and to assist them when such heinous crimes occur. Regardless of their status and the territory in which they find themselves, States have an obligation under the CRC to protect these children.
- Let us face it: a major cause that contributes to the vulnerability of boys and girls is directly linked to the restrictive immigration policies adopted by states that contribute to exacerbate the vulnerabilities of child migrants.
- The current poisonous political discourse in many European countries to anti-migration and even racist positions, or gives rise to fears and intolerance. In these situations, the main concern of many governments, is to drastically limit or even block migration flows, with little attention paid to the human rights implications of such policies, and no significant solutions, so far, in terms of shared responsibility with countries of first arrival.
- Limited and decreasing investment in durable solutions
- In this regard, the first imperative is to establish significant and **legal channel for migration, including for family reunification**. In addition, there is a need of reconciling migration policies and anti-trafficking policies. Migration policies very often are in evident contrast with the declared aim of eradicating trafficking in persons, as they create irregularity and make it easier to exploit child migrants, who are induced to accept exploitative conditions for fear of deportation.
- To respect and apply the rights enshrined in the Convention on the Rights of the Child, States have the legal obligation to ensure that protection measures follow the **general principles** of non-discrimination, best interests, right to life, survival, development

and respect for the views of the child.

- It is crucial that States can quickly and comprehensively respond to the specific vulnerabilities and needs of migrant children.
- Host countries need to ensure that unaccompanied and separated children are promptly identified, registered and referred to the child protection system. Concerns have also been raised about the policy adopted by some States to **discourage unaccompanied children in transit to apply for asylum or any other form of protection**.
- Concrete ways of operationalizing the best interests of the child principle include strengthening child protection systems, including, inter alia, by investing in the social workforce, promoting closer collaboration between immigration authorities and child protection and welfare actors, and ensuring that child protection authorities are in the lead whenever children are concerned.
- The situation of children coming to Europe is extremely diverse, first and foremost because of the individual vulnerabilities and risks that result from each child's background and personality, but also the circumstances in which (s)he has left the familiar environment and the migration path so far.
- Responses by authorities in the receiving countries tend to differentiate between them depending on their status. These labels aim at comprehensively representing those children who come to Europe with the hope to find protection, recognition of their refugee status, better opportunities, safety, or reunite with their family, a society and a system that respects their rights as a child. However, they inevitably fall short as children in migration comprise a heterogenous group with their own experience and vulnerabilities, expectations and needs.
- Vulnerabilities can be linked with the **drivers for leaving their countries**, especially as a consequence of conflict, discrimination, gender violence, extreme poverty, often a combination of different

factors.

- Vulnerabilities can derive from **circumstances encountered during the travel**, such as extortion, sexual exploitation such as rape, “temporary” child or forced marriages, and labour exploitation, detention in inhuman conditions, the failure of child protection and welfare systems to act as a safety net, the prolonged exposure to inhumane living conditions and a protracted and overly burdensome path to residence status and the use of hazardous means of transportation.
- Moreover, vulnerabilities can derive from **personal conditions** such as pregnancy, disabilities, poor health conditions. Unaccompanied children and those separated from their families face heightened risks, both along the route and upon arrival in transit countries.
- A protection system based on a **common definition** of a homogeneous group of children in need of care is bound to be **ineffective**. There is a need to move from a system providing care based on general definitions to a system that allocates resources and develops care plans on an **individual assessment** and individual needs, where the child’s best interest should be a prominent feature. One good local practice is the ‘Establishment Lines’ sheet that the city of Trelleborg in Sweden is using. In this sheet, children can elaborate on their goals and plans, and together with a social worker will be supported to successfully work towards the written goals.
- Regardless of the context, children who are victims of trafficking and other forms of exploitation are **entitled to the right to be identified, to protection, to assistance and support, to safe return and protection from re-trafficking and persecution, and to access remedies**. They also have specific rights and requirements in respect to care, recovery and reintegration. They require **holistic care provided on an individual assessment basis, while being consulted, and with their best interests**

at the heart of every measure taken.

- Unfortunately, in countries where **reception networks are overwhelmed** by the increasing number of children on the move, individual assessments of the best interests of the child are not taken into account and children are placed in inadequate facilities. These deficiencies in the protection system also increase children's vulnerability to exploitation and trafficking.
- Confronted with the States' failure to provide an adequate response, children see **traffickers and smugglers as a preferable source of support.**
- In Europe children may not wish to be identified in the first European Union country that they enter in order to escape the implications of the **Dublin** regulation (regulation (EU) No. 604/2013) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
- These reasons, together with the gaps identified in child protection systems and the lack of reliable data and coordination among services and across transit and destination countries, contribute to the rising figures of **missing children.**
- The absence or inadequacy of child protection systems, the lack of coordination among different child protection services and the limited capacity in camps to host children in specialized and separated facilities exacerbate the risks to exploitation to which they are exposed during their journey.
- Effective procedures for the identification of child victims of sale, trafficking and other forms of exploitation are **key** in areas of arrival of large influxes of people fleeing conflict and humanitarian crisis. Proper identification should be the starting point for a process of recovery and integration.

- Too often children victims of trafficking go **unnoticed** owing to a lack of or inadequate reporting procedures while indicators of exploitation are often overlooked due to lack of knowledge and expertise.
- Identification procedures must take into account the age, gender and cultural background and maturity of the child as well as the circumstances of his or her journey. This approach should be aimed at establishing a relationship of trust with children, ensuring that their views are heard and duly taken into account.
- A lack of confidentiality and child-friendly spaces and complaint mechanisms also hampers the establishment of a **bond of trust** with the children that would enable them to share their concerns and report violations.
- Responses to the current humanitarian crises are increasingly dependent on voluntary work and as a result frontline workers are not always appropriately **trained** or able to detect such complex situations as trafficking in persons or other forms of child exploitation. This **lack of knowledge** and awareness among the humanitarian community about the vulnerabilities experienced by boys and girls on the move represents a further barrier in protecting these children's rights effectively.
- Ensuring full **access to information about their rights and** the protection and support services available to them is equally crucial.
- Timely information, legal options and legal counselling, timely appointment of guardians and firewalls between child protection and migration authorities as effective means to safeguard the children's interests and protect their rights, including access to justice and remedies.
- The **Miniila app** for mobile phones (<https://www.youtube.com/watch?v=sO9SQgMit6s&feature=youtu.be>) developed at the initiative of MCE in cooperation with children to provide them in a language which they understand to the

services available to them, such as shelter, food, legal assistance and health services in the area where they are, based on geolocalisation, but also on information on their rights, and on relevant procedures for international protection and family reunification is a praiseworthy initiative in this respect.

- Access to support services, including interim care, for children fleeing armed conflicts and crises, often largely depends on the facility where they are housed. Among good practices is the creation of child-friendly spaces within interim care services such as the “**blue dots**” of UNICEF and UNHCR and the child-friendly spaces established after natural disasters by Plan International. These promising examples are based on child participation and family-based or family-like solutions.
- Despite existing guidelines, approaches to the **age and filiation determination of children** raise major concerns. Age determination procedures are frequently intrusive, unreliable and often expose unaccompanied children to the same violations as undocumented adults. Inaccurate age assessment and the lack of recognition of a child status by coercion used for age assessment have resulted in accompanied children facing risks of detention, deportation and violence. **Child protection safeguards** should apply to the collection of biometric data.
- The alarming practise of **detaining children** owing to their irregular migration status should immediately be banned. Ban the administrative detention of children, in particular, but not only, for violations of immigration laws and regulations; ensure that children who are victims of or vulnerable to sale, trafficking and other forms of exploitation are not detained, prosecuted or punished for violations of immigration laws or for unlawful activities that they are involved in as a direct consequence of their situation as victims of exploitation. States should avoid criminalization of migrants who are victims of trafficking in persons for acts committed while being trafficked, and ensure that protection and assistance to victims are not conditional upon

cooperation with the authorities against suspected criminals.

- Immigration detention is not a measure consistent with providing child protection. Even for short periods of time, detention is an extreme measure completely incompatible with the protection needs and the best interest of children. (Cf also General Comments CRC). Regardless of the conditions in which children are held, a number of studies have shown that detention has a profound and negative impact on children's physical and psychological health and cognitive development which translates into immediate and long-lasting effects on children and families.
- Worrying practises developing in Europe
- When the child's best interests require keeping the family together, the imperative requirement not to deprive the child of liberty should extend to the child's parents and requires that the authorities choose alternatives to detention for the entire family!
- Beyond short term provision of services, every child needs an **individualised life plan** based on the identification of vulnerabilities and **potential of each individual child**. While adequate interim solutions are imperative, there is a need for the adoption of long-term durable solutions. In this respect what we have seen in Europe shows more investment in such life plans is needed .
- Efforts should include measures in view of **transition of childhood into adulthood**, while that aspect is often overlooked, whereas the majority of unaccompanied minors are precisely in that age category!
- I have met and talked to such kids in a visit to a **reception center in Italy**. Confronted with the complexity and length and uncertain outcome of administrative proceedings and in the fear of being returned to where they came from and because of lack of trust in authorities they often prefer to continue their perilous

journey and are thus easy prey for criminal networks. Once in the hands of exploiters they are subject to the worst forms of child labour, including forced labour and sexual exploitation.

- States' capacities and approach to implementing **durable solutions** for children vary. While some prioritize child protection, others look at it as a matter of security, do not consider such situations as their responsibility or do not have the capacity to provide child protection.
- A **durable solution** is a long-term, sustainable solution that ensures that all children, including unaccompanied and separated children, can develop into adulthood in an environment that will meet their needs and rights, including recovery and (re)integration.
- Child victims have the right to receive long-term care and protection, including full access to health care, psychosocial support, social services, education, vocational training and life skills education. In consultation with the child and in coordination with the local child welfare systems, an individual plan should be adopted, and arrangements need to be found that favour family- and community-based solutions.
- Good practises exist. On early integration: multiple cities, such as Genova, Tilburg and Vienna have implemented specific initiatives in support of early integration of children in migration. The city of Vienna, for example, implements an approach that can be named "Integration from day 1", starting the integration and empowerment initiatives from the first day that unaccompanied children arrive in the city – even before it is determined whether they can stay in the city or country. These initiatives ensure that the integration process is such that youngsters can acquire important skills to increase employment opportunities wherever they will be, and makes them feel useful and part of a community.

- In addition to local integration, solutions may encompass voluntary repatriation, resettlement, and and other durable solutions.
- However, the common practice has been the **return** of the child to their family or country of origin **as a first option**.
- States should only return or repatriate unaccompanied children as a measure of protection, for example, to ensure family reunification in cases in which it is in the child's best interest and after due process of law.
- States must ensure that return decisions are carried out by competent authorities, including child protection and welfare authorities, and removal orders follow an individualized assessment of the circumstances that may weigh against the expulsion, such as risks of torture, persecution, gross violations of human rights or other irreparable harm, in compliance with due process guarantees, in compliance with non refoulement, and with special attention to the real risks for children, so as to preclude the possibility of forced return to an unsafe country of origin, to a third county, or to a situation where the well-being of a child or other vulnerable migrant is at risk .
- These processes call for **cross border cooperation between child protection authorities**, with child protection authorities in countries of return. Trans-border cooperation in the best interest of the child, and not only for migration management, should be improved with urgency.
- Whatever the solution, children need to be associated with the determination of his/her best interest.

Ladies and Gentleman,

- Trafficking in and the sale and sexual exploitation of children is a global phenomenon. To effectively prevent and combat this scourge, there is a need to establish global responses, through a

global legal framework and sustainable transnational cooperation whether at regional or global level.

- States must also proactively fight impunity and bring perpetrators of trafficking and other forms of exploitation to justice by implementing international instruments fully and effectively addressing the specific obstacles that children may encounter as a result of their migratory status and improving cooperation across countries.
- Negotiations on GCM and GCR together with actionable commitments are well under way:
- Though primary objective is to regulate safe migration (for adults) and not necessarily protection of those (children) who do not abide by the rules, the importance of a child rights perspective has been acknowledged and various parts of the current draft reflect that.
- Nonetheless improvements are still possible and in some areas even imperative:
- Examples:
 - the absence of reference to child-specific drivers of child and adolescent migration (such as domestic violence, recruitment by gangs, child marriage and other traditional harmful practices, lack of educational opportunities, family reunification and climate change)
 - the need to define family beyond parents and children and to look at family reunification on a case-by-case basis, also recognizing de facto personal ties and dependency among relatives, foster family, etc.
- The most contentious paragraphs that concern children include objectives 5 (g) on family reunification, 13 (g) on child immigration detention, 15 (c) on access to services, 16 (g) on access to secure status, 21 (g) on child returns, as well as objectives 7 and 12

overall (specifically regarding family unity and reunification, firewalls or pathways to secure status for children in vulnerable situations).

- The 2030 Agenda for Sustainable Development calls on States to eradicate trafficking in and other forms of exploitation of children. This is not only a political commitment but also an international obligation and a moral imperative.
- If we do not act accordingly many more children will not only be lost in their search for protection but they will become a lost generation for whom ultimately we will be held accountable.

Thank you