

International Round Table
Preventing Human Trafficking
through 'Decent Work for Everybody' and Combating
Child Trafficking & Exploitation in Europe

Haus der Europäischen Union, Wipplingerstraße 35, Vienna
30 September 2016, 9.00 – 16.00

11.30-12.30 **Re-framing Mindsets**
From Protection Failures and Escape Strategies to More Effective Protection and Prevention
of Trafficking in Children and Minors

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Panel Discussion Speaking notes

'Do we really have a common understanding of what constitutes "child trafficking"? How/where to draw a clear dividing line between child trafficking, severe forms of child labor, child pornography, illegal adoptions?

- Protection failures and the impact of existing mindsets – unfortunately, the discussion about trafficking of children **started at the wrong end!**
 - Stereotype of (child) trafficking: organised criminal cross-border child prostitution
 - image of sexual exploitation
 - image of organised crime
 - image of cross-border dimension
- ⇔ much more diverse realities ...
- + weak societal **status of children** (including lack of child rights protection) as a root cause, not poverty
- In addition: no clear understanding what constitutes forms of **exploitation** of children, different from violence, on national level
 - I would like to start with questions of definition - How is **child trafficking defined?**
 - Art 4 CoE Convention mirrors Art 3 Palermo Protocol: action + intention for exploitation – no means element to be proven.
 - However, means element important for understanding the distinct nature of trafficking – on the side of the trafficker: creation of situations of dependency
 - Makes child trafficking difficult to distinguish from preparatory acts for child exploitation
 - See 2007 **Lanzarote CoE Convention on protection of children against sexual exploitation and abuse** + Committee Opinion 2015 on Art 23/online grooming

Article 19 – Offences concerning child prostitution

1 Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a **recruiting a child into prostitution** or causing a child to participate in prostitution; [...]

Article 21 – Offences concerning the participation of a child in pornographic performances

1 Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a **recruiting a child into participating in pornographic performances** or causing a child to participate in such performances; [...]

Article 23 – Solicitation of children for sexual purposes – **online grooming**

Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.

- => Where is the border line between CoE Lanzarote Convention and CoE Anti-trafficking Convention, between sexual abuse/exploitation and trafficking for that purpose? What is the difference between violence and exploitation?
- GRETA experience:
 - Child trafficking as **No 1 implementation challenge** for CoE Anti-trafficking Convention States Parties – see General Report 2015, <http://www.coe.int/en/web/anti-human-trafficking/general-reports>
 - Lack of effective, integrated **child protection systems** – already before migration crisis
 - GRETA already had cases of countries subsuming child pornography/abuse images under trafficking, e.g. **Croatia** – until 2013: 0-4 identified children, since then 16-22 cases – due to new Criminal Code explicitly referring to child pornography
 - Caution also needed in relation to dealing with situation of **Roma** communities and practices such as forced marriages
- Similar questions arise between trafficking and preparatory acts for (worst forms) of child labour, which includes child prostitution – and “trafficking”

Why does it matter?

Identification as a trafficking case triggers:

- Different **standards** / state obligations, e.g. safety, protection and assistance, cooperation requirements, impact on non-punishment principle
- Different **stakeholders** to be involved, different risk groups
- Different responses needed, see **prevention**, see **protection**
- Different mindsets – **rebalance** criminal justice response and child/social protection response, esp trafficking discourse dominated by law enforcement approaches ⇔ in child labour, already higher relevance of socioeconomic context accepted

Conclusions - for further discussion:

- **Discuss and clarify concepts** – proposal to distinguish:
 - If trafficker’s focus on **creation of situation of dependency**/moving into such situation + only severe forms of exploitation => trafficking investigation
Not: other forms of e.g. labour exploitation, simple preparatory acts
 - If trafficker’s focus on **actual exploitation** => exploitation investigation
Side-effect: stronger focus in investigations on trafficker’s role, less on child victim/testimony
- Establish **comprehensive, child rights-based integrated child protection systems**, including on local level!
- Establish mechanisms to deal with **cross-border cases** for child protection
- Establish **child-friendly access to justice** mechanisms

For GRETA country reports on anti-trafficking measures across Europe, see:

<http://www.coe.int/trafficking>

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