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# Thematic Study on Child Trafficking

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## Foreword

- [1]. The study was completed by Ms Merle Haruoja, Ms Marianne Meiorg and Mr Kari Käsper, experts in Estonian human rights law. Ms Haruoja is the Head of the Estonian Institute of Human Rights and Ms Meiorg and Mr Käsper work for the Human Rights Centre at the International University Audentes, which is part of the Tallinn University of Technology.
- [2]. The research team took into account all information available from publicly accessible sources. Additionally, formal Letters of Inquiry were sent to public authorities and NGOs. The team received a joint answer from *Sotsiaalministeerium* [the Ministry of Social Affairs], *Välisministeerium* [the Ministry of Foreign Affairs], *Siseministeerium* [the Ministry of Internal Affairs] and *Justiitsministeerium* [the Ministry of Justice]. Other institutions replying to the inquiry included *Tallinna Laste Turvakeskus* [the Tallinn Centre for Children at Risk], *Tartu Laste Tugikeskus* [the Tartu Support Centre for Children], an NGO called Living for Tomorrow, *Lastekaitse Liit* [the Estonian Union for Child Welfare] and *Inimõiguste Teabekeskus* [the Legal Information Centre for Human Rights].
- [3]. The team used comparative and analytical approaches to the research subject. Relevant Estonian laws, regulations and practices were analysed.
- [4]. In general the public authorities were forthcoming with information. However, the team encountered a lack of relevant statistical data specific to child trafficking. Similarly, evidence of practice and specific examples were unavailable.

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## Executive summary

- [5]. It is difficult to draw any definitive conclusions from the research conducted, as the amount of available information is insufficient for informed analysis.
- [6]. The general notion from the expert team is that not enough attention has been afforded to child trafficking by the Estonian authorities. There are a number of areas where there are no mechanisms or instruments in place to deal specifically with child victims of human trafficking. Some steps have been taken in the framework of the general development plan to combat human trafficking, but the implementation of that plan has seen very few activities targeted specifically at child victims. The team also recognises the need for more systematic and permanent protection instruments to be established, as there are no guarantees that the current cooperation between different state and non-state actors in the framework of the implementation of the development plan will continue beyond 2009.
- [7]. The basic rights for child victims to take part in the legal and administrative proceedings have been guaranteed in the legal text, but there is not enough information, nor are there the statistics to make firm conclusions regarding their effectiveness. In most instances there are references to providing for the protection of the rights and interests of the child, but this leaves a wide discretion for public officials.
- [8]. Unfortunately, the team has been unable to identify examples of good practice that are innovative and that could serve as a model for other Member States and European Union institutions in the context of the present study.

## General anti-child trafficking framework

- Estonia has implemented the major UN instruments regarding child trafficking. The Council of Europe instruments, however, have not been signed or ratified.
- Human trafficking as a general type of crime does not exist, but specific aspects of human trafficking have been criminalised (such as enslavement, sale or purchase of a child, use of minors in making pornography etc).
- International standards are directly applicable in Estonia, according to the Constitution, which has been consistently affirmed by the Supreme Court.

- An inter-ministerial development plan against human trafficking exists, which also includes several measures aimed specifically at anti-child trafficking. Beyond the development plan framework, which expires in 2009, there are no permanent mechanisms or instruments for anti-child trafficking activities.

## Prevention of child trafficking

- The central instrument is the Development Plan for Combating Trafficking in Human Beings 2006-2009, based on which numerous awareness-raising campaigns are conducted. Notably, only very few of the activities have focused on child trafficking.
- The NGOs which have carried out these campaigns have been criticised: for example, for not involving minority groups including the sizeable Russian minority.
- There is no separate policy for unaccompanied minors, except for what exists under asylum law.

## Appointment of legal guardian

- An unaccompanied child is appointed a legal guardian for the duration of the protection application process or when he/she has some kind of international protection.
- The procedure follows the general legal guardianship procedures. Although the legal guardians may receive incidental training under different projects, there is no systematic training focusing on trafficked children.

## Coordination and cooperation

- No formal task force coordination body on child trafficking exists, except for the Ministry of Justice as the authority responsible for overseeing the implementation of the development plan for combating human trafficking in general.
- It is unknown whether the existing cooperation framework under the development plan continues in any form after the end of the planning period in 2009.
- Similarly, the future of the cooperation framework under the Strategy for Guaranteeing the Rights of Children 2004-2008 is unclear.

## Care and protection

- There is an option for aliens to get temporary residence permits in cases of dominant public interest, including when a person is a victim of human trafficking. However, no temporary stay has ever been granted in Estonia on these grounds for the 2000-2007 period. The laws provide for taking account of the rights and interests of trafficked children, but this is at the discretion of the public officials.
- No specialised programmes for family reunification or shelters for trafficked children exist, mainly due to the small number of human trafficking cases.
- General medical care, including psychological or psychiatric care, is unavailable from the state for most victims of human trafficking; medical care is limited to emergencies only.
- The trafficking victims may also have limited options to obtain education due to language barriers.
- There is currently no national hotline for reporting missing and sexually exploited children, although there are plans to establish a 116 111 hotline in the near future. There are NGOs that operate websites and a hotline for help.

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

- No formalised process for durable solutions exists. Child victims of trafficking are afforded asylum and temporary protection.
- There are also provisions in Estonian law, which provide for the respect of participation of a child in legal procedures, such as no cross-examination for under 14 year olds (§ 290 of the Code of Criminal Procedure).

## Prosecution

- There are options within the procedural rules to protect the interests and rights of trafficked children, including the right to testify remotely and anonymously (§ 69 and 287 of the Code of Criminal Procedure).
- There is no compensation available from the state for child victims of human trafficking.

# 1. General anti-child trafficking framework

[9]. Status of ratification of international legal instruments is:

- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) – ratified by Estonia on 3.08.2004 and entered into force in Estonia on 3.09.2004;
- UN Convention against transnational organised crime/Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) – ratified by Estonia on 14.05.2004 and entered into force in Estonia on 11.06.2004;
- ILO Convention Nr. 182 on the worst forms of child labour (1999) – ratified by Estonia 24.09.2001 and entered into force in Estonia on 24.09.2002;
- CoE Convention on action against trafficking in human beings (2005) – Estonia has neither signed nor ratified although plans to do so during 2008;<sup>1</sup>
- CoE Convention on the protection of children against sexual exploitation and sexual abuse (2007) – Estonia has neither signed nor ratified.

[10]. Estonian criminal law does not contain an offence called ‘human trafficking’ and therefore does not criminalise ‘human trafficking’ as such. However, the *Karistusseadustik* [Penal Code]<sup>2</sup> does contain provisions that prohibit different actions that relate to trafficking: enslavement (§133), taking a person to a country where personal liberties are restricted (§134), unlawful deprivation of liberty (§136), illegal conduct of human research (§138), illegal removal of organs or tissue (§139), inducing a person to donate organs (§140), rape or forced satisfaction of sexual desire (§141 and 142), compelling a person to engage in sexual intercourse or for satisfaction of sexual desire (§143 and 143),<sup>1</sup> sexual intercourse or satisfaction of sexual desire with a minor (§145 and 146), taking a child of another (§172), sale or purchase of child (§173), disposing minors to engage in prostitution (§175), aiding child prostitution (§176), use of minors in the making of pornography (§177), making and disseminating child

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<sup>1</sup> Estonia/Justiitsministeerium (2008) *Justiitsministeeriumi arengukava aastani 2012 kinnitatud ministri 2008. a käskkirjaga nr 8* [Development Plan of the Ministry of Justice until year 2012, authorised by Directive of the Minister of 2008 no. 8], available at <http://www.just.ee/33313> (29.07.2008), p. 22; Estonia/Justiitsministeerium (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 1, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008). However, so far the Convention has been included neither on the agenda of the Government nor of the Parliament.

<sup>2</sup> Estonia/Riigikantselei [State Chancellery] (2001) *Riigi Teataja* [State Gazette] I, 61, 364.

pornography (§178), transferring drugs to minors (§ 185), smuggling of a person to a territory under the control of Estonia (§259) and pimping (§268).<sup>1</sup>

[11]. Criminalisation of acts under the Penal Code, including those mentioned above, apply if the following conditions are fulfilled:

- the specific act is criminalised under the law in force at the time it was committed (§5);
- the specific act is committed within the territory of Estonia, on board of or against ships or aircraft registered in Estonia (§6);
- the specific act is not committed in the territory of Estonia but is committed against a citizen of Estonia, the offender is a citizen of Estonia or is a member of the Defence Forces performing his or her duties (§7); and
- the punishment of the specific act arises from an international agreement binding on Estonia, regardless of the place or the law of the place of commission of the act (§8).

[12]. The direct applicability of international standards is established under the *Eesti Vabariigi Põhiseadus* [Constitution of the Republic of Estonia].<sup>3</sup> Paragraph 3 provides: ‘... Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system’; and §123 provides: ‘... If laws or other legislation of Estonia are in conflict with international treaties ratified by the *Riigikogu* [the Parliament], the provisions of the international treaty shall apply.’

[13]. In fact, the *Riigikohus* [Supreme Court of Estonia] has confirmed the direct applicability in several of its cases. One noteworthy case is where the Court stated that even if there is no conflict between Estonian law and an international agreement, the latter could still be relied on if it is more precise than the internal rule.<sup>4</sup> Such an approach is obligatory for courts at all levels, although in practice most of the judges are uncomfortable relying on the international agreements over the national provisions.<sup>5</sup> This, however, does not change the fact that such agreements can be relied on in Estonian courts.

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<sup>3</sup> Estonia/*Riigikantselei* (28.06.2007) *Riigi Teataja* I, 43, 311.

<sup>4</sup> Estonia/*Riigikohus*/3-3-1-58-02 (20.12.2002).

<sup>5</sup> Committee on the Elimination of Discrimination against Women (2007) *Consideration of reports submitted by States parties under article 18 of the Convention*, UN Doc. CEDAW/C/EST/Q/4/Add.1 (27.04.2007), available at: [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/d257882e9d6e78b2c125730e002d1a1a/\\$FILE/N0732388.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/d257882e9d6e78b2c125730e002d1a1a/$FILE/N0732388.pdf) (29.07.2008).

- [14]. The *Lastekaitse seadus* [Child Protection Act] provides for the general principle of best interests of the child in §3 – ‘... the best interests of the child shall be a primary consideration at all times and in all cases.’<sup>6</sup> The same principle is also provided by other acts, but in specific situations. *E.g.*, the *Perekonnaseadus* [Family Law Act] provides in all the cases involving a child that the child’s best interests must be respected in making decisions.<sup>7</sup>
- [15]. The Government has approved the *Inimkaubanduse vastu võitlemise arengukava 2006-2009* [Development Plan for Combating Trafficking in Human Beings 2006-2009],<sup>8</sup> which sets out the aims, measures and activities. The Development Plan involves five different ministries – the Ministry of Foreign Affairs, the Ministry of Social Affairs, the Ministry of Education and Research, the Ministry of Internal Affairs, and the Ministry of Justice. The Ministry of Justice is the coordinator. The plan is reviewed annually involving non-profit organisations and, if necessary, changes are made to the implementation plan.
- [16]. The Development Plan addresses trafficking in general and there are only a few measures that are aimed specifically at children:
- Participation in the work of the Council of the Baltic Sea States Working Group for Cooperation on Children at Risk, including in the mapping project (Comprehensive Assistance to Children Victims of Trafficking) carried out by the Working Group (measure 2.3 and 7.7).
  - Informing the public in regard to child trafficking and organising a seminar on the sale of children, child prostitution and child pornography (measure 3.8).
  - Continuous improved professional development of specialists engaged in work with children: organisation of in-service training of employees of child welfare institutions and training of child protection officials (measure 5.2).
  - Paying more attention to minors who cross EU external borders (where necessary, by questioning the minor or the person accompanying him or her, contacting the parents of the child, demanding additional documents, etc.) (measure 8.1).

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<sup>6</sup> Estonia/Riigikantselei (1992) *Riigi Teataja* I, 28, 370.

<sup>7</sup> Estonia/Riigikantselei (1994) *Riigi Teataja* I, 75, 1326.

<sup>8</sup> Estonia/Justiitsministeerium (2006) *Inimkaubanduse vastu võitlemise arengukava 2006-2009* [Development Plan for Combating Trafficking in Human Beings 2006-2007], available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008). Human trafficking has also been included in the development plans of different ministries. *E.g.*, Development Plan of the Ministry of Justice, Measure 4 – Reduction of Crime Connected to Human Trafficking.

- Analysis of Estonian penal law in order to ensure its compliance with international obligations (measure 11.1).<sup>9</sup>
  - Early recognition of a child's need for assistance and intervention - Operation and extension of children's helpline (measure 14 and 14.1).
- [17]. As a result of the Development Plan, amendments were made in the *Välismaalaste seadus* [Aliens Act]<sup>10</sup> and the Penal Code – the former providing for the possibility to give a temporary residence permit to a victim of trafficking,<sup>11</sup> and the latter changing the definition of slavery to include taking advantage of the helpless situation of a person.<sup>12</sup> In addition, three shelters have been established for women who have been trafficked to a foreign country for sexual exploitation. Different training sessions for professionals and informational campaigns for the general public have taken place. Planned research has been conducted and statistics are being gathered. A helpline has also been set up.<sup>13</sup>
- [18]. The Ministry of Justice has developed the E-File database (internet address <http://www.e-toimik.ee>, launched on 21.07.2008), which is a central database for all the information on criminal cases starting from the status of the proceeding, to procedural acts and court adjudications. The Ministry of Social Affairs and the Ministry of Foreign Affairs are also gathering information – the former through *Keskkriminaalpolitsei* [Central Criminal Police] about cases abroad involving Estonian citizens and the latter from foreign missions about citizens who turn to their embassies with a request for help.<sup>14</sup> Other than that there are no specific data collection mechanisms for the human trafficking issue.
- [19]. The Development Plan designated 4,810,000 kroons for the period of 2006-2009 for the involved ministries for the implementation of that plan. Certain activities are expected to be financed from the general budget of each ministry.<sup>15</sup> The research has no specifically allocated budget but the Report on Implementation of Development Plan

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<sup>9</sup> Such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime and Council Framework Decision 2002/629/JHA of 19.07.2002 on combating trafficking in human beings.

<sup>10</sup> Estonia/*Riigikantselei* (1993) *Riigi Teataja* I, 44, 637.

<sup>11</sup> §14<sup>15</sup>.

<sup>12</sup> §133.

<sup>13</sup> Estonia/Justiitsministeerium (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 17.

<sup>14</sup> Report on Implementation of Development Plan, p. 4.

<sup>15</sup> The exact division of costs by strategic objectives, measures/activities and sources is provided in Annex 1 of the Development Plan.

declares that the planned research was financed by the Ministry of Social Affairs.

- [20]. According to the joint answer by the ministries, there are no monitoring mechanisms, such as independent National Rapporteurs, covering the trafficking of children.<sup>16</sup> There is also no formalised and/or standardised instrument for cooperation and referral that also addresses the rights of trafficked children. There is a round table that includes representatives from ministries and from civil society, but this is connected to the Development Plan and its implementation and the continuance of this after the Plan is fulfilled is uncertain.
- [21]. The Development Plan has laid down an elaborate strategy for training for all actors involved in human trafficking issues and specifically in child trafficking (measures 5-7). An overview of the training courses and lectures provided in 2007 is available with the Report on Implementation of Development Plan.
- [22]. There is no formalised policy of non-criminalisation of child victims of trafficking.

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<sup>16</sup> Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking] (hereinafter referred to as the “joint answer”).

## 2. Prevention of child trafficking

- [23]. The Development Plan for Combating Trafficking in Human Beings 2006-2009 has set down a comprehensive schedule for different awareness-raising campaigns, targeting both the general public as well as specific groups (strategic objective II). Most of the campaigns, however, concern trafficking in general and more in regard to taking up a job abroad rather than anything else. Some of the campaigns have been targeted to schools. Pamphlets have been published and distributed in tourism fairs, airports and consulates. The campaign for leaving contact information with the Ministry of Foreign Affairs before going abroad has continued.<sup>17</sup> Also widespread are campaigns about prostitution and the trafficking of women.<sup>18</sup> The *Eesti Naisuurimus- ja Teabekeskusest* [Estonian Women’s Studies and Resource Centre] organised a media campaign to target the demand for prostitution (*i.e.*, directed at the clients) with a message – “A real man doesn’t buy sex”.<sup>19</sup>
- [24]. In 2007, only two seminars were conducted on the topic of child exploitation, including trafficking – one was about prevention and the other about assisting the victims.<sup>20</sup> In 2002, a media campaign was organised by the International Organisation for Migration (IOM) “You are sold as a doll”. The campaign “Web-brother”, to raise awareness on internet safety was organised by Microsoft Estonia, the *Tallinna Perekeskus* [Tallinn Family Centre], the Estonian Union for Child Welfare and the website [www.lastekas.ee](http://www.lastekas.ee). This was targeted to children of 6-10 years old and their parents.
- [25]. There have been only a few events and campaigns targeted at children. In 2005, IOM organised a campaign targeted to 14-18 year old youth

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<sup>17</sup> Report on Implementation of Development Plan. Estonia/*Justiitsministeerium* (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 2, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008).

<sup>18</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>19</sup> *Eesti Naisuurimus- ja Teabekeskusest* (ENUT) [Estonian Women’s Studies and Resource Centre] (2006) *Tõeline mees ei osta seksi* [A real man doesn’t buy sex], available at: <http://www.enut.ee/enut.php?id=28&uid=253> (29.07.2008).

<sup>20</sup> Report on Implementation of Development Plan. Estonia/*Justiitsministeerium* (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 6, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008).

– “Easy? Work? Abroad? Do you know where you are going?”<sup>21</sup> The Red Cross also held a campaign for youth to prevent human trafficking.<sup>22</sup>

- [26]. Most of the campaigns are organised by NGOs, as can be seen from the examples listed above. However, there is no evidence of any direct participation by any minority groups, except by Russians as some of the seminars and lectures have taken place in Russian.<sup>23</sup> The Russian community is criticising most of the campaigns because materials and websites are only in Estonian.<sup>24</sup>
- [27]. According to a joint answer from the ministries, there is no separate policy for unaccompanied minors, except the specific guarantees that are already laid down by law.<sup>25</sup> Unaccompanied children are dealt with separately by the Alien Act, the *Välismaalasele rahvusvahelise kaitse andmise seadus* [Act on Granting International Protection to Aliens]<sup>26</sup> and the *Väljasõidukohustuse ja sissesõidukeelu seadus* [Obligation to Leave and Prohibition on Entry Act].<sup>27</sup> The Aliens Act provides rules on an unaccompanied minor’s place of living (§14<sup>19</sup>). The Act on Granting International Protection to Aliens is more elaborate and sets out the whole procedure for asylum (§17, §35, §63, and §74). It also provides certain guarantees for minors who are accompanied (§18(4), 18(5), 18(10), §46(8), and §72(2)). The Obligation to Leave and Prohibition on Entry Act includes separate provisions on minors (accompanied or not) in regard to issuing a precept (§11 and §12) and expulsion of minors (§15 and §21). Paragraph 17 provides for the usual non-refoulement principle according to which a person cannot be expelled to a country where

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<sup>21</sup> <http://www.toovalismaal.ee/> (29.07.2008).

<sup>22</sup> <http://www.redcross.ee/et/inimkaubandus.html> (29.07.2008).

<sup>23</sup> Report on Implementation of Development Plan. Estonia/*Justiitsministeerium* (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 13, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008).

<sup>24</sup> Estonia/*Sotsiaalministeerium, Välisministeerium* (2008) *Initial report from Estonia under Article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (not publicly available, in file with the compilers of the study), para 193.

<sup>25</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>26</sup> Estonia/*Riigikantselei* (2006) *Riigi Teataja* I, 2, 3.

<sup>27</sup> Estonia/*Riigikantselei* (1998) *Riigi Teataja* I, 98/99, 1575.

he/she may be subject to torture or inhuman or degrading treatment or punishment.<sup>28</sup>

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<sup>28</sup> The Obligation to Leave and Prohibition on Entry Act.

### 3. Appointment of legal guardian

- [28]. Whenever an unaccompanied child is applying for international protection, he or she is placed in the reception centre or a social welfare institution for the duration of the asylum proceedings, or he or she may be placed with an adult relative or a foster family if the recipient is suitable to take care of a minor according to §35 of the Act on Granting International Protection to Aliens. When the child has been identified as enjoying international protection, he or she is placed either with an adult relative, under guardianship or foster care, in a children's social welfare institution; or with the person who took care of the minor during displacement according to §74 of the above-mentioned Act. The rights and interests of the child are taken into account during placement in both cases. Brothers and sisters are not separated, if possible.
- [29]. An unaccompanied minor is defined in §6 of the Act on Granting International Protection to Aliens as an alien of less than 18 years of age; there are no other age limits for guardianship. Paragraph 92 of the Family Law Act states that a legal guardianship is appointed to minors whose parents are dead or missing and that it ends when a person becomes an adult (§102 of the Family Law Act).
- [30]. Paragraph 17(8) of the Act on Granting International Protection to Aliens provides that where the *Kodakondsus- ja migratsiooniamet* [Citizenship and Migration Board] has reasoned doubts regarding the information provided by the applicant in respect of his or her age, a medical examination for establishing his or her age may be conducted with the consent of the applicant or his or her representative. The Citizenship and Migration Board is also required to inform the applicant of the consequences of refusing the medical examination (§17(9)), however the refusal to undergo medical examination to establish age cannot be the sole reason for denying the application (§21(5)). Although the Act is unclear as to what happens if the medical examination does not give sufficiently conclusive results, it can be inferred from the text of this Act and general principles of the Child Protection Act that in cases of doubt, the applicant is given the benefit of the doubt.
- [31]. There are no systematic specialised trainings for legal guardians employed for representation of trafficked children. The child care and social workers of local municipalities have been offered possibilities to take part in trainings, which have been conducted as a part of the Development Plan for Combating Trafficking in Human Beings 2006-

2009 as well as the *Laste õiguste tagamise strateegia 2004-2008* [Strategy for Guaranteeing the Rights of the Child 2004-2008].<sup>29</sup>

- [32]. There is no data available regarding the appropriate time for preparation of cases for the legal guardian, including the amount of personal contact with the child.

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<sup>29</sup> Estonia/Sotsiaalministeerium (2003) *Laste õiguste tagamise strateegia 2004-2008* [Strategy for Guaranteeing the Rights of the Child 2004-2008], available at: [http://www.sm.ee/est/HtmlPages/LÕTStrateegia/\\$file/LÕTStrateegia.doc](http://www.sm.ee/est/HtmlPages/LÕTStrateegia/$file/LÕTStrateegia.doc) (29.07.2008).

## 4. Coordination and cooperation

- [33]. There is no general task force on child trafficking, nor is there a coordination body.<sup>30</sup> However, as part of the Development Plan for Combating Trafficking in Human Beings 2006-2009, a certain coordination structure has been developed with the purpose of implementing the Plan. The institution responsible for overseeing the implementation is the Ministry of Justice. Other ministries involved are the Ministry of Foreign Affairs, the Ministry of Social Affairs, the Ministry of Education and Research, and the Ministry of Internal Affairs. NGOs and other relevant agencies are involved in the Plan, and their attendance at the annual round table is expected. The continuance of such arrangements after the implementation of the Plan is not currently foreseen.
- [34]. Another coordination body was created for the purposes of the Strategy for Guaranteeing the Rights of Children 2004-2008: created to implement the state's obligations under the UN Convention on the Rights of the Child. A Plan of Action was compiled annually. The coordinating body is an inter-ministerial working group with the purpose of compiling and supervising the implementation of the strategy and plans of action. This working group consists of representatives from the Ministry of Social Affairs, the Ministry of Education and Research, the *Kultuuriministeerium* [Ministry of Culture], the Ministry of Justice, the Ministry of Internal Affairs, the *Rahandusministeerium* [Ministry of Finance], the *Rahvastikuministri büroo* [Office of the Minister for Population and Ethnic Affairs] and the Police.<sup>31</sup> The continuance of this coordinating body after the expiration of the strategy is also not currently foreseen.
- [35]. Additionally, the Ministry of Social Affairs is a National Contact Point (NCP) for unaccompanied and trafficked children to the Working Group for Cooperation on Children at Risk within the Council of the Baltic Sea States.<sup>32</sup> The NCP in Estonia coordinates activities between the Ministry of Social Affairs, the Ministry of

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<sup>30</sup> Estonia/Tallinna Laste Turvakeskus (17.07.2008) *Teemauuringule vastamine* [Response to thematic study]; Estonia/Tartu Laste Tugikeskus (4.06.2008) *Reponses to questions*; Estonia/Living for Tomorrow (12.06.2008) *Vastused esitatud küsimustele* [Responses to posed questions].

<sup>31</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>32</sup> <http://www.childcentre.info/contactpoints/> (29.07.2008).

Internal Affairs, the Ministry of Foreign Affairs and the Citizenship and Immigration Board.<sup>33</sup>

- [36]. There are no specific cooperation agreements concerning child trafficking. However, there are two concerning children's welfare in general. The *Ühiste kavatsuste protokoll Eesti laste heaolu edendamiseks* [Protocol of common intents for the promotion of the welfare of Estonian children], which was agreed between the Ministry of Social Affairs, the Estonian Union for Child Welfare and the *Eesti Laste Hoolekandeesutuste Juhtide Ühendus* [Estonian Union of the Executives of Children's Social Care Institutions].<sup>34</sup> The second agreement is the *Sotsiaalministeeriumi, Haridus - ja Teadusministeeriumi ja UNICEF Eesti Rahvuskomitee vaheline koostöölepe laste õiguste paremaks tagamiseks Eestis* [Agreement between the Ministry of Social Affairs, the Ministry of Education and Research and UNICEF's Estonian National Committee on better safeguarding of children's rights in Estonia].<sup>35</sup>
- [37]. There are no agreements as such between state agencies and non-governmental organisations in regard to running shelters.<sup>36</sup> However, it is the responsibility of every local government to provide for shelter services. The basis for that responsibility is usually a regulation by the local government issued under the *Kohaliku omavalitsuse korralduse seadus* [Local Government Organisation Act]<sup>37</sup> and the *Sotsiaalhoolekande seadus* [Social Welfare Act].<sup>38</sup>
- [38]. Data protection issues and the monitoring of the fulfilment of relevant guidelines in general is a responsibility of the *Andmekaitse*

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<sup>33</sup> Estonia/*Sotsiaalministeerium Saatjata ja kaubitsetavate laste kontaktpunkt* [Contact Point of Unaccompanied and Trafficked Children], available at:

[http://www.sm.ee/est/HtmlPages/SAATJATAJAKAUBITSETAVATELASTEKONTAKTPUNKT1/\\$file/SAATJATA%20JA%20KAUBITSETAVATE%20LASTE%20KONTAKTPUNKT1.doc](http://www.sm.ee/est/HtmlPages/SAATJATAJAKAUBITSETAVATELASTEKONTAKTPUNKT1/$file/SAATJATA%20JA%20KAUBITSETAVATE%20LASTE%20KONTAKTPUNKT1.doc) (20.07.2008).

<sup>34</sup> Estonia/*Ühiste kavatsuste protokoll Eesti laste heaolu edendamiseks* (27.02.2003), available at: [http://www.sm.ee/est/HtmlPages/lastekoostookkulepe/\\$file/lastekoostookkulepe.pdf](http://www.sm.ee/est/HtmlPages/lastekoostookkulepe/$file/lastekoostookkulepe.pdf) (in Estonian) (29.07.2008).

<sup>35</sup> Estonia/*Sotsiaalministeeriumi, Haridus - ja Teadusministeeriumi ja UNICEF Eesti Rahvuskomitee vaheline koostöölepe laste õiguste paremaks tagamiseks Eestis* (6.07.2007), available at: <http://www.sm.ee/est/pages/index.html> (in Estonian) (29.07.2008).

<sup>36</sup> Responses from Estonia/*Sotsiaalministeerium Saatjata ja kaubitsetavate laste kontaktpunkt* [Contact Point of Unaccompanied and Trafficked Children], available at: [http://www.sm.ee/est/HtmlPages/SAATJATAJAKAUBITSETAVATELASTEKONTAKTPUNKT1/\\$file/SAATJATA%20JA%20KAUBITSETAVATE%20LASTE%20KONTAKTPUNKT1.doc](http://www.sm.ee/est/HtmlPages/SAATJATAJAKAUBITSETAVATELASTEKONTAKTPUNKT1/$file/SAATJATA%20JA%20KAUBITSETAVATE%20LASTE%20KONTAKTPUNKT1.doc) (20.07.2008).

<sup>37</sup> Estonia/*Riigikantselei* (1993) *Riigi Teataja* I, 37, 558.

<sup>38</sup> Estonia/*Riigikantselei* (1995) *Riigi Teataja* I, 21, 323. See also: Joint answer. Estonia/*Justitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking]

*Inspektsioon* [Data Protection Inspectorate].<sup>39</sup> The Inspectorate is a state agency but according to the *Isikuandmete kaitse seadus* [Personal Data Protection Act] must be independent (§34).<sup>40</sup> Certain supervision is also provided by the *Õiguskantsler* [Chancellor of Justice] whose principal obligation is to supervise the state authority in terms of their respect towards the fundamental rights of the people.<sup>41</sup>

- [39]. According to the joint answer from the ministries, Estonia has not concluded any bilateral agreements specifically on child trafficking. The agreements on readmission of persons are usually much wider in their coverage.<sup>42</sup> According to the database of international agreements provided by the Ministry of Foreign Affairs, Estonia has such agreements with the following non-EU countries: Norway, Iceland, Switzerland, and Croatia.<sup>43</sup>
- [40]. There are no agreements regarding the Twinning projects (Programmes funded by EU Commission to encourage Member States exchange best practices and form partnerships) with other countries.<sup>44</sup>

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<sup>39</sup> Web-site of the Inspectorate: <http://www.dp.gov.ee/> (28.07.2008).

<sup>40</sup> Estonia/*Riigikantselei* (1995) *Riigi Teataja* I, 24, 127.

<sup>41</sup> Estonia/*Riigikantselei* (1999) *Õiguskantsleri seadus* [Legal Chancellor Act], *Riigi Teataja* I, 29, 406, §19. Web-site of the Chancellor: <http://www.oiguskantsler.ee/> (28.07.2008).

<sup>42</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>43</sup> <http://vlepingud.vm.ee/et/> (28.07.2008).

<sup>44</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

## 5. Care and protection

- [41]. The Aliens Act §14<sup>15</sup>(6) provides for a reflection period of between 30-60 days. This is a decision to be made by the prosecutor's office and is meant to give the person the time to decide whether he or she wants to assist in criminal charges against the perpetrator. The latter is a mandatory condition to be fulfilled in order to be eligible for a temporary residence permit.
- [42]. According to §14<sup>15</sup> of the Aliens Act, an alien could get a temporary residence permit in cases of dominant public interest, if the following conditions are fulfilled:
- he/she is a victim or witness in criminal proceedings, the object of which is a crime linked to human trafficking within the meaning of the Council Framework Decision 2002/629/JHA of 19.07.2002 on combating trafficking in human beings;
  - he/she has previously contributed, or has agreed to do so, to clarify the facts of the crime; and
  - he/she has broken off all relations with persons who are suspects in or accused in committing the crime.
- [43]. The list is cumulative and exhaustive and, therefore, cooperation with police or prosecutor is a prerequisite for the residence permit.
- [44]. No children have been granted a temporary stay on grounds of trafficking during the period 2000-2007.<sup>45</sup>
- [45]. The Aliens Act provides for specific rules regarding the detention of an unaccompanied minor only. Presumably an accompanied minor is required to live with his/her legal representative wherever the representative is allocated. Mostly this would be a reception centre.<sup>46</sup> According to §14<sup>19</sup> of the Aliens Act, for the duration of processing the residence permit, an unaccompanied minor is placed with an adult relative, under custody or care in a family, or in a children's social care institution. Whenever possible, siblings are not separated. The rights and interests of the children are taken into account both in processing the application for the residence permit and in deciding their place of stay (§14<sup>17</sup> and §14<sup>19</sup>).

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<sup>45</sup> Joint answer. Estonia/*Justitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>46</sup> §14<sup>18</sup> of the Aliens Act.

- [46]. The Child Protection Act provides that any detention of a child must only be as a last resort. Paragraphs 36-38 provide for the conditions that must be met when a child is detained. Although these provisions mostly concern criminal detention they could apply to detention for administrative purposes as well. They require detention facilities for children to be separate from adults, and the living and developmental conditions ‘appropriate to the age of the child’. The child must be ‘treated in a manner appropriate for a child, without harm to his or her dignity’. He/she must ‘be guaranteed free access to meet with his or her parents, persons close to him or her, his or her guardian or curator, and shall be guaranteed nutritious food and requisite medical and spiritual assistance.’
- [47]. There is no specific family tracing programme to allow for family reunification after assessing the child's best interests.<sup>47</sup> There are also no specialised shelter(s) for trafficked children. If necessity should arise, the child will be placed in a children’s shelter, or if they are with their mothers, then in a mother’s shelter. Due to there being no specialised shelter, there are no statistics or strategies on trafficked children in this regard.<sup>48</sup> This is due to the small number of human trafficking instances that are known to the Government – the Ministry of Foreign Affairs is aware of only 8 cases within the last 4 years involving children.<sup>49</sup>
- [48]. According to the §6(1) of the *Tervishoiuteenuste korraldamise seadus* [Health Care Services Organisation Act],<sup>50</sup> ‘every person staying in Estonia has the right to receive emergency care’. This Act defines emergency care as a health care service, which the health care professional provides in a situation where postponing the care or not giving it at all could cause the death or permanent physical harm of a person (§5). General medical care is provided by a family doctor but only to those with sickness insurance (§7). Most of the victims of human trafficking, however, do not fit under the definition of an insured person as provided in the *Ravikindlustuse seadus* [Health

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<sup>47</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>48</sup> Joint answer; Responses from *Tallinna Laste Turvakeskus, Tartu Laste Tugikeskus, Living for Tomorrow*, and Estonia/*Lastekaitse Liit* (3.07.2008) *Inimõiguste Instituudi küsimustik* [Questionnaire from the Institute for Human Rights].

<sup>49</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>50</sup> Estonia/*Riigikantselei* (2001) *Riigi Teataja* I, 50, 284.

Insurance Act].<sup>51</sup> Uninsured persons must pay for their general medical care (Health Care Services Organisation Act §11(2)). Therefore, no psychological or psychiatric care is provided by the state. If such care is provided, it is provided from the budget of the shelters.

- [49]. The Ministry of Justice notes that the problem could be solved by providing children's shelters with finances designated to medical care. But it also elaborates that any medical care to trafficked children should be accompanied with appropriate translations, though it is possible that Estonia is not capable of providing translation services for every language.<sup>52</sup>
- [50]. According to §8 of the *Haridusseadus* [Education Act],<sup>53</sup> education is compulsory for every 7 year old child until he/she 'has acquired basic education or attained 17 years of age'. This obligation covers all children residing in Estonia, regardless of their citizenship, thus also including trafficking victims. The Ministry of Justice has highlighted some problems related to the state's obligation. The first problem is the language, which is the main barrier for children coming from other language communities. In reality, education can be guaranteed in Estonia in two to three languages only. Second, determination of previous education is a problem. Unless children have documents with them proving previous education, it is hard to determine the level of education they are at.<sup>54</sup>
- [51]. The state's obligation to provide legal aid derives from paragraphs 12, 13, 15 and 28 of the Constitution. Legal assistance is regulated in more detail by *Riigi õigusabi seadus* [the State Legal Aid Act].<sup>55</sup> The purpose of that act is 'to ensure the timely and sufficient availability of competent and reliable legal services to all persons' (§2). Legal aid for that act covers: representation in extrajudicial and pre-trial proceedings and in court, preparation of legal documents and other

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<sup>51</sup> Estonia/Riigikantselei (2002) *Riigi Teataja* I, 62, 377. - §5(1): 'For the purposes of this Act, an insured person is a permanent resident of Estonia or a person living in Estonia on the basis of a temporary residence permit, for whom a payer of social tax is required to pay social tax or who pays social tax for himself or herself pursuant to the procedure, in the amounts and within the terms provided for in the Social Tax Act ...'

<sup>52</sup> Joint answer. Estonia/Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>53</sup> Estonia/Riigikantselei (1992) *Riigi Teataja* I, 12, 192.

<sup>54</sup> Joint answer. Estonia/Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

<sup>55</sup> Estonia/Riigikantselei (2004) *Riigi Teataja* I, 56, 403.

legal counselling to a person or representing a person in another manner (§4).

- [52]. According to the Child Protection Act, ‘every child shall at all times be treated as an individual with consideration for his or her character, age and sex’ (§31). The appropriate treatment of child victims is mostly ensured through training courses and lectures. The Development Plan for Combating Trafficking in Human Beings has set down certain aims in this regard. The progress accordingly is reviewed at annual round tables that include responsible ministries as well as non-governmental organisations. The plan and its measures are amended as a result of these round tables.<sup>56</sup>
- [53]. As part of the Baltic Sea Region Comprehensive Assistance to Children Victims of Trafficking project, the Working Group for Cooperation on Children at Risk, held five training sessions in 2006-2007 on child victims of human trafficking. These were also attended by Estonian specialists.<sup>57</sup> Tartu Child Support Centre held two seminars specifically on child-related aspects of trafficking to people working in children’s homes.<sup>58</sup>
- [54]. Most of the trainings have addressed human trafficking in general. The Ministry of Social Affairs and the Ministry of Internal Affairs have organised several lectures and training courses in previous years to all the actors concerned, including those working in shelters, in non-profit organisations as well as in various public institutions such as the police, border guards *etc.* These programmes have aimed to help them to deal with trafficking victims better. Study materials and manuals have also been compiled.<sup>59</sup>
- [55]. Except for what has been described above, there is no specific evidence available to the compilers of the study that special needs for children coming from different ethnic backgrounds or needs of children with disabilities have been taken into consideration in all relevant contexts and legal procedures.

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<sup>56</sup> Joint answer. Estonia/*Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium* (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking]

<sup>57</sup> Report on Implementation of Development Plan. Estonia/*Justiitsministeerium* (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], p. 12, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008); for more information on the training course see: <http://www.childcentre.info/> (28.07.2008).

<sup>58</sup> Report on Implementation of Development Plan, p. 7.

<sup>59</sup> Report on Implementation of Development Plan, pp. 4-17.

- [56]. There is no hotline specifically for reporting missing and sexually exploited children (following Commission Decision of 15.02.2007 reserved as 116 000). However, there is a children’s helpline (the number being 1345), which is available 24 hours a day. This is a number where information can be obtained and given about anything concerning children, including any abuse towards them.<sup>60</sup> However, this number only operates in Tallinn and a nearby town called Maardu. Furthermore, it is also intended for other municipal problems occurring in Tallinn, such as plumbing, electricity, sewage and other similar matters. Specifically targeted to children and youth is an NGO-run website [www.lapsemure.ee](http://www.lapsemure.ee). The same website also promotes a helpline and skype-line. In April, the Ministry of Social Affairs announced a tender for a national helpline for children (116 111). There is, however, no hotline (116 000) for missing children.<sup>61</sup>
- [57]. There is one specific helpline for the prevention of human trafficking (the number being 6607320), operated by the non-profit organisation Living for Tomorrow. This number provides information on all aspects of trafficking, including checking a foreign company where a person intends to go to work. In addition, such information can be obtained from the website [www.lft.ee](http://www.lft.ee).<sup>62</sup>

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<sup>60</sup> Report on Implementation of Development Plan, p. 17; see: <http://www.rescue.ee/abitelefon> (28.07.2008).

<sup>61</sup> Estonia/Sotsiaalministeerium (4.01.2008) *Ministeerium kuulutab välja laste abitelefoni hanke* [Ministry announced a tender for children’s helpline], available at: <http://www.sm.ee/esttxt/pages/news1231> (28.07.2008).

<sup>62</sup> Report on Implementation of Development Plan. Estonia/*Justiitsministeerium* (2008) *Inimkaubanduse vastu võitlemise arengukava täitmise aruandlus. Aruandluse periood 01.01.2007-31.12.2007* [Report on Implementation of Development Plan for Combating Trafficking in Human Beings. Reporting period 01.01.2007-31.12.2007], pp. 2, 5, 18-19, available at: <http://www.just.ee/18886> (in Estonian and English) (29.07.2008).

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

- [58]. There is no evidence of a formalised process for identification of durable solutions based on determination of best interests, including risk and security assessment prior to the possible return of the child.
- [59]. There are special provisions relating to the asylum, and temporary protection for child victims of trafficking. Both asylum and temporary protection are available for child victims of trafficking. Section 6 of the Act on Granting International Protection for Aliens defines an unaccompanied minor alien as ‘an alien of less than 18 years of age who arrives or has arrived to Estonia without a parent or guardian or who loses a parent or guardian while staying in Estonia.’ Paragraph 63 of the Act sets the conditions for staying in Estonia for such applicants who seek a residence permit and who are unaccompanied minors:
- ‘(1) An applicant for a residence permit who is an unaccompanied minor shall be placed in the reception centre or a social welfare institution for the duration of temporary protection, and welfare services appropriate to the age of the applicant shall be guaranteed to him or her.
- (2) An applicant for a residence permit who is an unaccompanied minor may be placed with a foster family, an adult relative or with the person who took care of the minor during displacement, if the recipient is fit to take care of the minor.
- (3) An applicant for a residence permit who is an unaccompanied minor shall be placed with the person specified in subsection (2) of this section with the consent of the person, taking into account the rights and interests of the minor.’
- [60]. There are legal provisions providing for participation of the child in the obligatory hearing and legal decision-making procedures. Concrete evidence of whether this actually takes place in practice, such as examples of specific cases, was not available.
- [61]. Paragraph 17 of the Act on Granting International Protection for Aliens requires that in asylum proceedings, an unaccompanied applicant with restricted active legal capacity (*i.e.*, a minor) shall be represented by a guardian, guardianship authority, the head of the reception centre or a person authorised by him or her, unless otherwise provided by law.

- [62]. In the process of reviewing an application for asylum for an unaccompanied minor, the applicant is provided with an opportunity to present facts, orally or in written form, and to also give explanations, in person, concerning circumstances which may have essential importance in the review of his or her application for asylum. This may include the circumstances which could prevent the applicant's expulsion from the country (§18(4) of the Act on Granting International Protection for Aliens).
- [63]. There are no specific integration programmes for trafficked children. If they receive asylum or subsidiary protection, they would be able to access the same integration programmes, similar to having refugee status. There are no examples to report.
- [64]. There is no evidence that special needs for children coming from different ethnic backgrounds or needs of children with disabilities have been taken into consideration in any relevant contexts or legal procedures.

## 7. Prosecution

- [65]. The *Kriminaalmenetluse seadustik* [Code of Criminal Procedure] states the principle of public access applies to the pronouncement of court decisions without restrictions unless the interests of a minor, spouse or victim require pronouncement of a court decision in a closed session (§11(2)).<sup>63</sup> Subclause 4 of the same article states that ‘a court may remove a minor from a public court session if this is necessary for the protection of the interests of the minor.’ The court may also declare that ‘a session or a part thereof be held *in camera*’ (*i.e.*, closed to the public) in the interests of a minor (§12(1)).
- [66]. There are special rules regarding hearing witnesses who are under 14 years of age: it is mandatory that a child protection official, social worker or psychologist be present (§70, §290(2)); the minor shall not be cross-examined (§290 (1)); and the judge shall make a proposal to a witness who is a minor of less than 14 years of age to tell the court everything he or she knows concerning the criminal matter (§290(3)).
- [67]. There is also a general possibility for the long-distance hearing of witnesses ‘if the direct hearing of the witness is complicated or involves excessive costs or if it is necessary to protect the witness or the victim’ (§69(1)). This can happen only with the consent of the accused, except when the witness is anonymous.
- [68]. There is no easily accessible statistics regarding the number of final convictions based on child trafficking cases for the 2000-2007 period.
- [69]. There are no specific legal provisions for granting trafficked children access to justice or the right to compensation. The general grounds for access to justice apply.
- [70]. There is no information available regarding compensation paid to trafficked children.

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<sup>63</sup> Estonia/Riigikantselei (2003) *Riigi Teataja* I, 27, 166.

## 8. Miscellaneous

- [71]. There has been no significant public debate specifically relating to child trafficking, as public awareness of the issue is relatively low. Therefore there is nothing to report.

## 9. Good Practice

- [72]. There is no specific good practice to report as the number of actual reported cases is relatively low.

## Annex 1 – Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking <sup>64</sup>	0	0	0	0	0	0	0	0
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	0	0	0	0	0	0	0	0
Number of trafficked children receiving education/training, in particular secondary education and vocational training	0	0	0	0	0	0	0	0
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	0	0	0	0	0	0	0	0
Number of final convictions based on	N/A							

<sup>64</sup> According to the joint answer, there are no victims of human trafficking who are minors. Estonia/Justiitsministeerium, Sotsiaalministeerium, Välisministeerium, Siseministeerium (7.07.2008) *Vastuseks Inimõiguste Instituudi 30.05. päringule lastega kaubitsemise kohta* [As a response to 30.05.08 enquiry by the Institute for Human Rights on child trafficking].

child trafficking cases, per year <sup>65</sup>								
Total of amount of compensation paid to trafficked children, per year	N/A							
Average of amounts of compensation paid to trafficked children, per year	N/A							
Range of amount of compensation paid to trafficked children, per year	N/A							

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<sup>65</sup> There are no statistics on compensations paid to trafficking victims.