



# **The protection of unaccompanied Roma children on the move, potential victims of criminal exploitation**



**DEFENCE for  
CHILDREN** 



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# INTRODUCTION

**In the Netherlands, since 2007, the problem has been identified of unaccompanied Roma children who are involved in criminal activities or begging. There are signals that these children may be victims of trafficking. The first criminal investigations into this matter were carried out in 2015. In addition, a multi-stakeholder approach was implemented to optimize the protection of the children. Yet a durable solution is still lacking.**

After a shorter or longer period, children disappear from the youth care institution or they are eventually returned to the country of origin without there being any prospects of improving their situation. The Salvation Army and Defence for Children aim to contribute to the improvement of care for this group of children through the EU Safe Havens Project. For this purpose, research has been conducted for 19 cases, each case from the moment of arrest to the entire handling of the case by police and in particular by youth care agencies.

The research question of this case study is: What are the obstacles and opportunities concerning the protection of unaccompanied Roma children on the move, who are involved in criminal activities and what may be a durable solution?

This research looked at the UN Convention on the Rights of the Child as a guideline for the protection of these children in the Netherlands, the possible scope of the problem, the background of these children, the identification of possible criminal exploitation, the child protection measures that were taken, and the (transnational) finding

and realizing of perspective for these children. Of 19 cases, response and case management by police and care agencies from the moment of arrest to closing the case is researched.

## **LEGAL FRAMEWORK RIGHTS OF THE CHILD**

In 2005, the UN Committee on the Rights of the Child, in the frame of the UN Convention on the Rights of the Child, published General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin. This General Comment is an important guideline in the protection of the children object of the present research. Among other things, it prescribes that the identity of the child is to be examined as quickly as possible, as well as that of the parents and the same goes for the reason of separation of the child and his or her parents. The child must be informed about the measures that are taken for him of her and the child's view

should be taken into account. Preferably the child is not accommodated in a closed setting and detention must be prevented. There should be continuity in the upbringing of the child

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*The children are eventually returned to the country of origin without there being any prospects of improving their situation.*

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(culture, language, etc.). The child is entitled to education and health care. The child must be protected against child trafficking or exploitation, and victims of this should receive adequate support during their physical and mental recovery and reintegration into society. Unaccompanied children must be identified, and they should receive information about child trafficking or exploitation (adapted to age, sex, cultural background, language, etc.). Children who run the risk of again becoming the victim of trafficking, cannot be sent to the country of origin, unless this is in their interest and adequate

protection is available. A durable solution must be found as soon as possible, which should be in accordance with adequate protection of the child, as well as with the child's view on the matter, and all in cooperation with the parents or family network if this is in the best interest of the child.

**“ Children who run the risk of again becoming the victim of trafficking, cannot be sent to the country of origin, unless this is in their interest and adequate protection is available. ”**



### **POSSIBLE SCOPE OF THE PROBLEM**

The number of children used for committing criminal activities, and thus victims of criminal exploitation, is not precisely known. However, the children under the scope of this research or their parents often originate from a Central and South Eastern European country. Therefore, some numbers are known that could indicate the scope of the problem. For example, in 2016, 252 Central and South Eastern European children were arrested for petty thefts. That year, 21 foreign children were reported to CoMensha (appointed as the national registration point of trafficking cases) as suspected victims of criminal exploitation. It seems that the parties that come into contact with these children may not always recognize them as potential victims of criminal exploitation.

With regard to the 19 cases that have been followed in this research, the 130CEANS project started criminal proceedings for trafficking in human beings in only two cases. The other cases have not been officially designated as trafficking cases. One reason for this is that there are often no points of departure for further investigation. Capacity to investigate is also lacking.

## **THE BACKGROUND OF THE CHILDREN**

With regard to the background of the children in the 19 cases, they mainly were children from Romania (13) and Bosnia (12). Two cases concerned two children from Croatia, one case concerned two children from Serbia, and one case involved eight children from Bulgaria. All of these children, when in contact with the police or child protection, mentioned to be Roma. By far most of the children were in the Netherlands without their parents. Several children have been traveling between different countries for some time. In a few cases the girls were pregnant, had children and were married. The children usually did not go to school or had a limited education. Five persons had claimed to be minors when they were apprehended by the police, but after some investigation they appeared to be older than 18 years of age.

**“***It is recommended that the different agencies involved appoint permanent contact persons.* **”**

## **IMPROVED IDENTIFICATION AND COOPERATION**

The protection of unaccompanied Roma children on the move, involved in criminal activities, starts by police and care institutions identifying and recognizing possible criminal exploitation and the circumstances that threaten the children, keeping them from growing up safely. This study shows that the identification of these children as potential victims of exploitation, as well as the cooperation between the agencies involved, has improved in recent years. These agencies are the police (basic teams and the Aliens

Identification and Human Trafficking Division), the public prosecutor (the prosecutor handling petty crime and the prosecutor handling trafficking cases), the Child Protection Board, Certified Institutions offering child protection, youth care institutions, but also the children's judge.

However, the multi-agency cooperation requires continuous attention and maintenance. Furthermore, dissemination and safeguarding of knowledge about the phenomenon of criminal exploitation and its approach, requires permanent attention from the different agencies. Next, the

knowledge and approach should be disseminated in various regions outside of Amsterdam, where the issue has received most attention in recent years. It is recommended that the different agencies involved appoint permanent contact persons, who have experience with addressing criminal exploitation and transnational child protection.

Various initiatives have been taken to realize this, such as the establishment of the National expert group on criminal exploitation of children, and a referral mechanism and standard operating procedures developed by the Child Protection Board,

the Salvation Army, department of youth protection and probation, and the Aliens Identification and Human Trafficking Division.

## **THE CHALLENGE TO FIND A DURABLE SOLUTION**

During this research into the protection of unaccompanied Roma children involved in criminal activities (and to a lesser extent begging) and who are potential victims of criminal exploitation, we came across various obstacles to finding a durable solution. This also raises questions on the legitimacy of placement of the children in a closed setting.

Especially in Amsterdam, but also in other regions of The Netherlands, a child protection measure has regularly been



taken for these children. For example, provisional guardianship is provided because the children are without their actual parents or legal guardians in the Netherlands. Furthermore, children from the age of 12 are regularly placed in a closed setting for youth care because they will run away from an open institution, and therefore cannot effectively be protected against possible exploitation or other development threats. This first phase, of securing the children, seems to go well nowadays. The challenge lies in finding a long-term solution for the situation of these children. From the cases that were followed for this study, it appears that the children run away from care after a shorter or longer period, or are eventually returned to the country of origin or habitual residence without there being any prospect of improvement in their situation.

These are very complex cases in which a durable solution cannot be found easily. Complex, because they concern child protection in a transnational environment. Often the identities of the child and the parents or other adults surrounding the child remain (long time) unclear. This also goes for the question whether the child is safe within its family and the involvement in trafficking, and which country the child will return to. The cases are also complicated because of cultural differences. It is often unclear what is in the best interest of the child and how and where this can be realized.

A number of these obstacles are of a practical nature and recommendations have been made in this report to solve them, usually in a relatively simple manner, and thereby improve the approach of the matter (quick fixes). Concerning the more fundamental problems in these cases, a few possible solutions have been found, but no definitive solutions. On this, the agencies involved (internationally) will need to reflect further and gain more practical knowledge.



## Dilemma of placement in a closed youth care facility

Placement of these children in a closed setting for youth care is a dilemma. It appears to be an effective measure in the short term to protect children from possible exploitation and other development threats. However, the risk of these children feeling isolated is high, partly because of the language barrier. Placement must therefore be of as short a duration as possible. This measure is also an *ultimum remedium* in protecting children due to the restriction of freedom and only justified if it offers a solution or if it serves to finding a solution to the problem of the child. Long term perspective must be found as quickly as possible. This is precisely the most important

obstacle in the protection of these children. In several cases the children have been in the institution for a longer period of time (three to six months), but no solution was found for the child. More efforts should be made to find perspective as soon as possible, to justify placement in a closed institution for youth care.

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## Cultural sensitive care

The present care system still lacks cultural sensitive support. It needs improvement in relation to children's participation, information in their own language and customized daytime activities. Since it involves only a small number of cases per year, with long periods between the cases, it is a challenge to maintain a high level of expertise among staff in the institutions where the children are placed. Provision of care could be concentrated at a single institution to develop specific knowledge and skills in working with

this group and provide the appropriate care. It is recommended to work with cultural mediators who can act as buddies, provide the young people with information, reduce the language barrier between the child and the supervisors and help to build trust in the care workers. The cultural mediators can also help the children to better understand the situation they are in and may contribute to finding necessary solutions. These conversations with children should receive adequate attention and sufficient time must be made available.

## The task of guardians of unaccompanied migrant minors and the strengthening of (transnational) multi-agency cooperation

To speed up investigation and realization of prospects for these young people, it is recommended that at an early stage a plan regarding the future be drawn up together with the child to map out which issues need sorting out. This will also provide clarity for the young person. Matters that will need clearing up are identity and safety of the child and reintegration possibilities. For this phase time limits should be set up, to restrict the period in closed youth care setting and to streamline multi-agency cooperation. Young people should receive information about their rights and human trafficking.

The identity of child and family, and safety within this family, must be found out as quickly as possible. This research shows that on these matters much uncertainty persists until the end. Partly, this can be solved by, after the first signaling, strengthening multi-agency cooperation between police and youth protection in this area and ensuring timely follow-up.

It is not only national cooperation that needs to be strengthened. From the very beginning, in these cases of transnational child protection, especially the youth care workers should seek

cooperation with the authorities and NGOs of the countries of origin and transit of these children. In many of the cases that were investigated for this research, this was not done. It is necessary to obtain clarity about the identity and living conditions of the young person as soon as possible, but also to investigate return possibilities, to realize safe return and to ensure monitoring and follow-up after return.

In these complex cases, different agencies have to solve part of the puzzle. The cooperation here seems to have improved, however various cases in this research created the impression that police, child protection agency and the youth care institution were waiting for each other to take the initiative. Cooperation agreements must be made, and there must be more clarity about the division of tasks, everyone's responsibilities and possibilities. Regarding identity research, research into human trafficking and research into the safe return of the young person, it is important that the legal guardian is the defendant of the child's best interest and maintains oversight and control. Due to the complexity of these cases, it may be necessary to allocate more time for these cases to the legal guardians.

## **KEY ISSUES**

All kinds of obstacles and solutions have been described in this report. However, a lasting solution was not found for the unaccompanied Roma children involved in criminal activities or begging and potential victims of trafficking. In most of the cases that were investigated, it did not seem to concern merely incidents.

The children seem to have lived this way from an early age, and their families have all kinds of problems. These are matters that cannot be resolved from one day to the next, nor in the short period that these children fall under Dutch youth protection. During a study trip in Bosnia for the Safe Havens project, NGOs advised us to examine, together with the young person, what kind of self-image they have:

“It is important that the children learn to dream again. They have to learn to think about questions such as: who am I, where do I come from, who is around me, what can I do, what do I want.”

Furthermore, it is advised to look for cooperation with the parents and family of the children, to find out the reasons why the child is unaccompanied abroad and economically or criminally active. Together with the authorities of the countries of origin or habitual residence should be considered which assistance the family can be offered to prevent them from sending their children away. When the parents are ‘on board’ and when they accept care for the child, this can also lead to the child also accepting the assistance and wanting to cooperate. Winning the children's trust as well as their parents' will take a lot of time.

In most cases that have been investigated for this study, it proved to be impossible to reach this point. This is related to obstacles of a practical nature, such as the child's identity remaining unknown, obstacles in the multi-agency cooperation, a short-term child protection measure and the limited time that child protection service workers can spend on these matters.

## **CONCLUSION**

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The phenomenon of criminal exploitation of children and the approach in these cases, should receive continuous attention and knowledge about the subject must be further disseminated. Multi-agency cooperation, including agreements about the division of tasks, clarity about each other's responsibilities and achieving a timely follow-up of cases, also requires continuous maintenance. It is desirable to have permanent contact persons at the different agencies involved who have knowledge of and experience in dealing with criminal exploitation and transnational child protection.

The best interests of the child must be put more central and be extended beyond protection against suspected exploitation. More attention needs to be paid to the participation of the children in solving their problems. Therefore, information should be provided in their own language and it should be made possible for children to communicate in their own language regularly. It is necessary to work with cultural mediators to build the child's confidence and to find solutions to their problems. Whenever possible, the parents of the child must also be involved in finding a solution. In the treatment of the child it is important for the child to learn to define his self-image to find solutions for the future. From the very start of a case, guardians must seek cooperation with authorities and NGOs from the country of origin or habitual residence. This is necessary for establishing the identity and safety of the child, but also to secure safe return and reintegration of the child. Continuity in child protection, crossing different borders, is necessary to achieve a durable solution for the child.

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