

Trafficking in Unaccompanied Minors in the European Union Member States - Ireland

Research Summary

Research Report prepared for
The International Organization of Migration

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Ireland has been included in a Europe-wide study of trafficking in unaccompanied minors moving into and through the European Union. Research has already been completed in the Netherlands, Italy, Germany, Belgium, Spain, France and Greece. Studies in the UK, Portugal and Ireland complement this work.

This study is the third phase of a ten country European study co-ordinated by the International Organization of Migration. The third phase in 2002/3 included the UK, Ireland, and Portugal.

A synthesis of the ten country studies has been undertaken by the IOM and is to be launched in Paris in September 2003.

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Trafficking in Children - Irish law

Ireland has developed a comprehensive range of laws to outlaw the criminal phenomena of child trafficking and child pornography since 1995. A complementary updating of civil law for child protection has taken place and is under review in the light of European and international developments. The adoption by the Council of Ministers of a Framework Decision on combating trafficking in human beings in 2002 is an impetus to Ireland to bring its criminal and civil legal framework into line with the European Framework Decision. The enforcement of the law against child trafficking and child pornography in Ireland is active and has resulted in many investigations and prosecutions.

There have been no systematic studies published on the topic of child trafficking in Ireland. The IOM 2003 study is a small-scale investigative study of an emerging problem as viewed by institutional actors.¹ It is not a study of the underground economy, or a survey of the victims. However, it is the first of its kind. Many professionals, public servants and voluntary organisations expressed support that a report on the topic should be produced which would serve as a reference point for wider or more specialised studies and action in the future.

Compared with other European capital cities, the sex industry in Ireland is relatively new and small. There is no tradition of tolerance zones. This could change. There are massage parlors, lap dancing clubs, escort agencies and other manifestations of the industry. There is advertising outside Ireland for sex workers to come and work in Ireland.² There are also prosecutions of massage parlors, and lap dancing clubs, which do not comply with the exact terms of their license and of those who maintain brothels. Both soliciting for prostitution and living on the earnings of prostitution are prosecuted.

Societal tolerance of sexual abuse of children, non-disclosure, disbelief of child victims and harassment or isolation of those who denounced paedophiles, has been widespread. One in five women and one

in sex men disclosed childhood sexual abuse in the most recent large scale study.³ The majority of these victims experienced abuse in the pre-pubescent period before the age of 12 years. Systematic sexual abuse of children in residential care institutions over the decades and more recently in sports clubs has been an ongoing scandal, layers of which remain to be exposed.

Despite a relatively high level of trade unionisation, there is an underground economy in Ireland. Groups of migrant workers from the Ukraine or South Africa have been deceived into paying fees to agents to bring them to Ireland for non-existent jobs. Organisations of reputable employers have been alarmed by these developments orchestrated by recruitment agents inside Ireland and the European Union. The Irish context has been fertile for the development of contemporary trafficking in human beings for the purposes of both labour and sexual exploitation.

The study made preliminary enquiries in relation to child trafficking in Northern Ireland (UK). A very small number of unaccompanied minors are to be found in Northern Ireland.⁴

At a European Union level, besides repressing and reducing trafficking for the purposes of sexual and labour exploitation, the European Commission has begun to signal interest in a wider agenda of child interests. This study briefly touches on some of these areas:

- the lack of regulation for under-age au pair placements,
- the unregulated or problematic movement of unaccompanied children across European borders and jurisdictions into Ireland.

Frontline professionals in Ireland deal with child trafficking. The professionals include specialised Garda Units, Health Board Social Workers, child psychologists, and journalists specialising in migration affairs. A number of other professionals, members of the Law Society or the Bar Council encounter trafficking cases, as do the staff of the Refugee Applications Commissioner. Child trafficking also arises in the course of the work of some not-for-profit bodies such as the Refugee Council and the IOM.

Table 1

Numbers of children coming to the attention of the Health Boards in 2001 as unaccompanied minors in accordance with Section 8 (5) of the Refugee Act, 1996

Total Number of unaccompanied minors	1,151
Of which : Male	663
Female	488

Source: Communication with the Department of Health and Children, Childcare Minimum Data (2003), provisional estimates.

¹ Examples of larger studies can be found in IOM (2000) *Migrant trafficking and human smuggling in Europe*, IOM, Geneva.

² Kashiefa Ajam (2003) *Cape Times*, South Africa, 16.05.03. p. 1.

³ H.McGee et al (2002) *The SAVI Report - Sexual Abuse and Violence in Ireland*, Liffey Press, Dublin.p.xxxiv.

⁴ See Northern Ireland Council for Ethnic Minorities Seminar (2003) 'A Minor Issue'

The 2003 Research findings

- The study found that approximately 10% of unaccompanied minors coming into Ireland are the subject of investigation in relation to criminal trafficking or smuggling by adults,
- Child trafficking investigations deal with children from the the former war zones of the Balkans, the coastal countries of West Africa and Romania,
- Many child victims have already passed through another European country en route to Ireland,
- Suspected child victims of trafficking are aged from 3 years old to 17 years old and include both boys and girls,
- A number of unaccompanied children in the Cork region have been removed by unauthorised adults from their accomodation and could not be found later,
- A number of children who have been smuggled into Ireland for so-called humanitarian purposes have in fact been sexually abused by the time they arrive in Ireland. This is also the case of similar children in Northern Ireland.
- Some children coming into Ireland within larger family groups and who are in the care of adults, have later run away claiming either sexual or labour abuse,
- Some child victims are too small or have too little English to explain how they came to be in Ireland; others have been coached or bullied into giving false names and origins,

Child Trafficking and Pornography Act, 1998

The Child Trafficking and Pornography Act, 1998 penalises a variety of crimes in relation to trafficking in children for sexual exploitation and the manufacture and distribution of child pornography. In relation to trafficking, Section 3(1)(a) penalises the 'entry into, transit through or exit from the State of a child for the purposes of his or her sexual exploitation'. The penalty for this crime is life imprisonment. Providing accommodation for the child for such a purpose while s/he is in the State is also prohibited under the Act. 'Sexual exploitation is defined as the following:

- (a) 'inducing or coercing a child to engage in prostitution or the production of child pornography
- (b) using the child for prostitution or the production of child pornography
- (c) inducing or coercing the child to participate in any sexual activity which is an offence under any enactment
- (d) the commission of any such offence against the child'

The Child Trafficking and Pornography Act, does not criminalise trafficking for the purposes of labour exploitation. The Act has been extensively enforced with consequent prosecutions and convictions in the courts in relation to child pornography, the downloading from computers or storing of electronic images of child pornography and other related electronic crimes in relation to child pornography.

Zena was an Albanian teenage girl. She had been trafficked from Albania to Italy by her 'boyfriend' and placed in prostitution around the age of 16 years. From Italy, she had been moved, probably to the UK, for the purposes of 'prostitution'. She was happy to come to Ireland on the promise of her boyfriend that this would be a fresh start and there would be no more prostitution. In Ireland, she heard her 'boyfriend' discussing with a friend to put her in prostitution again. She decided to make 'a run for it' and escape. She presented herself to the Gardai and ERHA for protection. By now she was 19 and not entitled to unaccompanied minors child protection. She was however still a teenager and was in a milieu and company which exposed her to exploitation in the sex industry.

January 2002 a woman from Nigeria was detained at Dublin airport in charge of a child of three years old. There was a suspicion of trafficking in children. The child was taken into the care of the State and the woman's claim was investigated.

Council Framework Decision on Trafficking in Human Beings of 19th July 2002

The Framework Decision combines trafficking for both labour and sexual exploitation into a single legal instrument. Children figure in several instances in the Articles of the Decision. In order to implement the Decision, a number of the provisions in the one or several Irish laws would have to be amended in relation to children. Among these are the following:

- Article 1 (4) defines a child as any person below 18 years. This could involve raising the age of consent in some Irish criminal and civil legislation, redefining 'child' in other laws, and increasing the responsibilities and resources of social professionals to embrace a broader age range of clients in terms of child protection.
- Article 3 (2)(b) requires minimum penalties where the victim was under the age of sexual majority. This may involve an increase in or differentiation of penalties for trafficking in children, compared with adults.
- In the case of children, the Article 3 (2) of the Decision requires Member States to make certain presumptions that trafficking has occurred without being obliged to demonstrate that the child victim was, for example, deceived or abducted.
- Children are to be regarded as especially 'vulnerable' in relation to trafficking with consequences for their treatment as victims in criminal proceedings. This may or may not alter Irish practices.

The research study makes a number of recommendations. These include:

- Providing a secure legal status for child victims for whom no claim of refugee status has been made,
- Ending the accommodation of child trafficking victims in adult hostels or dormitory accommodation in reception centres,
- Developing opportunities for foster care for child victims among ethnic communities,
- The fingerprinting and photographing of minor children to assist their identification,
- Increasing the number of social workers to 1 social worker per 12 children,
- Creating a social work post of International Welfare Liaison Officer in the Eastern Region.

Four children, boys and a girl, including some siblings, were found by the Gardai in Co Galway in 2002. The Gardai arranged to return them to Dublin and the Eastern Regional Health Authority was called in. The children recounted that they had been in Ireland for over a year and had been brought to Ireland to work. They had been living in Dublin. The boys had been working on a building site and the girl was begging. They had had enough of it and decided together to escape by bus to the West of the country. They had run away from their 'mindes' to Galway. The children were taken into the care of the ERHA.