



# Global Monitoring

status of action against commercial sexual exploitation of children



**2<sup>nd</sup> EDITION**

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# Glossary of terms and acronyms

- **CEPOL:** European Police College
- **CIATTEH:** Centre for Information and Analysis on Trafficking and Smuggling of Human Beings
- **CSDP:** Common Security and Defence Policy
- **CSEC:** Commercial Sexual Exploitation of Children
- **DJP:** Directorate of Crime against Persons
- **DNA:** Deoxyribonucleic acid
- **ECPAT:** End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes
- **EU:** European Union
- **Europol:** European Police Office
- **FEBETRA:** Belgian Carriers Federation
- **Fedasil:** Federal Agency for the Reception of Asylum Seekers
- **Frontex:** European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
- **IOM:** International Organisation for Migration
- **LNO:** Liaison Officer
- **NATO:** North Atlantic Treaty Organisation
- **NGO:** Non-governmental organisation
- **OLAF:** European Anti-Fraud Office
- **PCCC:** Police and Customs Cooperation Centre
- **SIS:** Schengen Information System
- **TFCP:** Task Force of Chiefs of Police
- **THB:** Trafficking in Human Beings
- **UFM:** Unaccompanied Foreign Minors
- **UNODC:** United Nations Office on Drugs and Crime

# FOREWORD

At the First World Congress against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm in 1996, governments from around the world first gave recognition that commercial sexual exploitation of children is a global crime of epidemic proportions. The Stockholm Declaration and Agenda for Action - a strategic framework for actions against CSEC - was adopted by the 122 governments participating in the Congress in order to guide a systematic global response against the sexual exploitation of children.

The outcome document of the First World Congress was soon followed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC). Adopted in 2000 as a legally binding treaty of the United Nations, the Optional Protocol (and other relevant international treaties) reaffirms the urgent need for political will and concrete actions from governments to ensure that children in their countries can live free from all forms of commercial sexual exploitation.

In 2001, high-level delegates from 136 governments, local and international non-governmental organisations and children and young people, convened in Yokohama for the Second World Congress to review the achievements and challenges in combating CSEC as well as to identify new priorities needed to bolster and enhance action. Seven years later, the World Congress III in Rio de Janeiro provided the largest global platform to date for delegates from 137 governments to renew their state's commitment to protect

children from commercial sexual exploitation. The Rio Declaration and Call for Action strongly urges all stakeholders, including the private sector, to continue their due diligence in taking the necessary follow-up actions to eliminate CSEC. The Rio Call for Action emphasises the obligation to uphold the rights of the child as identified in existing international human rights and child rights instruments. It also offers a framework for the accountability of all duty-bearers of children's rights, particularly governments, in the fight against sexual exploitation of children and re-affirms the continuing relevance of the Agenda for Action, first agreed to in Stockholm twelve years earlier.

This report, as part of the Second Edition series of country monitoring reports produced by ECPAT International, provides a comprehensive baseline of information on all manifestations of CSEC in the country and an assessment of achievements and challenges in implementing counteractions (including the participation of children and young people themselves) to eliminate CSEC. The report, which follows the framework of the Stockholm Agenda for Action, serves as an instrument for the sharing of information and experiences among various stakeholders and duty-bearers within the country as well as internationally. It also suggests concrete priority actions urgently needed to proactively advance the national fight against CSEC. Furthermore, this report enables the monitoring of the implementation of international instruments on child rights, related to commercial sexual exploitation that have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations for their invaluable inputs to this report. ECPAT International would also like to express its profound appreciation of all the hard work of its dedicated team from

within the Secretariat and for the generous support of its donors that helped make the finalisation of this report possible. The contributions of all involved have greatly strengthened the monitoring of the Agenda for Action and the heightened collaboration needed to fight the new and evolving complex manifestations of commercial sexual exploitation of children.

# METHODOLOGY

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress II of 2001, the Mid-Term Review meetings held between 2004 and 2005 and the World Congress III in 2008. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this 2<sup>nd</sup> Edition report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Desktop research has shown a continuing lack of information in the areas of Recovery, Rehabilitation and Reintegration. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports thus focus only on those areas of the Agenda for Action where verifiable information can be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; Protection and Child and Youth Participation, and where information on recovery, rehabilitation and reintegration, was available, it has been included under the country overview. These 2<sup>nd</sup> Edition Reports also reflect a greater focus on integrated and inter-sector collaboration for the realisation of the right of the child to protection from sexual exploitation, including the need nationally for comprehensive child protection systems.

Research of secondary sources, including CRC country and alternative reports, OPSC country and alternative reports, the reports of the Special Rapporteurs, as well as research and field studies of ECPAT, governmental and non-governmental organizations, regional bodies and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and

field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

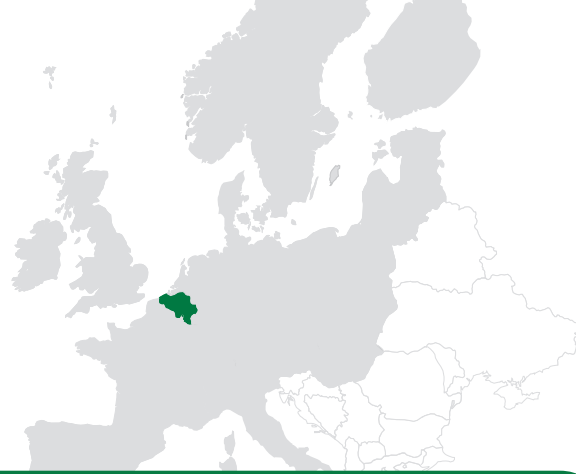
Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation. They also served as a measure for triangulating and validating information as different actors

offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all the 2<sup>nd</sup> Edition reports feature updated information in relation to: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see [www.ecpat.net](http://www.ecpat.net) for further details); (vi) overview and analysis of country's efforts incorporate participation of children in youth in the development and implementation of efforts to combat CSEC and (vii) priority actions required.



# BELGIUM



## INTRODUCTION

**Belgium**, officially the **Kingdom of Belgium**, is a federal state of Western Europe. It is one of the six founding members of the European Union (EU). The main EU institutions (the European Parliament, the Council of the European Union and the European Commission) are located in its capital, Brussels, along with other international organisations such as NATO. Belgium has a population of more than 11 million and borders the Netherlands, Germany, Luxembourg and France.

The country is ranked 17th in the world according to its Human Development Index.<sup>1</sup> In 2011, however, 10% of Belgian children were affected by poverty,<sup>2</sup> and, in the first half of 2011, the Federal Police recorded 2,065 complaints involving psychological, physical, sexual or economic abuse within the family (3,686 in 2010).<sup>3</sup>

Belgium is also a country of origin, destination, and transit for many men, women and children who are victims of forced labour and sexual exploitation. The majority of victims exploited in Belgium come from Bulgaria, Romania, Albania, Nigeria, China and Turkey.<sup>4</sup> These are the primary countries of origin for young victims of sexual exploitation. Unaccompanied Foreign Minors (UFMs), sometimes victims of trafficking, mainly come from Afghanistan, Syria, North Africa and Central Africa. Female

Belgian minors are also recruited by procurers (pimps), who force them into prostitution in the country. This type of trafficking also affects foreign children, especially those of Roma origin.<sup>5</sup>

The law protects young people against sexual exploitation and sexual trafficking and enforces severe penalties for acts relating to child pornography and possession of paedophilic material.<sup>6</sup>

In 2010, the federal prosecutor launched investigations into alleged child abuse over a period of many years by Catholic priests. Although the statute of limitations no longer allowed lawsuits to be brought against the alleged offenders, in May 2011, the Church agreed to compensate certain victims.<sup>7</sup>

After participating in the 1996 and 2001 World Congresses in Stockholm and Yokohama respectively, Belgium reaffirmed its commitment to the third World Congress against the Sexual Exploitation of Children & Adolescents in Brazil in November 2008. This in turn renewed and galvanised the global fight against the sexual exploitation of children and adolescents. In total, more than 3,000 people participated in the three-day event, including representatives from the Belgian government, the private sector and civil society, as well as 300 children and adolescents from around the world.

## Child trafficking for sexual purposes

The United States Department of State annually releases a Trafficking in Persons Report which categorised countries into different “tiers” based on their efforts to effectively combat human trafficking. Countries which have the highest level of compliance with the Trafficking Victims Protection Act are placed in Tier 1, those which make some effort but do not meet the aforementioned standards are placed in Tier 2, and those which do not take any action to combat human trafficking are placed in Tier 3.

In the US Department of State’s 2013 Trafficking in Persons Report, Belgium was classed in Tier 1.<sup>8</sup>

In general, Belgian legislation respects the minimum standards for the elimination of human trafficking. Nevertheless, in order to obtain a residence permit and receive assistance, victims are required to cooperate with the authorities, which may involve having to declare their traffickers. This condition can be difficult to prove for victims who have been exploited by their own family.<sup>9</sup>

Despite many reports of child prostitution in the country, the government has failed to identify a large number of child victims of trafficking. Furthermore, in 2011, EU nationals represented over one third of the victims granted the status of victim of human

trafficking.<sup>10</sup>

There have been many investigations and legal proceedings involving trafficking. In 2012, 381 suspects of human trafficking were prosecuted. In 2011, there were 358 suspects of which 170 were prosecuted for crimes of trafficking for sexual purposes. Provisional data for 2010 indicates that at least 64 trafficking suspects were convicted in 2010, of which 16 involved aggravating circumstances, as the victims were minors. In 2010, the 60 prison sentences imposed for trafficking ranged from less than a year to five years imprisonment.<sup>11</sup>

The Court of Appeal of Brussels delivered a heavy sentence in a trafficking case involving minors, where one of the defendants was a former police officer. The Court confirmed the decision made in the first instance, in which the two defendants had been convicted of facilitating human trafficking, exploitation of prostitution, corruption, and money laundering. The two defendants were a couple, with one partner (female) working as a prostitute under the control of the other partner (male). The court sentenced the former to four years’ imprisonment and the latter to seven years.<sup>12</sup>

According to Immigration Office figures, five cases of trafficking minors for sexual purposes were detected in 2011. It is important to note that out of 20 minors identified as victims of trafficking (for any purpose), 12 obtained, for the first time, residence permits as children of victims and not as direct victims as such. Eight unaccompanied minors were given the status of victims of human trafficking in 2011.<sup>13</sup>

Additionally, in October 2012, the Court of Appeal of Liège sentenced an Albanian national to eight years’ imprisonment for the sexual exploitation of Belarusian and Lithuanian girls.<sup>14</sup>

In 2011, support was given to four new victims of child trafficking through a specialist centre.<sup>15</sup>

In Belgium, prostitution is neither defined nor punished in its penal code in relation to adults or children. The prostitution of minors is, however, prohibited by the offence of inciting minors to corruption or prostitution.

Between 2000 and 2007, 78 cases involving major clients or procurers and child victims of prostitution were identified in the Belgian public prosecutor's office.<sup>16</sup>

The number of convictions for inciting minors

to corruption or prostitution has increased in recent years. 42 convictions were made in 2010, doubling the convictions made the previous year (21 convictions in 2009). In 2011, this number increased again to 51 convictions.<sup>17</sup>

In one case concerning the sexual exploitation of a female minor, the criminal court of Dendermonde found the defendant guilty of all charges. The court also ordered a confiscation equivalent to €2,437,557, corresponding to the revenues derived from trafficking and exploitation of prostitution offences.<sup>18</sup>

## Child pornography and exploitation over the Internet

According to official figures, in the first half of 2011, the Federal Police investigated 210 cases of child pornography (and 387 in 2010).<sup>19</sup> In addition to this, in 2011, the Foundation for Missing and Sexually Exploited Children (Child Focus) handled 57 cases of child sexual abuse through the use of information and communication technologies.<sup>20</sup>

Child Focus has established many tools and response mechanisms concerning the

sexual abuse of children such as [clicksafe.be](http://clicksafe.be), where young people can seek help in cases of abuse. 112 people contacted the Click Safe site in 2011, and the Foundation received 1025 requests for training and educational materials.<sup>21</sup>

Furthermore, the site [stopchildporno.be](http://stopchildporno.be) counted 1,479 cases of child pornography on the Internet in 2011, a higher number than the previous year (1,320).<sup>22</sup> Specialised police units were informed of these cases.<sup>23</sup>

The trial of a lawyer charged with the illegal possession of child pornography also ended in 2011. He was sentenced on appeal to a 10-month suspended prison sentence, quite a lenient verdict considering the allegations.<sup>24</sup>

## Sexual exploitation of children in travel and tourism

The Belgian courts did not deliver their first sentence on child sex tourism until 2013.

On 18 February 2013, under extraterritorial jurisdiction, a former Belgian journalist who engaged in sex tourism in Morocco was sentenced to an 18-month suspended prison sentence. This was the first trial of its kind in Belgium. He was found guilty by the Criminal Court of Brussels of “corruption

or prostitution of a minor,” “degrading treatment,” and “exhibition and distribution of pornographic images”.<sup>25</sup>

This decision is encouraging, but some might feel that the sentence was not sufficiently severe, given the charges.

## NATIONAL PLAN OF ACTION

The Belgian government has not adopted a national action plan for children that includes specific measures for protection against sexual exploitation since 2005.<sup>26</sup> They have, however, adopted a new national action plan for 2012-2014 concerning trafficking in human beings. This is very similar to the preceding plan and will essentially continue the actions previously begun. Among other legislative improvements, it includes measures for both the prevention and protection of victims. It also contains a section dedicated to child trafficking victims.

### New Action Plan against Trafficking in Human Beings for 2012-2014<sup>27</sup>

The Interdepartmental Coordination Unit for the Fight against Trafficking in and Smuggling of Human Beings is responsible for executing the new 2012-2014 action plan.

On a legislative level, the plan envisages a revision of the 10 August 2005 law on human trafficking as well as of the ministerial directive on multidisciplinary cooperation with the victims of human trafficking (26 September 2008). These revisions aim to prepare a more immediate and convenient tool for combating trafficking.

Furthermore, an evaluation of the directive is provided for, in relation to UFM, their representative guardians' awareness of trafficking as a whole, and training in Fedasil (Federal Agency for the Reception of Asylum Seekers) centres in order to better identify

UFMs. The plan also provides for an update of the ministerial directive (Col 01/2007) concerning Investigative and Prosecutorial Procedures on Trafficking in Human Beings. Finally, reception centres for victims of human trafficking will be legally recognised, permitting them to take appropriate legal action.

Regarding the strategy's preventative component, Belgium will continue to participate in European and international projects, allowing the Belgian government to combat human trafficking and its cross-border facets more effectively. This is possible largely thanks to international organisations such as the IOM and the UNODC. The government has also committed to holding a press conference every two years to inform the public of its investigation, prosecution and conviction rates in this domain. Other issues will include prevention campaigns and combating Internet pornography.

In addition to this, the action plan incorporates police and magistrate training on domestic violence and good practices in investigations.

Collection of data will go through the Centre for Information and Analysis on Trafficking and Smuggling of Human Beings (CIATTEH). It will be necessary to adapt the regulations and allocate a larger budget for CIATTEH to function more efficiently and to obtain more reliable data. The national action plan also calls for the collection of targeted and up-to-date information about victims of trafficking on returning to their country of origin.

### The Wallonia-Brussels Federation Rights of the Child Action Plan 2011-2014<sup>28</sup>

This action plan incorporates three main elements: 1) governance of the rights of the child in the French Community of Belgium, 2) information, training and education on the rights of the child and 3) the fight against social inequality and discrimination. This plan, however, contains very few measures concerning CSEC.

## COORDINATION AND COOPERATION

In order to combat CSEC, it is vital to have coordination of action and cooperation between the different players involved in the fight against the sexual exploitation of children for commercial purposes. In accordance with the Stockholm Declaration, it is necessary to rely on close cooperation between governmental and non-governmental actors to ensure effective

planning, implementation, and evaluation of action against CSEC.

On an international level, cooperation should take place between national and international organisations (including local organisations) to ensure work regarding the elimination of CSEC is based on consultation and coordination.

The Belgian government has introduced many initiatives against the smuggling and trafficking of human beings. An Interdepartmental Coordination Unit against Trafficking in and Smuggling of Human Beings was created in 2004, followed by an inter-agency directive concerning coordination and assistance for victims of trafficking 2008. However, no initiatives have been proposed to tackle child pornography or child prostitution.

### Local and national level

In order to identify and help victims of trafficking proactively, the government can refer to the inter-agency directive from 2008 concerning coordination and assistance for victims of trafficking. The evaluation of this directive has shown a good level of cooperation between the parties involved. However, difficulties have been observed for

those in the field, and this will be revised in favour of a more pragmatic approach.<sup>29</sup>

In the Belgian system, multidisciplinary cooperation between the various people who have first contact with victims (first-line/frontline services) and social workers in specialised centres is key.<sup>30</sup> This has allowed

first-line services to give potential victims more attention, which also creates a feeling of mutual trust. This in turn leads to a situation in which victims are more easily convinced to request victim status. For example, a pilot project was conducted in Liège which aimed to raise awareness in the medical sector and direct potential victims of trafficking towards services specialised in identifying victims.<sup>31</sup>

To ensure the coordination of the various anti-trafficking initiatives, an Interdepartmental Coordination Unit against Trafficking in and Smuggling of Human Beings was created on 16 May 2004 by royal decree.<sup>32</sup> This unit, placed under the chairmanship of the Ministry of Justice, brings together all the relevant federal stakeholders, both operational and political. Aside from its coordination role, the unit should critically evaluate the results of anti-trafficking initiatives and, where appropriate, collaborate in formulating proposals and recommendations for improvement.<sup>33</sup>

A minimum of twice a year, this unit meets with a committee comprising of the main departments' services (Justice, Interior, etc.) involved in the fight against human smuggling and trafficking.<sup>34</sup> Chaired by the Belgian Ministry of Justice's Criminal Policy Service, this committee meets on a monthly basis to ensure that the unit is running smoothly and oversees and executes its decisions, recommendations and initiatives.<sup>35</sup>

The Minister of the Interior states that collaboration between the various bodies in combating human trafficking is regulated by the Col 01/07 directive, which concerns research policy and prosecution. This directive provides for regular meetings, in principle four times per year, with all of the relevant parties from each judicial district (*arrondissement judiciaire*): the Public Prosecutor, the Labour Law Auditor's Office (*l'auditorat du travail*), the Federal Judicial Police, the Central Service for Trafficking in

Human Beings Affairs of the Federal Police, local police investigation services, the Social Inspection Service and the Social Legislation Inspectorate. They work together on the situation in the judicial district, including on the necessary checks and on current cases or those that need to be opened concerning both isolated incidents and more organised crime. The Central Service for Trafficking in Human Beings Affairs of the Federal Police gives support to police initiatives.<sup>36</sup>

**The Social Inspection** of the Ministry of Social Affairs also has human trafficking units that are responsible for inspecting workplaces where foreign workers may be illegally employed. On 31 May 2001, the Social Inspection of the Ministry of Social Affairs and the Social Legislation Inspectorate of the Ministry of Employment and Labour signed a collaborative protocol in order to systematically organise joint inspections. This aimed to check compliance with social legislation in sectors with a high risk of human trafficking.

In its 2012 report, the Belgian Senate's working group on human trafficking indicated that effective platforms for cooperation are necessary for labour inspections. They suggested that these be based on existing international police and legal cooperation platforms.<sup>37</sup>

At a local level, consultation occurs on this subject between the two inspectorate services, the labour auditor, the public prosecutor and/or police services. Despite these initiatives, it has been shown that in practice, not enough attention is paid to the warning signs of human trafficking during inspections. In October 2012, the general management of the Social Legislation Inspectorate developed a new training course for labour inspectors.<sup>38</sup> Around 70 inspectors took part. It aimed to update the knowledge of older inspectors and inform newer inspectors of the subject at hand. The issue of human trafficking and

its different forms were, therefore, explained. Similarly, collaborative efforts between the different services and procedures (police, legal, etc.) for protecting victims have been highlighted.<sup>39</sup>

**Regarding legal cooperation,** the Senate's working group on human trafficking recommends more emphasis at the local level on localised security plans against human trafficking. The local police play an essential role in the detection of human trafficking cases. The National Security Plan 2012-2015 was adopted by the Council of Ministers on 1 March 2012 and indicates the smuggling and trafficking of humans as priority crimes.<sup>40</sup>

The current system is problematic in terms of investigation and prosecution due to the supra-local nature of human trafficking. However, a pilot project is under way in West Flanders that is transferring the judicial districts' authority to a provincial level and it is proving effective so far. The judicial districts are therefore, responsible for prosecuting acts of human trafficking. The help of the federal prosecutor's office in coordinating cases from different judicial districts would be valuable in this area, especially where complex international investigations are concerned.<sup>41</sup>

There is also a Central Service of Human Trafficking which is part of the Federal Judicial Police's Directorate of Crime against Persons. It provides support and expertise and is involved in all investigations into sexual abuse of children on the Internet. This service works in collaboration with other services provided by federal and local police, but also with the judicial system, foreign police, and national and international partner organisations, with the aim of putting an end to abuse, apprehending perpetrators and helping victims.<sup>42</sup>

The ministerial directive Col 12/99 proposed that the unit centralise information

about natural and legal persons as well as organisations and businesses for which there is existing evidence of involvement in human trafficking and child pornography. It also proposed that this information be made available to the relevant magistrates, which would give them a better overview of human trafficking and child pornography.<sup>43</sup>

In terms of language communities, a collaborative agreement from 17 January 2011 between the Flemish Community (Ministry of Welfare, Public Health and Family) and the Federal State (Ministry of Justice) put the "abuse" protocol (30 March 2010) into practice with the introduction of a "Vlaams Forum Kindermishandeling": a Flemish forum on the subject of child abuse. The forum addresses structural problems related to the abuse of children that are submitted by child abuse subgroups within the judicial districts. The forum makes recommendations and proposals on how to approach child abuse, on its own initiative or at the request of the Federal Minister of Justice or the Flemish Minister for Welfare. All forms of child abuse can be discussed in this forum, but the subjects of child sexual exploitation and child trafficking have not yet been addressed. On the other hand, after its first year of existence, the forum recommended that the Minister of Justice prepare a ministerial directive on combating child pornography.

Regarding the French community, one working group set up an intervention procedure between the medical/psychological/social and the judicial sectors in 2007 and evaluated it in 2011. This comprises representatives from different sectors involved with child abuse, such as justice, Youth Assistance Services, police, and mental health, which is similar to the "Vlaams Forum Kindermishandeling". For now, discussions are ongoing.<sup>44</sup>

## Regional and international level

With its 2012-2015 National Security Plan, the Belgian police is committed to training its collaborators for better coordination of services regarding international police cooperation. The efforts made in recent years (at the national, cross-border, EU and international levels) will be continued. The Belgian police has a responsibility to further regional cooperation and collaboration with bordering nations and regions (e.g. Benelux Meuse-Rhine, Scheldemond and Lille/Kortrijk/Tournai). They should support the EU's strategic decision-making process (European political cycle) as well as European and international organisations, institutions and agencies, ensuring practical development, in particular with reference to existing possibilities, procedures and (technical) methods. They should also contribute to integrate monitoring of external borders and of Belgian foreign policy in the area of Common Security and Defence Policy (PCSD), according to the means provided.<sup>46</sup>

In Belgium, the Federal Prosecutor is responsible for facilitating international judicial and police cooperation. The Belgian police also has an effective network of liaison officers stationed abroad, who offer support to Belgian investigators in the execution of international rogatory commissions and facilitate various forms of international collaboration. Foreign police liaison officers stationed in Belgium provide a similar form of support. There is also close cooperation between Police and Customs Cooperation Centres in the cross-border regions.<sup>47</sup>

Bilateral police agreements exist with neighbouring countries, other EU countries and developing countries. These agreements are developed into action plans implemented by Federal Judicial Police directorates. Certain collaborations with European and non-European police services take place multilaterally, for example with the Benelux

union.<sup>48</sup>

The Schengen Information System (SIS) allows police services from signatory countries to search for people and report subjects. The Prüm Convention also provides for the possibility of a simpler, automated method of exchanging DNA data, fingerprints, and vehicle registration plates contained in national databases.<sup>49</sup>

The European Union has several agencies and institutions that provide significant support to the Belgian Federal Judicial Police, such as the Task Force of Chiefs of Police (TFCP), the European Police College (CEPOL), European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), Europol, Eurojust, and the European Anti-Fraud Office (OLAF). Interpol and Belgium have contacts that are made through the National Contact Point and managed jointly by the Federal Police.<sup>50</sup>

**Concerning the smuggling and trafficking of human beings**, many cases demonstrate that it is necessary to have a faster and more effective form of international communication between administrative and police migration services in order to identify and guide victims. Victims are frequently discovered by chance, and the fact that there is no structural approach in place is problematic. Often, out of multiple victims in the same situation, some are never detected. It is vital that international agreements are established in order to develop a warning system that works through police and/or immigration liaison officers. In such situations, neighbouring countries' detention centres must notify their national contact point upon discovery of victims to set the warning system in motion.<sup>51</sup>



According to various magistrates and police services, international cooperation concerning rogatory commissions has improved with Bulgarian public services and with Nigeria. Belgium has few joint investigation teams specialised in human trafficking, but their international police cooperation with cross-border regions between Belgium, the Netherlands and Germany is a prime example of good practice in international police cooperation across borders. In

Belgium, the Netherlands and Germany, this cooperative link was set up between the Liège, Hasselt, Maastricht and Aachen areas to combat human trafficking, drug trafficking, and organised theft. During organised meetings involving police officers and magistrates from the aforementioned countries, concrete data is exchanged, with the aim of making the actions and methods of each party more consistent. This system is fast and efficient.<sup>52</sup>

## PREVENTION

Awareness campaigns have so far mainly been managed by NGOs. ECPAT Belgium has launched several awareness campaigns on the subject of sex tourism and child pornography. Nevertheless, a March 2012 working group report on Trafficking in Human Beings (*Traite des êtres humains*) from the Belgian Senate concluded that there was a need for an awareness campaign targeted at frontline parties working with victims of trafficking. Following this report, action has been taken by the government aiming to train the different services in contact with victims of child trafficking.

Effective prevention of CSEC requires strategies and policies that approach the different issues linked to CSEC from different angles. Both vulnerable children and individuals who engage in sexual activity with children should be targeted as well as the causes of CSEC such as poverty and lack of access to education.

Long-term prevention strategies include improving circumstances for the most vulnerable children through the use of policies

to reduce poverty and social inequality and improving access to education, health and social services. Short- and medium-term strategies include awareness campaigns and education and training for the public, vulnerable groups and government officials. Resources, expertise and private sector influence – in particular, in the tourism and technology industries – should be used to effectively warn people about the risks of CSEC.

### Prevention: operational activities

#### EDUCATION AND TRAINING

ECPAT Belgium has devised and launched many awareness campaigns.

The “Stop Child Prostitution” campaign was launched in 2004 to highlight the problem of child sex tourism and encourage the reporting of suspicious situations via the Federal Police’s Human Trafficking Unit. This campaign

is the result of a working group which brings together partners in the public sector (Ministry of Foreign Affairs, Defence, Justice, Police), in the private sector (Federation of the Tourism Industry, FEBETRA) and in NGOs (Plan Belgique, Child Focus, ECPAT Belgium, Samilia Foundation). The government endorsed the national “Stop

Child Prostitution” campaign in 2011. As part of the campaign, a multilingual flyer continues to be distributed about visas for potential child victims who come from the main countries of origin for trafficking in Belgium.<sup>53</sup>

ECPAT and The Body Shop ran an international campaign to stop the trafficking of children for sexual purposes. This campaign led to the handover of 102,000 petitions to the Deputy Prime Minister and Minister for Equalities, Joëlle Milquet, with specific recommendations for improving the child trafficking situation in Belgium.<sup>54</sup>

ECPAT Belgium is also a partner in a European project to raise awareness of Internet safety among young people called “Make-IT-Safe,” which began in January 2013.

In 2011, Child Focus and the six main Internet providers signed an e-safety charter, which is based on six main principles:

- Internet access and content providers, and anyone offering an online service

or platform to minors must commit to protecting children online.

- Inform children of potential risks and stimulate communication between parents and their children on the subject of online security.
- Protect children from harmful or potentially illegal conduct and harmful contact by providing good, easy-to-understand information and ‘rules’ as well as clear information on what might happen when one violates these rules.
- Empower users through tools and technology (e.g. offer clear, user-friendly privacy settings).
- The e-safety aspects discussed in this charter are never to become commercial products.
- Collaboration, with law enforcement agencies in particular, is crucial in the case of illegal and illicit content or conduct.<sup>55</sup>

Child Focus is also working on prevention through e-safety among children, teachers and parents.

## Prevention: institutional mechanisms

There is a working group on human trafficking whose work led to a report on 27 March 2012 (previously mentioned). The group calls for accelerated training to raise awareness among frontline workers in areas such as social inspection, detention centres, healthcare, police and magistrates.<sup>56</sup>

In terms of prevention, they created a leaflet to raise awareness for certain diplomatic offices working with visa applications (2009) and produced an information newsletter about human trafficking for hospital social services (2009-2011).<sup>57</sup>

In 2010, the national anti-trafficking action

plan (2008-2011) recommended raising awareness and training for people likely to come into contact with victims of child trafficking.<sup>58</sup> According to ECPAT Belgium, however, no such specific training has been introduced.

In 2011, the Interdepartmental Coordination Unit against Trafficking in and Smuggling of Human Beings created an awareness brochure to help hospital staff identify victims of trafficking.<sup>59</sup> While everyone involved considers this initiative important, it has had mixed results. Only a small number of hospitals requested more brochures. Specialised centres have suggested

distributing the brochure to school nurses for greater impact. It is expected that this campaign will be re-launched.

Aside from this, training was organised at a Fedasil reception centre in October 2012 to further educate social workers in identifying UFM's who may be victims of trafficking. This training has been assessed and will be carried out in other Fedasil centres in 2013. It was organised by the Immigration Office's MINTEH (Minors and Trafficking in Human Beings) Service and Fedasil, in accordance with the action

plan against trafficking in human beings for 2012-2014. In continuation of this work, the MINTEH Service has been in talks with the Interdepartmental Unit regarding the preparation of a document on identifying child victims (which may be made available to social workers in Fedasil centres). The document has been finalised and will be circulated during the next training sessions. It will also be adapted and given to UFM guardians. These initiatives fall within the measures currently aiming to increase the identification of potential child trafficking victims.<sup>60</sup>

## POLICE AWARENESS

Frontline services' awareness is critical to the detection of potential victims of trafficking. Parliamentary questions have been formulated concerning raising awareness during police officers' basic training and concerning the role of the federal and local police in combating human trafficking. The Minister of the Interior stated that it is essential that police officers be educated, from the beginning of their basic training, about the issue and the identification of potential victims of human trafficking during their daily duties.

The Central Service of Trafficking in Human Beings is developing a project in collaboration with the Belgian Federal Police's training board to coordinate basic training modules across provincial police academies. Meanwhile, special sessions have already been organised in two police academies. The Central Service of Trafficking in Human Beings also publishes, through the District Information Crossroads (*carrefours d'information d'arrondissements*), a monthly online information bulletin, which outlines the development of the situation and can be accessed by all police officers.<sup>61</sup>

## DATA COLLECTION

Regarding the collection of data on human trafficking, the 16 May 2004 anti-trafficking Royal Decree enabled the creation of a Centre for Information and Analysis on Trafficking in and Smuggling of Human Beings (CIATTEH). A management committee was created to ensure that the CIATTEH functions effectively. This committee brings together the most important parties involved in combating trafficking and is chaired by the Service for Criminal Policy.<sup>62</sup>

However, according to one evaluation, the CIATTEH is not showing effective results. To improve, it must gather information from a range of services and departments and use this as a basis for performing a relevant and strategic analysis.<sup>63</sup>

It would also be advisable for the Belgian government to focus on collecting data and employing a system for preventing pornography and child prostitution.

# PROTECTION

Comprehensive and effective legislation is essential to protect children from CSEC. Specific laws must be created, implemented, and/or reinforced to combat the various forms of CSEC. These laws must also be regularly re-examined and amended in response to changes in the international legal framework

and emerging forms of CSEC such as grooming (sexual solicitation) and viewing or accessing child pornography online. In addition, it is essential that newly-adopted national laws be well-implemented. Finally, policies and procedures designed to protect child victims and/or witnesses are also crucial.

## International CSEC Standards

International Instruments	
Human Rights bodies related to Child's rights	Comments
<i>Charter-based bodies</i>	
<i>Working Group of the Universal Periodic Review – Human Rights Council</i>	<p>The human rights situation was examined by the Working Group on 2 May 2011. Some recommendations were related to CSEC. Belgium accepted some of them:</p> <ul style="list-style-type: none"> <li>- Incorporate strategies to eradicate child trafficking, child prostitution, and child pornography within the development of national plans of action on combating trafficking in human beings;</li> <li>- Effectively address through legislation and policies the sexual exploitation of children, including child pornography.</li> </ul> <p>And rejected others:</p> <ul style="list-style-type: none"> <li>- Renew its action plan against the sexual exploitation of children for commercial purposes;</li> <li>- Revise its penal code to ensure that its legislation on child pornography covers representation of a child by whatever means for primarily sexual purposes.</li> </ul>
Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography	Visit from 30 November – 4 December 1998
Special Rapporteur on Trafficking in Persons, especially Women and Children	No visit was conducted or scheduled
<i>Treaty-based bodies</i>	

Committee on the Rights of the Child (UPR)	<p>The Committee on the Rights of the Child’s concluding observations were made after examining the third and fourth reports in 2010. Some recommendations were made:</p> <ul style="list-style-type: none"> <li>- comply with its obligations to provide protection to all child victims of trafficking and grant them residence permits regardless of their nationality and willingness or ability to cooperate in legal proceedings</li> <li>- create more residential structures to provide assistance to child trafficking victims and enhance knowledge of children’s rights and skills of professionals in reception centres and shelters dealing with child victims</li> </ul>	
CSEC Children’s rights instruments	Date of ratification	Date of submitted reports
Convention on the Rights of the Child (CRC) – 1989	December 16, 1991	<p>Initial report reviewed in 1995.</p> <p>Second periodic report reviewed in 2002.</p> <p>Third and fourth periodic reports reviewed in 2010.</p>
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC) – 2000	March 17, 2006	<p>Final observations were made during the review of the initial report on 11 June 2010.<sup>64</sup> Some recommendations:</p> <ul style="list-style-type: none"> <li>- guarantee the direct applicability of the Optional Protocol in domestic order;</li> <li>- promptly update its 2001 National Plan of Action against the Commercial Sexual Exploitation of Children ;</li> <li>- intensify and promote awareness in the public at large, including children;</li> <li>- continue and strengthen its training activities for professionals, including police officers, public prosecutor, judges, medical staff, social welfare officers, media and other groups of professionals concerned;</li> <li>- Revise its penal code to ensure that its legislation on child pornography covers representation by whatever means</li> <li>- Amend its law in order to ensure that the extraterritorial competence of Belgium courts and tribunals also applies to sexual exploitation of children from 16 to 18 years</li> </ul>

Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure – 2011	Signed on February 28, 2012
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	Ratified on May 8, 2002
UN Convention against Transnational Organized Crime – 2000	Ratified on August 11, 2004
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) – 2000 (supplementing the UN Convention against Transnational Organized Crime)	Ratified on August 11, 2004
<b>Regional Instruments</b>	
Council of Europe Convention on Cybercrime – 2001	Ratified on August 20, 2012 and entered into force on the 1 December, 2012
Council of Europe Convention on Action against Trafficking in Human Beings – 2005	Ratified on April 27, 2009
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) – 2007	Ratified on March 8, 2013

## National Legislation

Since Belgium is a monist state, international standards do not have to be transposed into national law to be directly applicable. Since the Belgian constitution does not explicitly address the hierarchy of standards, this principle was set out for the first time by case law.

Belgian constitution does not explicitly address the hierarchy of standards; this principle was set out for the first time by case law.<sup>65</sup> However, to be completely applied and more easily invoked in court, Belgium must transpose these international standards into national law.

In accordance with the Convention on the Rights of the Child, the Belgian Civil Code

sets the age of majority at 18 (art. 488). Belgian law has greatly improved since 1995 and has become more effective at preventing the sexual exploitation of children. The limitation periods for sexual offences were extended in 2012,<sup>66</sup> the dissemination of child pornography via the Internet has been suppressed, and specialised treatment has been established for the conditional release of criminals found guilty of sexually abusing minors.<sup>67</sup> Regarding the commercial sexual exploitation of children, major advances were made concerning the irrelevance of the coercion and consent of the victim<sup>68</sup> when defining an offence, the possibility of prosecution by Belgian authorities for crimes committed abroad,<sup>69</sup> and the harmonisation of national law with international standards.<sup>70</sup>

Moreover, several proposed amendments that were recommended in the 2012 – 2014 legislative action plan have been adopted or are being considered.

The Act of 29 April 2013<sup>71</sup> amending article 433 *quinquies* of the Penal Code, which expanded the definition of human trafficking to include sexual exploitation, entered into force on 2 August 2013. The bill was amended to take into account the conclusions of the Ministry of Justice working group that examined the transposition of the 5 April 2011 European directive. Like those who drafted the initial bill, the working group concluded that references to existing offences were inappropriate for comprehending many forms of exploitation seen in the field such as sexual slavery, participation in pornographic performances, and the production of

pornographic images depicting adults.<sup>72</sup> Referring to offences with limited definitions does not allow international and European obligations to be completely fulfilled, since the latter refer to more flexible (and thus progressive) concepts such as “other forms of sexual exploitation.” The Act suppressing the exploitation of begging, prostitution and human trafficking, which carries a fine multiplied by the number of victims, was adopted on June 24, 2013<sup>73</sup> and, consequently, amended several articles of the Penal Code.

Despite the different legal reforms that have been implemented or that are currently under consideration, Belgian laws on the commercial sexual exploitation of children do not fully comply with international standards. This mainly concerns child pornography, which remains undefined in the Penal Code.

## PROSTITUTION OF CHILDREN

The Penal Code implicitly penalises child prostitution in articles 379 and 380, which prohibit the incitement of minors to debauchery or prostitution. Nonetheless, the term prostitution is not defined in accordance with article 2 (b) of the Optional Protocol on the sale of children, child prostitution and child pornography.

**Articles 379 and 380 of the Penal Code**<sup>74</sup> punish acts linked to child prostitution. However, Belgium has not legally defined the concept of prostitution. It should be mentioned here that in Belgium, adult prostitution is not punishable.

**Article 2 (b) of the Optional Protocol** defines child prostitution as *the use of a child in sexual activities for remuneration or any other form of consideration*. Belgium should include this definition in its Penal Code, so its laws can meet these international requirements.

**Article 379 of the Penal Code** defines the incitement of minors to debauchery or prostitution as: *“Whoever shall have violated public decency by provoking, favouring or inciting sexual immorality, corruption or the prostitution of a minor of either sex, in order to*

*gratify the passions of another, shall be punished by severe imprisonment (...) and a fine (...).”*

The sentence varies depending on the age of the victim (less than 14 years, less than 16 years, and less than 18 years); the younger the victim, the heavier the sentence. By “provoking,” the law means attempting to push the minor to commit the qualified behaviour when the minor has not taken the initiative. “Favouring” means fostering a tendency already present in the minor to commit the qualified behaviour. The term “inciting” refers to helping the minor commit the qualified behaviour, even when the initiative originates with the minor.<sup>75</sup>

**Article 380 § 4 of the Penal Code** defines the sexual exploitation of minors. It states that perpetrators can be punished even if the

minor consented to the act. Additionally, the Act of 24 June 2013, discussed above,

added § 7 to article 380, which multiplies the amount of the fine by the number of victims.

## TRAFFICKING IN CHILDREN FOR SEXUAL PURPOSES

Even though Belgian law respects international standards on human trafficking, child trafficking is not a specific crime in the Belgian Penal Code. However, the age of a victim is an aggravating circumstance of the offence.

Human trafficking is clearly defined in **article 433quinquies** of the Penal Code as *any form of recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person for the purposes of exploitation. The types of exploitation are listed exhaustively. The Act of 29 April 2013*<sup>76</sup> amended this article and expanded the types of exploitation to “prostitution or other forms of sexual exploitation,” which were previously restricted to “prostitution or child pornography.”

**Articles 433sexies to octies** list the aggravating circumstances, which includes the victim’s age. The sentence for trafficking in human beings when the victim is a minor ranges from ten to fifteen years of imprisonment and a fine of 1,000 to 100,000 Euros. Finally, articles 433quinquies to octies now multiply the fine by the number of victims.<sup>77</sup>

Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines sexual exploitation as “the exploitation of the prostitution of others or other forms of sexual exploitation”. As ECPAT recommended,<sup>78</sup>

Belgium amended its laws and expanded potential prosecution to a broader range of offences that includes all forms of sexual exploitation of children. According to article 433quinquies of the Penal Code, the constituent element of the offence is an act (recruiting, harbouring, transporting, etc.) and a clear objective of exploitation. The *modi operandi* (threats, coercion, violence, etc.) included in article 3 of the Protocol are considered to be aggravating circumstances of the offence.

There are three categories of aggravating circumstances. The first is the profile of the perpetrator (a person with authority over the victim, an officer or a public official). The second category comprises the age of the victim, the means of action (such as the use of violence or coercion and the abuse of vulnerability), the consequences of the offence (endangerment of the victim’s life, permanent disablement), and the circumstances of the act (regular activity and collaboration with other criminals). Finally, the third is criminal organisation and the unintentional death of the victim. The sanctions were revised to harmonise the law with the minimum and maximum sentences laid out by the Council of Europe Convention on Action against Trafficking in Human Beings and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).<sup>79</sup>

## CHILD PORNOGRAPHY CHILD ABUSE IMAGE

Although Belgian legislation on this issue has improved over the past few years, there is still no legal definition of child pornography.

To comply with the UN Optional Protocol, Belgium must revise its Penal Code so its child pornography laws cover any



representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

**Article 383bis** of the Belgian Penal Code states that anyone who *displays, sells, rents, distributes or delivers emblems, objects, films, photos, slides or other visual formats representing sexual positions or acts of a pornographic nature involving or showing minors, or who manufactures, possesses, imports or arranges for import, or delivers to a transport or distribution agent for commercial or distribution purposes is liable upon conviction to imprisonment for a term of five to ten years and a fine of 500 to 10,000 Euros.*

The same article also states that *anyone knowingly in possession of any emblems, objects, films, photos, slides or other visual formats referred to in §1, or who in full knowledge of all the considerations involved, accesses them using a computer system or any other technological means is liable upon conviction to imprisonment for a term of one month to one year and a fine of 100 [Euros] to 1,000 [Euros].*

As of January 2012, those who access child pornography, in full knowledge of all the considerations involved, using a computer system or any other form of technology can receive the same sentence as a person who possesses child pornography. This change was necessary for sanctions in cases where the incriminating materials were not found on a computer but on a server. A code or a payment gives access to images without any punishable “possession” occurring. “Accessing” means an action with intent to access pornographic files. Additionally, intent is

also required: the individual must have acted “in full knowledge of all the considerations involved”. Intent can include e-payments to child pornography website operators in exchange for access to the visited websites.<sup>80</sup>

Additionally, Belgian law only implicates producing (“making”) and importing child pornography where these acts were committed for commercial or distributive purposes. The Lanzarote Convention obliges signatory States to make soliciting minors over the Internet for sexual purposes (grooming) a punishable offence if these virtual exchanges are followed by concrete acts to meet with the child. Belgium<sup>81</sup> does not currently have any specific law to prosecute groomers. Some acts linked to online grooming are punishable, such as incitement to immoral behaviour and prostitution (article 380bis of the Penal Code), corruption of minors (article 379), indecent assault (articles 372 and 373), public indecency (articles 383, 385, and 386), mere possession and producing child pornography for purposes of distribution or dissemination (articles 383bis and 384), or the punishable attempt to commit such acts (article 51). However, the Penal Code must be amended to completely suppress the resulting situations even in the absence of direct contact between the perpetrator and the victim.<sup>82</sup>

A bill amending the Penal Code to legally protect children from grooming was tabled in 2012 by a senator in the Flemish Parliament.<sup>83</sup> Creating a legal rule for online sexual solicitation would facilitate criminal proceedings for such acts and would comply with the European directive on penalising grooming.<sup>84</sup>

## CHILD SEX TOURISM RELATED OFFENCES

Child sex tourism is transnational. Extraterritorial laws are needed to fight this form of CSEC so Belgian courts can have

jurisdiction to try these acts. Provisions allowing the effective extradition of individuals are also required.

## Extraterritorial jurisdiction

Article 10ter of the Code of Criminal Procedure<sup>85</sup> on the principle of extraterritoriality allows Belgium to prosecute Belgian nationals or foreigners on Belgian territory having committed sexual offences abroad if these offences were committed against a minor. Therefore, anyone in Belgium that has not been extradited and has committed one of the following offences abroad will be prosecuted: child trafficking (articles 433*sexies* to *octies*), child pornography (art. 383bis), and child prostitution (articles 379 and 380).

Article 10ter also excludes the dual criminality rule. Therefore, in this sort of case, the crime or offence does not have to be punishable abroad for the criminal law to be applied.

## Extradition

The extradition procedure is regulated by the Act of 15 March 1874.<sup>86</sup> Belgium generally does not extradite its nationals. This is because articles 6 to 9 of the Preliminary Title of the Code of Criminal Procedure allow the prosecution of Belgian citizens who have committed offences on foreign soil. Moreover, individuals who are not Belgian nationals cannot be extradited unless Belgium has a bilateral treaty with the concerned state and the punishment incurred

is at least one year. The treaty must be based on the principle of reciprocity (Belgium can authorise extradition to another country only if the latter authorises extradition under the same conditions). The disadvantage of a system solely based on the signature of reciprocal treaties is that extradition is limited to a small number of countries. Belgium currently grants extradition only to Member States of the European Union and to approximately thirty non-EU states.<sup>87</sup> This list is rather short and does not include countries, where child sexual tourism and the sexual exploitation of children are widespread problems. Finally, Belgium does not extradite foreign nationals when they face the death penalty.

The Ministry of Foreign Affairs ensures that extradition requests are correctly transmitted and received and performs the first examination of admissibility (the existence of a treaty). Next, the Ministry of Justice examines whether the admissibility conditions are fulfilled and makes the decision whether or not to extradite. The Chief Public Prosecutor or a public prosecutor with authorisation from the Chief Public Prosecutor has the jurisdiction to make a request for extradition to ensure that prosecution is carried out or the sentence executed in Belgium. They also ensure execution of extradition requests made by foreign states.<sup>88</sup>

## Procedures Applicable to Child Victims

The Belgian Code of Criminal Procedure contains special protection measures for minors that are victims of, or witnesses to, certain crimes (cf. Book I, Chapter VII of the Code of Criminal Procedure), including all offences related to CSEC. **Article 91bis** states that any minor has the right to be accompanied by the adult person of their choice during hearings with judicial authorities. To avoid multiple hearings where

young victims or witnesses to sexual offences must be heard, audio-visual recordings of interviews with minors who are victims or witnesses of certain exhaustively-listed offences are obligatory. These offences include the infringement of articles 372 to 377, 379 and 380 of the Penal Code, which are rape, inciting a minor to prostitution and sexual exploitation of minors. The distinction depends on the willingness of

the legislator (due to an amendment of the Code of Criminal Procedure on 1 January 2013) to request audio-visual recordings only for sexual offences characterised by a high level of involvement of the young victim, or at least with a certain violation of their sexual integrity.<sup>89</sup> Although recording is not automatic for other offences, doing so is possible through an order of the public prosecutor or the examining judge during interviews of young victims or witnesses of offences mentioned in article 91bis of the Code of Criminal Procedure.<sup>90</sup> This includes the dissemination of child pornography. Although audio-visual recordings may be contraindicated in cases where sexual abuse victims were filmed, audio recordings can be used instead to avoid trauma from multiple interviews.

During the audio-visual recording, the young victim may be assisted by an expert psychiatrist or psychologist (**article 94**). According to **article 95 of the Code of Criminal Procedure**, the minor can interrupt the recording at any time during the recorded hearing. A new interview or confrontation between the victim and the perpetrator of the offence can be ordered through a reasoned decision if it is essential for the trial (**article 98**). **Articles 104 to 111 of the Code** regulate the protection of witnesses. The Witness Protection Commission can grant protective measures. The public prosecutor, Chief Public Prosecutor, Federal Prosecutor, or examining judge may, depending on the case, request the protective measures mentioned in article 104 of the Code with a reasoned claim in writing.

### Procedures Applicable to Victims of Trafficking in Human Beings

Since the 1990s, Belgium has had a “status of victim of trafficking in human beings” system that is applied to both adults and minors. The status is connected to the issuance of residence permits to human trafficking victims. This system is a balance between

protecting victims and offering them a future on one hand and efficiently fighting trafficking networks on the other. To receive victim status, the person must meet three criteria:

- leave the individual or network that exploited them;
- be supported by a certified reception centre that specialises in receiving and assisting victims of human trafficking;
- file a complaint or make a statement against the individuals or trafficking networks that exploited them.<sup>91</sup>

The potential victim of trafficking is granted a forty-five day period of reflection to decide whether they want to file a complaint or make a statement declaring that they wish to return to their country of origin.<sup>92</sup>

In 2011, 153 victims received the status of victim of trafficking in human beings, and 50 victims received permanent residence permits based on their victim status.<sup>93</sup>

Once identified, young victims of human trafficking are questioned by several parties (police officers, judges, lawyers, guardians, reception centres for UFM, reception centres for victims of human trafficking, etc.) and are sometimes assisted by four different lawyers. This situation is especially painful since retelling one’s story over and over means reliving the trauma. Hence a procedure that has greater respect for the child’s interests would be beneficial. This especially includes harmonising policies on the number of parties involved and recording the first deposition, as recommended by the Council of Europe in its Strategy for the Rights of the Child (2012 – 2015). The 2012 – 2014 national action plan included reviewing these procedures concerning minors to ensure reporting between relevant parties.<sup>94</sup> According to a study based on interviews with different parties by the Centre for Equal Opportunities and Opposition to Racism, when the first contact in the process of filing a complaint is the police, some victims do

not try to obtain the victim status because of a lack of information and social support services. According to Belgian victim support services, frontline services should have referred these victims to staff members from specialised centres to create an atmosphere of trust. This study also stated that the system must be made more appealing to victims from non-EU states, some of whom want to be repatriated to their countries of origin as soon as possible.<sup>95</sup>

To identify victims, the Minister of Justice adopted the directive on investigation and prosecution policies for trafficking in human beings (Col. 01/07), which entered into force on 1 February 2007. It is mainly aimed at judges and police and contains an appendix listing indicators that can help identify cases of human trafficking and its victims. An essential point in this directive is concerned with considering the interests of the victim. It states that “even if the persons exploited are not eligible according to legislation on social security or entry, residence and settlement, there are always grounds to consider them first and foremost as victims of crime.” In other words, victims of trafficking should not be considered illegal immigrants or clandestine workers.<sup>96</sup>

Even though in theory, minors’ cooperation with authorities is never questioned (they are automatically considered victims of trafficking), the collaboration of the victim with authorities is a *de facto* requirement during the process of obtaining the victim status and the residence permit based on this status. Often a family member is responsible for the exploitation, or the minor fears reprisal against their family in the country of origin. When the facts are revealed, it is important to offer an alternative to the youth that allows them to be protected, regardless of whether or not they collaborate with the inquiry. A victim who wants to make a statement needs anonymity, so they can be better protected. The National Action Plan to Combat Trafficking in Human Beings

(2008 – 2011) included proposals to amend laws so the unaccompanied minor who is a victim of trafficking would receive a residence permit regardless of their collaboration with the law. Currently, there has been no progress regarding the unconditional granting of the status of “victim of trafficking in human beings,” which allows access to reception centres and, if the procedure comes to a successful conclusion, the issuing of a permanent residence permit for our country.<sup>97</sup> However, Belgian authorities seem to be aware of the persistence of this problem; the new 2012 – 2014 Action Plan to Combat Trafficking in Human Beings states that: “A UFM who is the victim of trafficking should be able to benefit from a residence permit independently of his or her collaboration with Justice. A change in the law in this regard should be considered.”<sup>98</sup>

### Specific Measures for UFM

Victims who collaborate with judicial bodies can benefit from a specific residence permit. On 1 June 2007, this procedure was appended to the 15 December 1980 Immigration Act. It is explained in detail in the 26 September 2008 departmental circular.<sup>99</sup>

Articles 61/2 to 61/5 of the Act of 15 December 1980 on entry, residence, settlement and the expulsion of foreign nationals regulate the authorisation of residency for UFM that are victims of trafficking.

The circular on multidisciplinary cooperation concerning victims of trafficking in human beings and/or certain aggravated forms of smuggling of human beings contains specific measures for the treatment of UFM.

Once a UFM has been identified as a victim of trafficking, he/she is designated a guardian (point X. b 2 of the circular). The guardian is responsible for representing their ward in all proceedings. The guardian’s role is vital because they represent their ward in all

legal acts and accompany them during every phase of the procedure to obtain a residence permit. They also ensure the ward receives suitable reception, schooling, medical care and psychological support. They help find a long-term solution that is in the best interest of the child.<sup>100</sup>

Victims identified by competent parties (such as the police, social inspection services, etc.) must be directed to specialised victim reception centres (cf. *infra*) and receive information about the protected status they have a right to. Child victims of trafficking are issued a residence permit for an initial three-month duration, during which they must decide whether or not to testify against their traffickers. If the UFM's complaint results in a conviction, the UFM can be issued a residence permit of unlimited duration (art. 61/5 of the Act of 15 December 1980 on entry, residence, settlement and the expulsion of foreign nationals). However, to obtain the residence permit, the minor must prove their identity, which is not always possible for UFM's since they often arrive in Belgium without identification documents. If the human trafficking trial has not ended after two years, the "STOP procedure" allows victims to regularise their stay if they have received support from a specialised centre for at least two years. However, there is no law regulating this procedure. Thus this practice is left to the discretion and good will of personnel at the Immigration Office.

According to ECPAT Belgium, there are serious flaws in the process of identifying minors. In 2009, only twelve UFM's<sup>101</sup> were identified as victims of trafficking; in 2010, that number rose to ninety-four. These numbers do not reflect reality. A certain number of UFM's that are victims are not identified as such, a fact confirmed daily by Espéranto, a reception centre for UFM's that are victims of trafficking. One of the causes of this "under-identification" is the lack of training for workers on the ground.

Too often, the responsibility for awareness-raising efforts is left to reception centres. ECPAT Belgium has already emphasised the importance of awareness-raising sessions and trafficking-detection training for parties likely to be in contact with UFM's. ECPAT Belgium especially stresses the importance of training guardians who are designated to UFM's. Current training is rather basic, and many would like continuous, more specialised training. Additionally, not all guardians have the same status: some are paid, while others are volunteers. Also, Belgium does not have enough candidates for this important role.<sup>102</sup>

The lack of cooperation between centres in different linguistic regions also acts against the best interest of the child. A reception centre subsidised by the French Community cannot accept potential trafficking victims if their guardian has been designated by the Flemish Community and vice versa.<sup>103</sup>

UFM's that are not asylum seekers can also obtain a specific residence permit defined in articles 61/14 to 61/25 of the Act of 15 December 1980 on entry, residence, settlement and the expulsion of foreign nationals and in articles 110<sup>sexies</sup> to 110<sup>undecies</sup> of the royal decree of 8 October 1981. The minors covered by these articles are UFM's that have definitely been identified as such by the guardianship service and that have not requested any other protection procedure, authorisation or application for residence or settlement in Belgium or that have had their previous applications rejected. This definition does not include UFM's that are European citizens. Even without being linked directly to human trafficking, young victims that do not fall under the "trafficking in human beings" procedure may find protection under these provisions, particularly young victims that are neither seeking asylum nor willing to collaborate with law enforcement. The UFM's guardian will apply for the residence permit. During the examination of the application, the minor will be interviewed in the presence of their

guardian and, if needed, an interpreter. There are two new developments that should be highlighted: the UFM's lawyer may attend the interview if the guardian requests it, and a written report of the interview is produced. The goal of the application for residence and the interview by the Immigration Office is to find a long-term solution for the UFM.

There are three possibilities:

- reuniting the family in the country where the parents legally reside;
- a return to the country of origin or to the country where the UFM holds a residence permit and is guaranteed to be received and given proper care;
- the issuing of a Belgian residence permit.<sup>104</sup>

It is important for frontline services to completely and correctly apply the circular on multidisciplinary cooperation concerning victims of human trafficking. Victims must always be put in contact with staff from specialised centres, who in turn must be available when needed. This obviously requires centres to always have staff on hand. When preparing large-scale actions where they will meet with many victims, frontline services must warn the staff of specialised centres, so they have the chance to inform victims of their status themselves. However, in practice it is often frontline services that inform victims of the status of victim of trafficking in human beings because they are not always able to contact the centres, or they do not take the initiative.

## Compensation

In trafficking cases, the victim can request compensation by bringing a civil action during criminal proceedings. Specialised centres ensure that UFM's rights and interests as victims are protected. To do this, they keep victims informed and provide them with a lawyer. The victim can, therefore, make an informed decision about whether to bring a civil action. Specialised certified centres (Pag-Asa, Sürya, and Payoke) can also

bring a civil action in their own name or in the name of the victim. In fact, these centres are certified so that they can initiate legal proceedings.<sup>105</sup>

The royal decree of 18 April 2013 on the recognition of centres specialising in the reception of victims of trafficking in human beings and certain forms of aggravated smuggling of human beings and certification in order to bring about legal proceedings<sup>106</sup> was published on 22 May 2013 in the Belgian Official Gazette (*Moniteur Belge*) and entered into force ten days later. This decree sets out the terms, conditions and procedures required for reception centres for victims of trafficking in human beings to become recognised as specialised centres and to become certified and, subsequently, able to take legal action to defend the rights of victims.<sup>107</sup>

The addition of article 43bis to the Penal Code has also allowed confiscated goods to be awarded to the civil party. Restitution is a civil law measure that can be requested by suing someone for civil injury. In theory, it is obligatory when it repairs the harm caused by the offence. To guarantee the rights of third parties, article 43bis, subparagraph 3 states that: *"When items that have been confiscated belong to the civil party, they will be returned to them. Confiscated items will be awarded to the civil party when the judge orders the confiscation on the grounds that they are assets to be substituted by the convicted person for items belonging to the civil party or because they constitute the equivalent of such items according to subparagraph 2 of this article"*.

The statement of grounds explains further: "it seemed opportune to earmark the confiscated items towards the victim's compensation when these items are the substitute or equivalent of the goods the victim was deprived of during the offence". When money is seized, courts may issue a confiscation order and award it — partially at least — to civil parties as compensation.

Victims can also request financial aid from the **Commission for Financial Aid for Victims of Deliberate Acts of Violence and for Occasional Rescuers**, an organisation established by the Act of 1 August 1985 for financial and other measures. The aid that comes from the Financial Aid for Victims

of Deliberate Acts of Violence and for Occasional Rescuers Fund is based on the principle of community solidarity. This aid is subsidiary only; therefore, in addition to other conditions, claimants must have received no other form of compensation.

To request financial aid, victims must prove that (1) an act of violence was intentionally committed, (2) they received serious physical or psychological injury and (3) this injury was the direct result of the intentional act of violence. The claimant must be the victim of an intentional act of violence that resulted in serious physical or psychological injury. They must also inform the authorities about the act of violence.<sup>108</sup> In a 2010 ruling, the Commission awarded 62,000 Euros (the maximum amount for primary aid) to a victim of sexual exploitation. The victim was fourteen years old when she was first forced to prostitute herself by a loverboy. This occurred in Italy and then in other European countries including Belgium, between 1993 and 2003. The victim was under constant surveillance and was regularly assaulted, causing her to lose the child she was carrying.<sup>109</sup>

## Institutions Responsible for Protecting Young Victims

The complex nature of Belgian institutions is an obstacle to victims. The different parties in the field do not always collaborate efficiently, which acts against the child's best interests. Reception centres for child victims of trafficking are asking for procedures to be harmonised to facilitate collaboration. Belgium needs a pragmatic, progressive way to revitalise the victim-assistance system while keeping its fundamental pillars. The system needs improvement, but must remain accessible to different professionals in the field.

### ALERT SYSTEMS

An emergency contact number was put in place by the government and the Foundation for Missing and Sexually Exploited Children, Child Focus. The European emergency line for missing and sexually exploited children (**116 000**) has been in service since 2009 throughout the country to help child victims of trafficking. In 2011, 1,335 calls received by Child Focus were transferred to "sexual exploitation" counsellors.<sup>110</sup>

The [www.stopchildporno.be](http://www.stopchildporno.be) website is available twenty-four hours a day to Internet users who have been exposed to child pornography and have questions about it. This civilian contact point allows users to

remain anonymous. The website works hand-in-hand with judicial bodies and the police as a result of a protocol of collaboration.<sup>111</sup>

Another website, [www.ecops.be](http://www.ecops.be), was launched in 2007. It allows people to alert federal police about crimes witnessed on the Internet such as child sexual abuse. Along with the "Stop Child Prostitution" campaign, ECPAT Belgium has created [www.stopprostitutionenfantine.be](http://www.stopprostitutionenfantine.be) to report cases of child sexual abuse committed abroad. These reports are immediately forwarded to the federal police. About thirty cases have been reported through [www.stopprostitutionenfantine.be](http://www.stopprostitutionenfantine.be).

## Child protection units

The **Directorate of Crimes Against Persons (DJP)** has jurisdiction over various crimes against persons including human trafficking and smuggling. This directorate deals with all forms of human trafficking (sexual and economic exploitation including child sex tourism, child pornography, removal of organs, etc.) and human smuggling. It works with federal agencies and departments (including the Immigration Office, Social Inspection Service, Social Legislation Inspectorate, etc.) and with non-police organisations and NGOs (like the Centre for

Equal Opportunities, the reception centre for human trafficking victims, the IOM, and ECPAT).<sup>112</sup>

**Local police** also find evidence and victims of human trafficking, especially in cases of sexual exploitation. However, human trafficking is not included in the cities' zonal security plans, which are implemented through the national security plan. Local police still play a key role in the fight against human trafficking, though, thanks to their control operations and outreach work.<sup>113</sup>

## Support services for children

### Social Services

There are three reception centres for trafficking victims (Sürya, Payoke, Pag-Asa). Depending on the procedure (asylum request, human trafficking or other residency procedure), both public and private organisations oversee UFM's in the Wallonia-Brussels Federation and the Flemish Community, such as the Fedasil Centres, Youth Assistance Services/Bijzondere Jeugdzorg and various NGOs. There are three reception centres for UFM's who are victims of trafficking: Juna, Minor-Ndako, and Espéranto.

There is a *de facto* distinction made between minors from EU countries and UFM's, which is contrary to the principle of non-discrimination on grounds of nationality.<sup>114</sup> It leads to very different social assistance and protection schemes. For example, minors from EU countries cannot be legally represented by a guardian, they have little to no possibility of attending "bridging" classes (cultural and language courses to help integrate the minors into society), and there are no further provisions in place after the trafficking procedure ends (within two years), which leaves them no choice but to return to

their country of origin.<sup>115</sup> The new national action plan aims to stop the unjustified discrimination between UFM's and minors from EU states. The government agreement asserts that European unaccompanied foreign minors will also be able to receive specific protection measures and be designated a guardian.<sup>116</sup>

A variety of specialised medical and psychological services are available for victims in these specialised reception centres. However, victims must obtain the status of victim of trafficking in human beings to receive this assistance.<sup>117</sup>

In 2011, the government issued or renewed 614 residence permits to victims of trafficking. Some of these permits were issued for an indefinite period. According to a 2011 government report, the number of victims of trafficking who received the victim status in Belgium increased in 2010. The government has continued to fully finance the three centres that offer trafficking victims housing and complete assistance.<sup>118</sup> However, child victims are not permitted to stay at these adult centres and are sent to specialised centres for minors that are not specifically for trafficking victims.<sup>119</sup>



Belgium has been facing a reception crisis for the past three years. More than 15,000 people have been affected including unaccompanied foreign minors. The latter are forced to live in harsh conditions (on the street, in train stations, in unsanitary buildings) and are sometimes even locked up without any medical, social, or legal aid and with no protection. The lack of residences for young victims was also one of the observations made by the Committee for the Rights of the Child and was the basis of one of the recommendations in a petition circulated by ECPAT during its “Stop Sex Trafficking of Children and Young People” campaign. To remedy this critical situation, the “SOS Reception” consortium was created by eight Belgian NGOs to provide support during the day near the Gare du Nord train station and a

night shelter for the most vulnerable victims. This emergency measure is not enough, and government action is needed now more than ever to find long-term solutions to the reception crisis.<sup>120</sup> A few years ago, the Minor-Ndako centre observed that every Indian UFM disappeared systematically in the days or weeks following their initial reception. A study showed that the reception system was being used by a trafficking channel. This continues today but remains unnoticed because of the reception crisis. Consequently, there are many ‘clandestine’ UFM, that is, minors living on the streets without papers or a space in a reception centre and that are waiting to be designated a guardian. Monitoring UFM could alleviate this state of vulnerability.

## Training Law Enforcement Personnel

The government gave special training on combatting human trafficking to Belgian troops before they were deployed overseas for international peacekeeping missions.<sup>121</sup>

Anti-trafficking units are found at both the federal and local levels, but there is an urgent need for units specialising in identifying unaccompanied minors.<sup>122</sup>

The Central Service for Trafficking in Human Beings Affairs and the Federal Police Training Service are collaborating to standardise basic training in provincial police academies. In the meantime, special sessions have already been organised in two

police academies. The Central Service for Trafficking in Human Beings Affairs also publishes a monthly information bulletin that is distributed via district information offices. It describes the phenomenon’s evolution on a website that is accessible to all police officers.<sup>123</sup>

The police 2012 – 2015 national safety plan states that new procedures will be taught on receiving young and vulnerable victims and referring them to specialised services. Attention will be particularly focused on treating victims of sexual abuse and paedophilia. Authorities also plan on increasing audio-visual recording of hearings with minors and vulnerable victims.<sup>124</sup>

## CHILD AND YOUTH PARTICIPATION

In Belgium, various institutions serve as platforms, which allow the concerns of children and youth to be heard in political circles. Most groups and organisations in Belgium focus on youth participation in social and political life; preventing CSEC is not a specific part of their mandate. Although these organisations do not directly deal with issues related to CSEC, they can help strengthen the role of Belgian youth in the fight against CSEC.

The 2011 – 2014 National Action Plan on the Rights of the Child<sup>125</sup> proposes allowing children to participate in the follow-up and evaluation of this plan and the creation of the next one. This process will be based on reflections from all concerned parties and is related to the upcoming Youth Plan.

The **Youth Council** represents Belgian French-speaking youth in Wallonia and Brussels. They generally work in partnership with their German- and Dutch-speaking counterparts. Their main objective is to be youth spokespersons at the national and international level and to defend youth interests by directly negotiating with politicians. The Council speaks to youth in the French-speaking community and relays their views at the local, national or international level. Various political bodies, particularly the Minister for Youth from the French Community, regularly consult with the Council.

The annual “**Youth Parliament**” brings eighty young people, aged 17 to 26, to the Parliament of the French Community in Brussels and allows them to ‘walk in the shoes’ of a member of parliament. During this large-scale role-playing game, the young “members of parliament” hold debates on four draft decrees concerning societal issues that they discuss, amend and eventually vote on.

**Vlaamse Jeugdraad** is the official consultative body for children, youth, and youth organisations in the Flemish Community. It ensures that young peoples’ voices are heard by decision-makers and that the interests of youth organisations are protected in the Flemish Community and in Europe. Flemish ministers must consult the Flemish Youth Council during every decision affecting children or young people. The Council also gives its own opinions and proposals about the development and needs of young people.

In the Brussels Region, **Brusselse Jeugdraad** (Brussels Youth Council) gives opinions on youth issues for the Vlaamse Gemeenschapscommissie (Flemish Community Commission). The forum at [www.kwajongradvantong.be](http://www.kwajongradvantong.be) allows young inhabitants of Brussels to write about issues that affect them.<sup>126</sup>

Finally, UNICEF Belgium created a youth project called “What Do You Think?” that gives a voice to the most vulnerable children and young people. A survey is distributed in schools and organisations asking young people about the difficulties they face and how they feel their rights are being respected. This information is then passed on to Belgian politicians and the Committee on the Rights of the Child.

## PRIORITY ACTIONS REQUIRED



### National Plan of Action

- Adopt national action plans that specifically target CSEC or violence against children;

### Coordination and Cooperation

- Make international cooperation between administrative immigration services and the police faster and more efficient during the process of detecting and referring victims;
- Conclude international agreements that will implement an alert system that works via liaison officers from the police and/or immigration services;
- Harmonise procedures and facilitate collaboration between different stakeholders so minors that are victims of trafficking do not have to repeat their story to every service;

### Prevention

- Provide institutional support for public awareness-raising campaigns about trafficking for economic and sexual purposes, etc. to encourage everyone to pay close attention to possible trafficking situations, which are more prevalent than people think, and to warn potential clients of the risks they could face;
- Increase coordination between different departments that deal with trafficking and create a centralised database of victims that respects their anonymity;

### Protection

- Include a definition of child prostitution in the Belgian Penal Code that is in accordance with the UN Optional Protocol;
- Improve the detection of trafficking victims in Belgium by continuing to increase the number of frontline responders involved in the victim identification process;
- Make an eventual assessment of reforms in audio-visual recording laws and amend them to apply to offences where recording is not required by law;
- Ensure victims' rights and interests are protected by appointing a lawyer to victims that have made a statement or filed a complaint once they have obtained the status of victim of trafficking in human beings;
- Make the procedure to obtain the status of victim of trafficking in human beings more flexible so minors can be protected on the basis of minimal cooperation with authorities and young witnesses can preserve their anonymity;
- End discrimination based on nationality towards minors from EU countries so they can receive legal representation and assistance, normal education, safe repatriation, etc.;

## Bodies with Jurisdiction over Child Protection

- Harmonise procedures regarding the number of services that oversee minors as well as the different community regulations concerning minors;
- Detect suspicious disappearances and prevent victims from re-entering trafficking networks by implementing a follow-up procedure for UFM;

## Social Services

- Build new centres for minors that are victims of sexual exploitation;
- Offer specific protection measures to UFM from the European Union and assign them a guardian;

## Law Enforcement Training

- Train frontline workers regularly about the application of victim status and the detection and identification of victims;
- Systematise awareness-raising and training of professionals likely to be in contact with trafficking victims (such as police officers, social inspection officers, judges, social workers, health care workers, reception centre employees, etc.), with special attention given to professionals who are the first point of contact with minors (guardians, guardianship services, Youth Assistance Services, juvenile court judges, the Youth Protection Agency, etc.);
- Detect victims more effectively by encouraging mayors to further prioritise human trafficking and to reintroduce the issue within local police zonal safety plans;

## Child and Youth Participation

- Encourage existing groups and organisations in Belgium to focus on youth participation, particularly concerning the prevention of CSEC in their programmes.

# ANNEX

## The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents\*

*Note: This is a condensed version. The full Rio Declaration and Call to Action also contains: Preamble; A. Review of progress and outstanding challenges; and B. Declaration.*

### C. Call for Action

We call on all States, with the support of international organizations and civil society, including NGOs, the private sector, adolescents and young people to establish and implement robust frameworks for the protection of children and adolescents from all forms of sexual exploitation, and we call upon them to:

#### I - International and Regional Instruments

- (1) Continue working towards ratification of relevant international instruments, including as appropriate the United Nations Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention on the Elimination of All Forms of Discrimination against Women.
- (2) Continue working towards ratification of relevant regional instruments, including as appropriate the African Charter on the Rights and Welfare of the Child, the ASEAN Charter,

the Inter-American Conventions on International Traffic in Minors and on the Prevention, Punishment and Eradication of Violence against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Council of Europe Conventions on Action against Trafficking in Human Beings, on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse, conventions which can be ratified by States that are non-members of the Council of Europe.

- (3) State Parties should take all necessary measures to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, taking into due accounts the conclusions and the recommendations of the Committee on the Rights of the Child in the context of its review of State Parties' reports. All countries are encouraged to use this as an important reference.

#### II – Forms of Sexual Exploitation and its New Scenarios

*Child pornography/child abuse images*

- (4) Criminalize the intentional production, distribution, receipt and possession of child pornography, including virtual

\* The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008), full text available at: [http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII\\_Outcome\\_Document\\_Final.pdf](http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf)

images and the sexually exploitative representation of children, as well as the intentional consumption, access and viewing of such materials where there has been no physical contact with a child; legal liability should be extended to entities such as corporations and companies in case the responsibility for or involvement in the production and/or dissemination of materials.

- (5) Undertake specific and targeted actions to prevent and stop child pornography and the use of the Internet and new technologies for the grooming of children into online and off-line abuse and for the production and dissemination of child pornography and other materials. Victim identification, support and care by specialized staff should be made a high priority.
- (6) Conduct educational and awareness-raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children with a view to improve their understanding of the risks of sexually exploitative use of the Internet, mobile telephones and other new technologies, including information for children on how to protect themselves, how to get help and to report incidences of child pornography and online sexual exploitation.
- (7) Take the necessary legislative measures to require Internet service providers, mobile phone companies, search engines and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results and enhance efforts.
- (8) Call upon Internet service providers, mobile phone companies, Internet cafes and other relevant actors to develop and

implement voluntary Codes of Conduct and other corporate social responsibility mechanisms together with the development of legal tools for enabling the adoption of child protection measures in these businesses.

- (9) Call upon financial institutions to undertake actions to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child pornography.
- (10) Set up a common list of websites, under the auspices of Interpol, containing sexual abuse images, based on uniform standards, whose access will be blocked; the list has to be continuously updated, exchanged on international level, and be used by the provider to perform the access blocking.
- (11) Undertake research and development, in the realm of the private sector, of robust technologies to identify images taken with electronic digital devices and trace and retract them to help identify the perpetrators.
- (12) Promote public/private partnerships to enhance the research and development of robust technologies to investigate and to trace the victims with a view to immediately stop their exploitation and provide them with all the necessary support for full recovery.
- (13) Make technologies easily available, affordable and usable for parents and other caregivers, including to assist with the use of filters to block inappropriate and harmful images of children.

*Sexual exploitation of children and adolescents in prostitution*

- (14) Address the demand that leads to children being prostituted by making

the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child's age.

- (15) Provide specialized and appropriate health care for children who have been exploited in prostitution, and support child centered local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.

*Sexual exploitation of children and adolescents in travel and tourism.*

- (16) Encourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, for example by joining and implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism; encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; and/or provide other incentives for those participating.
- (17) Ensure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents.
- (18) Cooperate in the establishment of an international travel notification system, such as the Interpol 'green notice' system, in accordance with applicable law and human rights standards.
- (19) Ensure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State's nationals who are reported or alleged to have sexually exploited a child in a foreign country.

- (20) Prohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children.

- (21) Monitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development.

*Trafficking and the sexual exploitation of children and adolescents*

- (22) Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they participate, where appropriate, in the planning, implementation and monitoring of such programmes.
- (23) Pilot and adapt or replicate successful models of community-based prevention and rehabilitation and reintegration programmes for child victims of trafficking.
- (24) Establish policies and programmes that address not only cross-border but also internal trafficking of children and that include, among other elements, a standard operating procedure for the safe repatriation and return of children based on the child's view and on a careful assessment of the needs and risks to the child of returning to her/his place of origin to ensure that the best interests of the child are taken into account.

- (25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.
- (26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF

*Guidelines on the Protection of Child Victims of Trafficking and UNHCR Guidelines on Formal Determination of the Best Interests of the Child).*

- (27) Undertake and/or support, with the involvement of civil society and children, the regular evaluation of programmes and policies to prevent and stop the trafficking of children and of legislation that may have a conducive impact on trafficking, for example laws on marriage, free education, adoption and migration, birth registration, accordance of citizenship, refugee or other status.

### **III – Legal Frameworks and Enforcement of the Law**

- (28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.
- (29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.
- (30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.
- (31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.
- (32) Establish special gender sensitive units/ children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.
- (33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.
- (34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions



as appropriate), safe reintegration of convicted offenders and the collection and sharing of good practices and establish where appropriate sex offenders registers.

#### **IV – Integrated Cross-Sectoral Policies and National Plans of Action General**

- (35) Develop and implement comprehensive National Plans of Action on the sexual exploitation of children and adolescents, or include these in existing relevant planning frameworks, such as National Development Plans and ensure that these Plans are based in a cross-sectoral approach which brings all stakeholders together in a coherent and comprehensive framework for action. These Plans should incorporate gender-sensitive strategies, social protection measures and operational plans, with adequate monitoring and evaluation targeted resources and designated responsible actors, including civil society organizations for implementation of initiatives to prevent and stop the sexual exploitation of children and adolescents and provide support for child victims of sexual exploitation.
- (36) Promote and support multi-sectoral policies and programmes, including community-based programmes, within the framework of a comprehensive national child protection system to address phenomena that contribute to the sexual exploitation of children and adolescents including, for example, discrimination (including on the basis of sex), harmful traditional practices, child marriage and social norms that condone sexual exploitation.
- (37) Promote and fund meaningful child and youth participation at all levels in the design, monitoring and evaluation of policies and programmes, in campaigns and through peer-to-peer youth programmes, aimed at raising

awareness and preventing the sexual exploitation and trafficking of children and adolescents.

- (38) Initiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.

#### *Prevention*

- (39) Ensure that all children born on their territory are registered immediately and for free after their birth and pay special attention to not yet registered children and children at risk and in marginalized situations.
- (40) Strengthen the role of educational institutions and staff to detect, denounce and help address sexual abuse and exploitation of children in all forms and sources.
- (41) Emphasize prevention of sexual exploitation of children and adolescents, through e.g. awareness raising and educational campaigns, support for parents and eradication of poverty while reinforcing or establishing multi-sectoral referral mechanisms to provide comprehensive support and services to children who have been victimized in sexual exploitation.
- (42) Support children to gain deeper knowledge of their own rights to be free from sexual exploitation, and the options available to help them to address abuse, so that they are empowered, with the partnership of adults, to end sexual exploitation.
- (43) Engage children in meaningful and critical examination of changing contemporary values and norms and their potential to increase vulnerability

to sexual exploitation; and promote education to enhance children's understanding of these issues in relation to sexual exploitation.

- (44) Undertake research on contemporary patterns of socialization of boys and men across different contexts to identify factors that promote and strengthen boys' and men's respect for the rights of girls and women and engage them in action initiatives that inhibit and discourage them from engaging in sexual exploitation of children and adolescents.

#### *Protection of the child*

- (45) Increase efforts to address the sexual exploitation of children and adolescents through the development of comprehensive and integrated national child protection systems, including the necessary budget allocations and based on identifications of settings where children are most at risk that aim to protect children from all forms of violence and abuse.
- (46) Establish by 2013 an effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation, for example by instituting mandatory reporting for people in positions of responsibility for the welfare of children.
- (47) Develop or enhance accessibility of existing telephone or web-based help lines, in particular for children in care and justice institutions, to encourage children and require care givers to confidentially report sexual exploitation and seek referral to appropriate services, and ensure that the operators of such reporting mechanisms are adequately trained and supervised.
- (48) Strengthen existing national child protection services or establish new

ones in order to provide all child victims of sexual exploitation, girls and boys, without discrimination, with the necessary economic and psychosocial support for their full physical and psychological recovery and social reintegration, and when appropriate, family reunification and interventions that support and strengthen families to mitigate the risk of further exploitation; such services to be provided by well trained multi-disciplinary teams of professionals.

- (49) Ensure that these services are accessible, appropriately resourced, comprehensive, child- and gender-sensitive, and reach all children without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex (or orientation), and social origin and including children with disabilities, from ethnic minorities, indigenous or Aboriginal children, refugee or asylum-seeking and children in domestic service or living on the streets and children displaced by conflict or emergency situations.
- (50) Develop programs that provide children of sex workers and children living in brothels with support and protection.
- (51) Promote and defend the privacy of the child victims and child perpetrators of sexual exploitation, taking into account relevant national laws and procedures, to protect their identity in investigatory or court proceedings or from disclosure by the media and ensure that these proceedings are child friendly and allow the child to participate in a meaningful way in the process of bringing the perpetrator to justice.
- (52) Ensure that children and adolescents exhibiting acts of sexual violence harmful to others receive appropriate care and attention as a first option through gender-sensitive and child-focused measures and programmes that balance their best interest with

due regard for the safety of others, and ensure compliance with the principle that depriving children of liberty should be pursued only as a measure of last resort, and ensure that those responsible for the care of such children are equipped with relevant and culturally appropriate training and skills.

## V – International Cooperation

- (53) Take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts of sexual exploitation of children and adolescents; and for the assistance of child victims in their physical and psychological recovery, social reintegration and, as appropriate, repatriation.
- (54) Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.
- (55) Strengthen and improve the effectiveness of existing regional mechanisms for exchange, coordination and monitoring of progress on child protection including against sexual exploitation in order to review progress and strengthen follow-
- up on the implementation of the recommendations made.
- (56) Provide, when in a position to do so, financial, technical and other assistance through existing multilateral, regional, bilateral and other programmes for addressing the sexual exploitation of children and adolescents; and explore the potential of a fund for child and youth initiatives in this area.
- (57) Develop, where appropriate with the support of UN agencies, NGOs, civil society organizations and the private sector, workers' and employers' organizations, policies and programmes to promote and support corporate social responsibility of enterprises operating inter alia in tourism, travel, transport and financial services, and of communication, media, Internet services, advertising and entertainment sectors; so that child-rights focused policies, standards and codes of conduct are implemented throughout the supply chain and include an independent monitoring mechanism.
- (58) Support and contribute to the Interpol international child abuse images database and nominate a responsible national focal point person or unit to collect and update promptly national data on sexual exploitation of children and adolescents, and systematically share this information with Interpol in order to support cross-border (international) law enforcement action and strengthen its effectiveness, and adopt multilateral agreements especially for police investigation work.
- (59) Undertake national and international coordinated measures to curb and stop the involvement of organized crime

in commercial sexual exploitation of children and bring persons and/or legal entities responsible for this form of organized crime to justice.

## **VI – Social Responsibility Initiatives**

We encourage the private sector, employers' and workers' organizations, to proactively engage in all efforts to prevent and stop the sexual exploitation of children and adolescents, and to use their knowhow, human and financial resources, networks, structures and leveraging power to:

- (60) Integrate child protection, including the prevention of sexual exploitation of children, into new or existing corporate social responsibility policies of enterprises operating inter alia in tourism, travel, transport, agriculture and financial services, and of communication, media, Internet services, advertising and entertainment sectors, and ensure appropriate implementation of such policies and widespread public awareness.
- (61) Incorporate the prevention and protection of children from sexual exploitation in human resources policies, such as Codes of Conduct and other corporate social responsibility mechanisms throughout the supply chain.
- (62) Join efforts with Governments, UN agencies, national and international NGOs, and other stakeholders to prevent the production and dissemination of child pornography, including virtual images and the sexually exploitative representation of children, and stop the use of the Internet and

new technologies for the grooming of children into online and off-line abuse; undertake actions to trace and stop the flow of financial transactions for sexual exploitation of children through the services of financial institutions; support efforts to address the demand for sexual exploitation of children in prostitution and the strengthening of services for children victims and their families, including the establishment of accessible telephone or web-based help lines; and provide support for educational and awareness-raising campaigns targeting children, parents, teachers, youth organizations and others working with and for children, on the risks of sexual exploitation of children, sexually exploitative use of the Internet, mobile phones and other new technologies as well as on protective measures.

## **VII – Monitoring**

- (63) Establish by 2013 independent children's rights institutions such as children's ombudspersons or equivalents or focal points on children's rights in existing human rights institutions or general ombudsperson offices, highlighting the importance for States Parties to the Convention on the Rights of the Child of General Comment No 2 of the Committee on the Rights of the Child; these bodies should play a key role in the independent monitoring of actions taken for the prevention of sexual exploitation of children and adolescents, protection of children from such exploitation and the restoration of the rights of sexually exploited children, in advocating for effective legal frameworks and enforcement and

in ensuring, where necessary, that child victims have effective remedies and redress, including the possibility of filing complaints before these institutions.

We encourage the Committee on the Rights of the Child to:

- (64) Persevere with reviewing progress of States Parties' fulfilment of their obligations to uphold the right of children to protection from sexual exploitation and pay special attention to the recommendations in the Rio Call for Action in its examination of reports under the Convention on the Rights of the Child and its Optional Protocols.
- (65) Adopt as a matter of priority a General Comment on the right of the child to protection from sexual exploitation, trafficking for sexual purposes, and the abduction and sale of children, including detailed guidance to States on the development, implementation and enforcement of national legislation and policies in this regard.
- (66) Continue to work with the Office of the High Commissioner for Human Rights in protecting child rights, and raising awareness of relevant international and regional human rights mechanisms.

We encourage other United Nations human rights treaty bodies, special procedures of the Human Rights Council and special representatives of the United Nations Secretary-General, as well as regional human rights mechanisms, to:

- (67) Pay particular attention to combating the sexual exploitation of children and adolescents, within their respective mandates and during their examination of State Parties' reports, country visits, in their thematic work and/or other activities.

We urge the Human Rights Council to:

- (68) Ensure that the Universal Periodic Review process includes rigorous examination of States' fulfilment of their obligations to children, including preventing and stopping the sexual exploitation of children and adolescents and to respectfully the rights of child victims of such exploitation.

We urge the yet-to-be-appointed Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children, together with other appropriate mandate holders and in collaboration with the Committee on the Rights of the Child, to:

- (69) Work together to avoid duplication and to maximise their impact in preventing and stopping the sexual exploitation of children and adolescents and, through their work, map experiences in the area of prevention and response to sexual exploitation of children and assess their effectiveness.

We encourage UN agencies, NGOs and human rights institutions to:

- (70) Support and provide information on the extent of and responses to sexual exploitation of children and adolescents to these bodies.
- (71) Work with the media to enhance their role in education and empowerment, and in protecting children from sexual exploitation, and to mitigate the harmful potential of the media, including

through the sexualization of children in advertising.

We call on international financial institutions such as the World Bank and the International Monetary Fund to:

- (72) Review their current macro-economic and poverty reduction strategies with a view to counteracting any negative social impact on children and their families, including loan conditionality which essentially limits social services and access to rights and minimizing the risk for children to sexual exploitation.

We call on religious communities to:

- (73) Reject, in the light of their consensus about the inherent dignity of every person, including children, all forms of violence against children including sexual exploitation of children and adolescents and establish, in that regard, multi-religious cooperation and partnership with other key stakeholders such as governments, children's organizations, UN agencies, NGOs, media and the private sector using their moral authority, social influence and leadership to guide communities in ending sexual exploitation of children and adolescents.

## C. Call for Action

(1) We commit ourselves to the most effective follow-up to this Call for Action:

- At the national level, inter alia, by biennial public reporting on the measures taken for the implementation of the Rio Declaration and Call for Action and promoting/initiating discussions on the progress made and the remaining challenges to named responsible mechanisms for monitoring implementation while also integrating such requirements into State reporting to the Committee on the Rights of the Child.
- At the international level, by encouraging and supporting coordinated actions by the relevant human rights treaty bodies, special procedures of the Human Rights Council and Special Representatives of the Secretary-General of the United Nations with a

view to maintaining awareness of the Rio Declaration and Call for Action and promoting its implementation.

- (2) Encourage the private sector to join the United Nations Global Compact and communicate their implementation progress with regard to addressing the sexual exploitation of children and adolescents and supporting the realization of this platform for coordinated corporate efforts and sharing of best practices.

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