



UN Convention on the Rights of the Child 25 years later: Advances and Challenges in the Fight Against the Sexual Exploitation of Children in Belgium

In 1989 the United Nations General Assembly adopted the Convention on the Rights of the Child (hereinafter referred to as the "Convention")¹ to ensure to all individuals between the ages of 0 and 18 years the most elementary rights as well as the right to grow up in a favorable environment/conducive to his/her development. 194 countries have ratified the Convention, excluding Somalia, South Sudan and the United States. This is a particularly important tool for the ECPAT network since it guarantees the protection of children against commercial sexual exploitation, via two articles: Article 34 against exploitation / sexual violence, including prostitution and pornography as well as Article 35 which prohibits the sale and trafficking of children.

In 2000, the Convention was supplemented by a Protocol² to specifically prevent the selling of children, child prostitution and child pornography. These two UN texts are undeniably a major advance for the protection of children worldwide. While the situation of many children has improved over the last 25 years, the principles of the Convention are unfortunately not yet applied everywhere, exposing children to serious violations of their rights, such as commercial sexual exploitation. The objective of this analysis is to explore the impact of the Convention in Belgium since 1989 and to determine its success and challenges in the context of commercial sexual exploitation.

Understanding Commercial Sexual Exploitation of Children

Commercial sexual exploitation of children (CSEC) can be defined as the sexual abuse of a child or young person, male or female, under the age of 18 by an adult involving payment in cash or in kind to either the child or a third party.³ There are four main forms of CSEC i.e. prostitution, pornography, trafficking for sexual purposes and child sex tourism. These forms of abuse continue to be a pervasive global issue. According to estimates from the International Labour Organization, approximately 1.8 million children worldwide are victims of prostitution and pornography.⁴ Belgium is not excluded from this unfortunate reality. Reliable data on the sexual exploitation of children however remains a challenge for Belgium, as in most countries. The hidden nature of this phenomenon makes it very difficult to quantify. But without data, it is difficult to implement targeted prevention policies

¹ United Nations Treaty Collection. June 2014. Available at:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography of children, United Nations, New York, 25 May 2000, available at:

<http://www.ohchr.org/FR/ProfessionalInterest/Pages/OPSCCRC.aspx>

³ ECPAT International, Questions and Answers about the exploitation of children for commercial purposes, 2008 available at http://ecpat.net/sites/default/files/faq_fre_2008.pdf

⁴ International Labour Organization, A Future Without Child Labour, ILO, Geneva, 2002, p.32

and adequate protection. The Belgian authorities should therefore begin to focus on necessary ways to research and analyze this issue. As it stands, only repressive character data can be used, i.e. the number of prosecutions for these facts. In 2011, the Belgian courts listed 51 convictions for inciting minors for prostitution and the federal police investigated 210 cases of child pornography.⁵

Several factors explain what makes children vulnerable to exploitation. Poverty, corruption among authorities, natural disasters, etc., are major contributing factors. Especially important to mention are the new technologies and the explosion of mass tourism. These factors all impact CSEC, either by making children vulnerable or by "creating" potential abusers. New technologies, including social media, web cameras, smartphones allow predators to easily meet minors, in order to abuse and share images of child pornography, sometimes through peer-2-peer networks. Other online forms of sexual abuse include the emergence of sex tourism involving children via webcam (author pays to watch the live sexual abuse of a child via its screen), and the online solicitation of children for sexual purposes (contact and confidence building child online to prepare him for sexual abuse).⁶ The growth of the tourism industry can also have a major impact on child commercial sexual exploitation. Cheaper transportation and easier access to distant locations have made traveling simple, which in turn can make sex tourism more accessible. Globalization and the economic crisis are also factors that have impacted CSEC. Vulnerable communities in some of the poorest regions of the world are negatively affected by these changes, and make children particularly vulnerable to exploitation.⁷

The Convention – Advances in combating CSEC

Belgium has been a pioneer in the fight against the commercial sexual exploitation of children. In April 1995, Belgium became one of the first countries to adopt a law containing provisions against human trafficking and pornography. In 1996, following the Dutroux case, the fight against the sexual abuse of children became a priority. Belgium strengthened their implementation of laws and policies through the creation of Child Focus. Some notable initiatives such as prevention, protection and coordination will be analyzed below.

1) Prevention

Belgium participated in the Third World Congress against Commercial Sexual Exploitation of children in 2008, which included a Declaration and a Plan of Action in order to prevent and stop the sexual exploitation of children.⁸ The Call to Action

⁵ ECPAT Belgium, Global Monitoring Report on the status of action against commercial sexual exploitation of children, 2014, p. 10, available at:

http://ecpat.be/files/2014/09/A4A_V2_EU_BELGIUM_ENG_FINAL.pdf

⁶ ECPAT Belgium, Online grooming – Which changes with the new legislation?, May 2014

⁷ Act of 13 April 1995 containing provisions for the suppression of trafficking and trafficking in human beings, Moniteur Belge, April 13, 1995, available at :

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1995041332&table_name=loi

⁸ Declaration and Call for Rio de Janeiro action to prevent and eliminate child sexual exploitation and adolescents, Third World Congress against child commercial sexual exploitation, 2008, available at:

http://ecpat-france.fr/centre_ressources/4-textes_internationaux/2-Congres_Mondiaux/1-Declaration_du_III_Congres_Mondial_a_Rio.pdf

lists a series of measures that participating States, including Belgium, are committed to implement. For instance, training professionals who are likely to come into contact with young victims of sexual exploitation and supporting youth participation in prevention programs and policies.

The Belgian authorities also support other preventative measures such as the 2004 "Stop Child Prostitution" campaign conducted by partners from both the public sector (Foreign Affairs, Defence, Justice and Police) and private sector (Federation of Industry Tourism and the Royal Federation of motor carriers), as well as civil society (ECPAT Belgium, Child Focus, Plan Belgium and Samilia Foundation). This campaign aims not only to educate travelers but also to encourage them to report cases of sexual abuse of children abroad. To do this, several points of civil contacts have been developed to alert all cases of child prostitution – namely, (www.stopprostitutionenfantine.be) or child pornography (www.stopchildporno.be) or the emergency number of Child Focus (116,000). A point Contact police set up by the "Federal Computer Crime Unit" is also available (www.ecops.be).

2) Protection

According to ECPAT International's 2014 Global Monitoring Report, Belgian law has improved tremendously over the last 25 years and has taken great steps in strengthening the protection of sexually exploited children. Major advances in prosecution by the Belgian authorities for crimes committed abroad⁹ (extraterritorial law), criminalizing the dissemination of child pornography via the Internet, and indifference of a victim's consent to the offense are a few notable steps. An Act passed on 13 April 1995 containing provisions for the suppression of trafficking and trafficking in human beings was also passed, as well as other laws against Trafficking in Human Beings (2013)¹⁰ and the soliciting of minors for sexual purposes (2014), that were established to comply with the new EU guidelines.

Regarding the management of commercial sexual exploitation, and particularly human trafficking, there are three official centers for victims of human trafficking (Payoke, Pag-Asa and Sürya) and specialized centers for juvenile victims trafficking (Esperanto, Juna and Minor-Ndako). While these shelters are a great step in protecting survivors of CSEC, more residential structures need to be established.¹¹

Great measures have also been taken to protect unaccompanied foreign minors that are vulnerable to sexual exploitation. Several mechanisms have been put in place to integrate these young people into society, such as the Guardianship Service, providing basic education, healthcare, granting asylum, and "DASPA" classes (Devices and Home-schooling Primo arrivals students). Until now, these measures

⁹ ECPAT Belgium, Global Monitoring Report on the status of action against commercial sexual exploitation of children, 2014, p.22

¹⁰ CODE The impact of the European Directive against trafficking in human beings for the protection of children Belgium, October 2013, available at : http://www.lacode.be/IMG/pdf/Analyse_TranspositionDirectiveTraiteEtresHumains_FINAL.pdf

¹¹ ECPAT International, Progress Card Belgium, 2010, available at: http://ecpat.be/files/2012/03/2010_Belgium_Progress_Card.pdf

were limited to those from the MENA region, namely unaccompanied foreign minors from a country outside the European Economic Area. However, young migrants from the European Union were just as vulnerable and in need of specific protection. Fortunately, this discrimination on basis of nationality was partially resolved since DASPA classes are now available to all first-arrivals¹² and a draft law on guardianship of unaccompanied foreign minors was filed in April 2014¹³ to open the system to minors from the European Union.

3) Coordination

Coordination between the various departments involved in the fight against the sexual exploitation children is of particular importance, especially in facilitating investigations but also to simplify procedures and avoid secondary victimization of the child. In 1995, the Interdepartmental Unit for Action against Trafficking in and Smuggling of Human Beings was established to fight against smuggling and trafficking in human beings and to support an integrated approach at the state level. Representatives of ministers, and government and police agencies were brought together. NGO's such as Child Focus represent local initiatives and a proposal was made to include centers for victims of trafficking in human beings¹⁴.

In 2012, the Unit approved the final Action Plan for the fight against trafficking in human beings (2012-2014),¹⁵ which included a specific section on the fight against child trafficking and list a series of measures to improve the protection of children. Granting trafficking victim status for minors was among the recommendations. Unfortunately, one of the conditions for obtaining this status, which entitles you to a specific protection, is to comply with police in reporting traffickers, which can be difficult for a child, especially if the family is the origin of its operations. While efforts made by the Belgian authorities in coordinating the fight against trafficking in human beings, particularly children, are notable, no solid coordination initiatives on the state level have been created for specifically tackling child pornography or child prostitution.¹⁶

Challenges and Recommendations

The Convention has undeniably impacted the fight against commercial sexual exploitation of children in Belgium. The many initiatives that have been taken to

¹² French Community Decree for the establishment of a host device and enrollment of students primoarrivants in education organized or subsidized by the French Community, Art. 2 § 2, 18 May 2012, available at:

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2012051801

¹³ Van Cauter and others, Bill amending Title XIII, Chapter VI, of the Programme Law (I) of 24 December 2002 regarding the guardianship of unaccompanied foreign minors, April 3, 2014, available at:

<http://www.lachambre.be/FLWB/PDF/53/3469/53K3469005.pdf>

¹⁴ GRETA report on the implementation of the Convention of the Council of Europe Convention on Action against Trafficking in human beings by Belgium, 2013, p. 25, available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_14_FGR_BEL_with_comments_fr.pdf

¹⁵ Kingdom of Belgium, The fight against human trafficking and trafficking in human beings in Belgium Action Plan 2012-2014

¹⁶ ECPAT Belgium, Global Monitoring Report on the status of action against commercial sexual exploitation of children, 2014, p.36

prevent the phenomenon and improve the protection of victims and the prosecution of perpetrators of such violations confirm this impact. However, further analysis of the Belgian context needs to be addressed in order to identify effective recommendations that can improve the fight against sexual exploitation on the basis of the best interests of the child.

1) Training of field workers

Although the training of field professionals have been recognized by the Belgian authorities as an essential component in the identification of child victims of commercial sexual exploitation, initiatives are still largely insufficient. In its latest report on Belgium, the Expert Group within the Council of Europe , GRETA, recommends developing training for all front-line players such as staff immigration services, medical personnel, social workers, public action centers social, actors in child protection including guardians of foreign minors not accompanied and staff of detention centers and centers for asylum.¹⁷ ECPAT Belgium supports these recommendations, as well as extending it to all forms of commercial sexual exploitation.

2) Awareness actions

In addition to training professionals, public awareness is a prerequisite in combating the commercial sexual exploitation of children. Unfortunately, to date, no specific campaign against CSEC has been implemented or has been funded by the State,¹⁸ although representatives of the Ministries of Justice, Defence, FPS Foreign Affairs and Police are part of the working group "Stop Child Prostitution", initiator of the campaign of the same name (see above).

3) Harmonizing procedures

Children who have suffered sexual violence need special assistance due to certain traumas that may have been experienced. They often suffer from physical consequences, as well as psychological and social. It is therefore essential to find a compromise between the necessary work and the best interests of the child.

Due to the administrative structure of Belgium, the number of intermediaries in contact with the child is sometimes multiplied unnecessarily. For example, reception centers for Unaccompanied foreign minors can handle the initial procedure of a young victim, and is performed by one of three recognized centers for victims of trafficking in human beings. But then interviewing the minors are performed by multiple stakeholders: police, judge, lawyer, tutors, center for MENA, shelter for victims of trafficking, etc. Harmonizing procedures is the first step to avoid the child having to repeat history several times and recreate the trauma.¹⁹ Since January 2013, the audiovisual recording hearings became mandatory for

¹⁷ GRETA report on the implementation of the Convention of the Council of Europe Convention on Action against Trafficking in human beings by Belgium, 2013, p. 8

¹⁸ CODE, Trafficking of children in Belgium: What protection, Analysis CODE , August 2012 , available at : http://www.lacode.be/IMG/pdf/analyse_CODE_la_traite_des_enfants_en_Belgique.pdf

¹⁹ ECPAT Belgium, Belgian NGOs Alternative report addressed to GRETA on the evaluation of the implementation of the Convention of the Council of Europe against trafficking in Belgium, 2012

minors, witnesses or victims of certain offenses such as rape, minor incitement to prostitution and sexual exploitation of minors. Trafficking human beings for sexual purposes is not listed in these offenses. However since this is a particularly traumatic form of sexual violence, it should be included.²⁰

Conclusion

Although it is less common compared to other parts of the world, the commercial sexual exploitation of children remains a reality in Belgium. Legislative and initiatives undertaken show that since the adoption of the Convention on the Rights of Child Belgium continues its commitment to protect children against pornography, prostitution and trafficking for sexual purposes. Besides pioneering legislation, other measures are to be welcomed, including the creation of centers for victims of trafficking (major and minor), the adoption of a national action plan against trafficking in human beings, the recognition of trafficked status, the measures to integrate young migrants who are often victims of exploitation, the participation of Ministries in the campaign "Stop child prostitution" and the establishment of contact points (civilians and police).

The number of child victims of commercial sexual exploitation is very difficult to quantify, in particular because of the lack of a centralized system for reliable data collection and recent research in the field. In addition, the identification of victims can only be fully effective if efforts are made to continue to develop actions in raising public awareness and specific training for frontline personnel. Furthermore, to avoid further trauma to children, better harmonization of procedures should also be in place, such as the granting of the trafficking victim status for children and the obligation to record audiovisual interviews, including the offense "trafficking". Improving these aspects will help Belgium face emerging challenges, such as new technologies, globalisation, and economic hardships, in order to end the commercial sexual exploitation of children.

²⁰ ECPAT Belgium, Global Monitoring Report on the status of action against commercial sexual exploitation of children, 2014, p.36

This analysis was written in August 2014 by Blair Allan (trainee) and reviewed by ECPAT Belgium.

ECPAT Belgium is the Belgian member of ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes). The mission of ECPAT Belgium is to fight against sexual exploitation of children for commercial purposes: child prostitution, child pornography, trafficking of children for sexual purposes and child sex tourism.

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