



SEXUAL
EXPLOITATION OF
BOYS



BELGIUM REPORT

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BACKGROUND

Violence against children, including child sexual exploitation and abuse, is estimated to affect millions of children worldwide and no country or region is immune.¹ It has the potential to impact upon children in all socio-economic groups, of all educational levels, and across all ethnic and cultural groups.² While data about sexual exploitation of all children is generally lacking, this is even more so when looking at boys specifically. For example, in the rare cases that countries collect prevalence data on sexual exploitation and abuse of children, samples are often limited to adolescent girls, obscuring any understanding of the unique experiences and vulnerabilities of boys.³ In recent years, there has been an increasing awareness of the gap in the global understanding of how boys are impacted by sexual exploitation,⁴ and the limited evidence available suggests that in certain contexts, boys are just as heavily impacted as girls, and in some contexts, maybe even more.⁵

While these circumstances should by no means detract attention from continued research, advocacy, and support for girls subjected to sexual exploitation, there is a clear need for greater advocacy, understanding and a higher quality evidence-base on the sexual exploitation of children of all genders, to better inform all work to prevent and respond appropriately to their needs.

A Global Boys' Initiative

As the programmatic responses to identify and meet the needs of boys are scarce, ECPAT International launched the Global Boys' Initiative to explore the sexual exploitation of boys, activating our worldwide network of member

organisations in a range of research and response activities focused on boys. To meet the initial challenge of such limited data, in 2020-21, the Global Boys' Initiative embarked on a series of research projects in ten countries around the world, to shed light on understanding sexual exploitation involving boys, what factors lead to their vulnerability and increased risk, and what their needs are in terms of prevention, protection and support services. Much of this initial research phase was generously funded by SIDA, which allowed primary research to be conducted through partnerships between the ECPAT International secretariat and national ECPAT member organisations.

Analysis of Belgium's legal framework

ECPAT Belgium has been at the forefront of actions to prevent and respond to sexual exploitation of children in Belgium since 1994. ECPAT Belgium and ECPAT International partnered to conduct a comprehensive analysis of the Belgian legal framework which addresses various crimes related to the sexual exploitation and abuse of children, with a focus on boys.

The legislative analysis used a standard checklist including approximately 120 points and sub-points that was created by ECPAT International for the Global Boys Initiative. Staff from ECPAT Belgium explored the national legislation and completed the checklist, followed by research by ECPAT International using this information to inform further analysis and compile this narrative report.

1 Office of the Special Representative of the Secretary General on VAC. (2019, July). *Keeping the Promise: Ending Violence against Children by 2030*. New York: United Nations.

2 ECPAT International. (2020). *Summary paper: Sexual Exploitation of Children in Travel and Tourism*. ECPAT International: Bangkok. 4.

3 The Economist Intelligence Unit (2018) *Methodology paper Out of the Shadows: Shining light on the response to child sexual abuse and exploitation – a 40-country benchmarking index*, London: The Economist Intelligence Unit. 3.

4 Josenhans, V., Kavenagh, M., Smith, S., & Wekerle, C. (2020). *Gender, rights and responsibilities: the need for a global analysis of the sexual exploitation of boys*. *Child Abuse and Neglect* 110 (1).

5 Davis J and Miles, G (2015), "They didn't help me: They shamed me." *A Baseline Study on the Vulnerabilities of Street-Involved Boys to Sexual Exploitation in Manila, Philippines*. Manila: Love 146.

INTERNATIONAL AND REGIONAL COMMITMENTS

Belgium has demonstrated a strong commitment to the protection of children's rights through ratifying several international and regional instruments to protect children against sexual exploitation. The main international instrument underpinning the protection and defence of children's rights is the United Nations **Convention on the Rights of the Child**,⁶ which was ratified by Belgium as early as 1991. This convention is the primary international document that contains provisions to protect children from sexual abuse and exploitation. Further, Belgium also signed the **Stockholm Declaration and Agenda for Action** in 1996 which was created as a result of the first World Congress against sexual exploitation of children.⁷ These commitments exhibit Belgium's early engagement and desire to address and stamp out the sexual exploitation of children.

In 2000, in response to the rising concern of trafficking of children for sexual exploitation as well as other forms of sexual abuse and exploitation, the **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**⁸ was adopted. This Protocol was ratified by Belgium in 2006, emphasising its continued engagement with the international response to the sexual exploitation of children.

In 2014, in order to give access to the international redressal system to children who have not been able to enforce their rights and seek justice through national mechanisms, the **Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure** was adopted⁹ and Belgium ratified it the same year, again showing strong willingness to support children, giving them a voice in speaking out against the injustices they face.

Going further than the Convention on the Rights of the Child and its associated protocols, there are numerous instruments that have been adopted by the international community in its attempt to protect children from sexual exploitation and abuse. The International Labour Organisation **Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**¹⁰ was ratified by Belgium in 2002, and the **Protocol to Prevent, Suppress and Punish Trafficking in persons, Especially Women and Children** supplementing the UN convention against Transnational Organised Crime (UN Trafficking Protocol)¹¹ in 2004. Through ratifying these instruments and agreeing to ensure their effective implementation and enforcement Belgium has endeavoured to adopt legislative measures to effectively prohibit the forms of sexual exploitation of children prescribed within.

Belgium has also been active and has engaged on a more regional level. Belgium ratified a number of important instruments that form the backbone of the regional response to the sexual exploitation of children. It ratified the **Council of Europe Convention on Action against Trafficking in Human Beings**¹² on 27 April 2009, signifying its intent to combat the trafficking of human beings and to protect the human rights of, and guarantee protection and assistance to, all of its victims. In addition, Belgium ratified the **Council of Europe Convention on Cybercrime**¹³ on 20 August 2012. This Convention prescribes a number of offences relating to online child sexual exploitation and underlines Belgium's pledge to safeguard children from the online threats to which they may be vulnerable. Finally, the **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** (Lanzarote

6 UN Convention on the Rights of the Child. (1989).

7 Stockholm Declaration and Agenda for Action. (1996).

8 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. (2000).

9 Optional Protocol to the Convention on the Rights of the Child on a communications procedure. (2014).

10 Worst Forms of Child Labour Convention. (1999). (No. 182).

11 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. (2000).

12 Council of Europe Convention on Action against Trafficking in Human Beings. (2005).

13 Council of Europe Convention on Cybercrime. (2001).

Convention) was ratified on 8 March 2013.¹⁴ In doing so, Belgium recognised the need to focus on the preventive, protective and criminal law aspects of the fight against all forms of sexual exploitation and sexual abuse of children.

Belgium's response and commitment to the **Sustainable Development Goals 2030** set by the United Nations¹⁵ has also been exemplary.

In 2017, Belgium submitted its Voluntary National Review, reporting on the progress it had made thus far on achieving each of the goals.¹⁶ The report highlights the country's engagement with protecting children by detailing its efforts to tackle issues such as sexual violence, forced marriage and trafficking.¹⁷ This is done through numerous national action plans, including one that targets human trafficking specifically.¹⁸

14 Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. (2007).

15 United Nations General Assembly. (2015). "Transforming our world : the 2030 Agenda for Sustainable Development". A/RES/70/1, 21 October 2015.

16 Government of Belgium. (2017). Pathways to Sustainable Development: First Belgian National Voluntary Review on the Implementation of the 2030 Agenda.

17 *Ibid.*

18 *Ibid.*

CHILDREN'S RIGHTS UNDER BELGIAN LAWS

The definition of a child in the Belgian Law is consistent across all national legislation. The term 'minor' in Belgian Law refers to "an individual of either sex who has not yet attained the age of 18 years".¹⁹ The word 'child' is also used in the legislation but both terms can be used interchangeably and will not result in any reduction in the level of protection offered by the law.

The Belgian Criminal Code contains several provisions that criminalise sexual intercourse with a minor under 16 years of age. Article 375 criminalises any act of sexual penetration, regardless of its nature and by whatever means committed against a non-consenting person.²⁰ In order for the offence of rape to be established under this article, an act of sexual penetration must have been committed. All other forms of sexual assault or forced sexual acts, that do not involve penetration, are considered as indecent assault.²¹ The law goes further and specifies that "consent is not considered to have been given if the crime is committed by violence, coercion or deceit, or is made possible by the infirmity or physical or mental impairment of the victim."²²

In addition to article 375, the Belgian Criminal Code contains specific provisions punishing sexual intercourse with minors. The sentences set out by the law depend on the age of the victim. In a nutshell:

- **A minor under the age of 14 cannot consent to sexual intercourse.** Therefore, as stipulated in article 375 of the Criminal Code, sexual intercourse with a minor under 14 is always qualified as statutory rape. This offence is punished by imprisonment from 15 to 20

years. If the child is under 10, the sentence is higher, from 20 to 30 years of imprisonment.²³

- **Regarding minors aged between 14 and 16, consent may be recognised but sexual intercourse will still be criminalised.** If the minor did not consent, the offence is considered statutory rape and will be punishable with 15 to 20 years imprisonment.²⁴ If the minor consented, the law considers the offence to be indecent assault, in accordance with articles 372 and 373, instead of statutory rape. The offence of indecent assault is punished by 5 to 15 years imprisonment (depending on the use of violence).²⁵
- **A minor over the age of 16 may fully consent to sexual intercourse.** However, if the minor did not consent, it is considered statutory rape and will be punished with 10 to 15 years imprisonment.²⁶

In cases involving children over 14 in which lack of consent must be proven, however, the burden of proof in determining the lack of consent falls on the minor.²⁷ Shifting the onus on to the minor to prove the lack of consent may be extremely detrimental for child victims, adding to an already traumatic experience and potentially leading to their revictimisation within the courts. Further, it may act as barrier to justice by deterring child victims from reporting sexual crimes that have been committed against them, due to fear of reprisal or not being believed.

If the offence is committed by a member of the victim's family or by someone having a position of authority upon the victim, penalties are higher since the law considers this as an aggravating circumstance.²⁸ A minor bearing a physical or

19 Government of Belgium. (1804). [Civil Code](#). Article 388.

20 Government of Belgium. (1867). [Criminal Code](#). Article 375.

21 *Ibid.*, Articles 372-373.

22 *Ibid.* Article 375.

23 *Ibid.*

24 *Ibid.*

25 *Ibid.* Articles 372-373.

26 *Ibid.* Article 375.

27 *Ibid.*

28 *Ibid.*

intellectual deficiency is also considered as unable to consent.²⁹ The Belgian law does not provide a **close-in-age exception**. However, the Belgian judicial system operates as a prosecutorial opportunity system, meaning that the public prosecutor is under no obligation to prosecute and has the discretion to decide whether or not to continue with the prosecution. Further, in the case of prosecution, the judge may also decide that the prosecution is not opportune and therefore may cancel it. The result of this is that minors above 14 are rarely prosecuted in practice.³⁰

In Belgium, it is difficult for the offender to escape a sentence through pleading ignorance of the age of the minor. It is considered the adult's responsibility to check the age of the victim, which is a matter of public record.³¹ In some cases, the defender can plead non-guilty and invoke the **invincible mistake**, saying that he or she was misled about the age of the victim.³² Therefore, in order to invoke this defence it would have to be established from the circumstances of the case that the accused acted as any cautious and reasonable person would have done and show that there is no way they could have known that the victim was a minor. However, although this defence is possible, case law shows that this strategy does not always work. On 15 November 2018, the Antwerp Court convicted on appeal a man that bought the sexual services of a minor but claimed that the victim lied about her age. According to the court, the invincible mistake could not be pleaded unless the offender could prove that the minor had forged identity documents, which was not the case. The court also stated that any person seeking sexual contact with a sex worker, who turned out to be a 15-year-old girl at the time of the offence, cannot justify their behaviour by claiming to have been deceived by an Internet advertisement and by the victim's appearance.³³

There is **no distinction between boys and girls** in the aforementioned provisions. However, girls benefit from additional protection provided by specific instruments such as the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, also known as the Istanbul Convention.³⁴ For example, girls may be the subject of added protection and focus as Belgium has attempted to address many of the obligations that are contained under this Convention through adopting a National Action to Plan to fight all forms of gender based violence, versions of which have been in existence since 2001. The most recent version of the action plan for the years 2015-2019 seeks to address, among other things, sexual violence committed against women and girls through a range of prevention and awareness raising activities.³⁵

The minimum **working age** in Belgium is 18, but minors aged between 15 and 18 who have completed their compulsory education time can work and receive their own salary, except if their legal representative does not agree.³⁶ Minors are considered a distinct category of workers protected by specific provisions included in the Belgian Labour law. Minors can be prohibited to work in mines, pits and quarries. If a minor is to carry out such work, protective measures can be required.³⁷ According to article 10 of the Labour law, minors may be prohibited to do activities that are considered as dangerous or unhealthy, such as the demolition of buildings or driving of excavators and machinery.³⁸ Finally, article 9 of the same law provides that young workers may not perform a work that exceeds their strength, threatens their health or compromises their morals.³⁹ This is especially important when linked with sexual exploitation as sex-work, or any work taking place within an establishment linked to prostitution, may be considered, in any case, in contradiction and compromising children's morals.

29 *Ibid.*

30 Private communication with the Federal Public Service Justice. (2020).

31 Vandeplas, A. (1976). "De wetenschap t.a.v. de leeftijd van het slachtoffer bij aanranding van de eerbaarheid" noot onder Antwerpen 25 augustus. *RW 1977-78*, 1116-1117, and A. DE NAUW. (2005). *Initiation au Droit Pénal*, Mechelen, Kluwer. 117-118.

32 Personal communication with the Federal Public Service Justice. (2020).

33 Antwerp Court of First Instance. (2018). Case law document shared by the Federal Public Service Justice.

34 [Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#). (2011).

35 Government of Belgium. (2015). [Plan D'action National De Lutte Contre Toutes Les Formes De Violence Basée Sur Le Genre 2015-2019](#).

36 Government of Belgium. (1993). [Labour Law](#). Article 2.

37 *Ibid.*, Article 8.

38 Government of Belgium (1990). Royal Decree of 3 May 1990.

39 Government of Belgium. (1993). [Labour Law](#). Article 9.

EXPLOITATION OF CHILDREN IN PROSTITUTION

Engaging in **prostitution** is not criminalised by Belgian law, but related activities are. Article 380 of the Criminal Code punishes the acts of **hiring, enticing, detaining, selling or renting a person with the purpose to debauchery or prostitution**.⁴⁰ These actions are illegal and punished even if the victim has given their **consent**. Sentences are imprisonment from 1 to 5 years and a fine of five hundred to twenty-five thousand euro. Managing a brothel is illegal as well.⁴¹ Committing these offences on a minor is considered as an aggravating circumstance, (paragraph 4 of article 380), punished by imprisonment from 10 to 15 years and a fine of one thousand to one hundred thousand euro.⁴² If the offences are committed on a minor under 16 years of age, the sentence will be increased from 15 to 20 years of prison, with the same fine.⁴³

Witnessing (viewing), whether live or by means of information and communication technology, the debauchery or prostitution of a minor is punished by imprisonment from 1 month to 2 years and a fine of one hundred to two thousand euro.⁴⁴ For any offence mentioned in article 380 of the Belgian Criminal Code, the fine shall be applied as **many times as there are victims**.⁴⁵

It is also an offence to recruit, transport, transfer, harbour, receive, take, or transfer control over a person for the purpose of exploitation of prostitution or other forms of sexual exploitation, as stipulated in article 433 quinquies on trafficking.⁴⁶ This offence shall be punishable by imprisonment from one to five years and a fine of five hundred to fifty thousand euro.⁴⁷

The **attempt** to commit this and all other criminal offences is criminalised as well. Belgian law provides general provision defining an attempt. Article 51 of the Criminal Code states that “an attempt is punishable when the resolution to commit a crime or misdemeanour has been manifested by external acts that constitute the beginning of a crime or misdemeanour, and which have been suspended or have failed to take effect only by circumstances beyond the control of the perpetrator”.⁴⁸ In addition to these provisions, the law contains specific provisions for certain SEC-related offences. Article 433 quinquies specifies that the attempt to commit one of the offences mentioned above is punishable by imprisonment from 1 to 3 years and a fine from one hundred to ten thousand euro.⁴⁹

In Belgium, the legislation can be confusing due to the fact that prostitution itself is not illegal, but actions related to it are. There are windows that make it possible to work legally, even if sex workers are not a recognised working category.

Despite the fact that **inciting minors to prostitution** is prohibited in Belgium, data confirm the existence of prostitution of minors in Belgium, even though the real extent of the phenomenon is probably underestimated. In 2019, the organisation Child Focus recorded 47 reports concerning the sexual exploitation of minors in prostitution.⁵⁰ In addition to these reports, Child Focus continued working on 64 on-going cases from previous years. In most cases,

40 Government of Belgium. (1867). [Criminal Code](#). Article 380.

41 *Ibid.*

42 *Ibid.*

43 *Ibid.*

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*, Article 433 quinquies.

47 *Ibid.*

48 *Ibid.*, Article 51.

49 *Ibid.*, Article 433 quinquies.

50 Child Focus. (2019). Annual Report.

the victims were between 14 and 16 years of age.⁵¹

'Teenage pimps' have been identified as a concern in Belgium. A 2016 study of the phenomenon in Flanders, uncovered that both girls and boys, national citizens and foreigners, had been sexually exploited by these young people who are facilitating sexual exploitation of others.⁵² Case law shows that clients of these

victims of teenage pimps have, in some cases, been able to escape punishment through claiming that they did not know the victim was a minor.⁵³ Further, often due to elements of honour and shame amongst victims, the crime remains underreported and is thus underexposed.⁵⁴ In 2020, 45 of the 66 cases of exploitation of children in prostitution reported to Child Focus involved such teenage pimps although only one victim was identified as a boy.⁵⁵

51 *Ibid.*

52 Child Focus. (2016). [Study on victims of teenage pimps in Flanders](#).

53 ECPAT Belgium. (2020). Personal Communication.

54 Child Focus. (2016). [Study on victims of teenage pimps in Flanders](#).

55 Child Focus. (2020). [Annual Report](#).

ONLINE CHILD SEXUAL EXPLOITATION

Online child sexual exploitation knows no borders and is a reality in Belgium. In 2020, Child Focus handled 411 cases in the field of online security. Among these cases, all involving children as victims, 58 involved online grooming, 135 related to problematic sexting, 101 involved sexual extortion and 43 involved sexual harassment.⁵⁶ In terms of child sexual abuse material (CSAM), Child Focus received 2056 reports of suspected child sexual abuse images from its civil contact point “Stop Child Porno” in 2020, among which 376 concerned illegal content⁵⁷ and 133 were forwarded to the Federal Police.⁵⁸ Encryption and privacy settings of online social media messages and the dark web make it extremely difficult to find and report illegal images, which means that many victims go unidentified and offenders go unpunished.⁵⁹

In terms of legislative framework, most Belgian provisions related to CSAM are included in the Belgian Criminal Code. Indeed, according to article 383bis “child pornography”⁶⁰ refers to “any material that visually depicts [...] (a person who appears to be) a minor engaged in real or simulated sexually explicit conduct or that represents the sexual organs of (a person who appears to be) a minor for primarily sexual purposes”.⁶¹ The definition of CSAM, as presented in the Belgian Criminal Code, also covers digitally-generated CSAM as stipulated in article 383bis, paragraph 4: “child pornography shall mean realistic images depicting a minor

who does not exist, engaging in sexually explicit conduct or representing the sexual organs of a minor for primarily sexual purposes.”⁶² The definition of CSAM provided by the Belgian law is in line with the definition presented by other regional instruments, in particular the Lanzarote Convention and the EU Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography.⁶³ Despite the definition of CSAM being largely in line with international standards, in order to be considered fully comprehensive the definition provided by Belgian law should also include non-visual materials, such as those found in written or audio form.

Article 383b also criminalises a large number of offences related to CSAM, including **exposing, offering, selling, renting, transmitting, providing, distributing, disseminating, making available, producing and importing CSAM**.⁶⁴ These offences are punishable by imprisonment from 5 to 10 years and a fine of five hundred to ten thousand euro.⁶⁵ Further, paragraph 2 of article 383bis states that the **mere possession (with no intent to distribute/sell, etc.) of CSAM** is an offence. The same paragraph also criminalises the act of accessing such material by means of information and communication technology.⁶⁶ Attending a live pornographic performance is prohibited by article 383bis as well.⁶⁷ Although it is not explicitly mentioned within this article, it is understood that the live streaming of sexual abuse would

56 Child Focus. (2020). [Annual Report](#).

57 *Ibid.*

58 *Ibid.*

59 *Ibid.*

60 Child sexual abuse material is the preferred term, subsuming older terminology such as ‘child pornography’. Although still used in a legal context, this older term should be avoided as it is misleading and undermines the gravity of these crimes. Its use suggests that images of child sexual abuse are just another form of pornography and distracts from the fact that they are actually images of a serious crime. Interagency Working Group on Sexual Exploitation of Children. (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). Bangkok: ECPAT International. 40.

61 Government of Belgium. (1867). [Criminal Code](#). Article 383bis.

62 *Ibid.*

63 [Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA](#). (2011).

64 *Ibid.*

65 *Ibid.*

66 *Ibid.*

67 *Ibid.*

be included in its interpretation.⁶⁸ Both offences are punished by imprisonment from 1 month to 1 year and a fine between one hundred and one thousand euro.⁶⁹ In addition, it is understood that live streaming of sexual abuse could be included as an offence under the interpretation of “witnessing whether live or by means of information and communication technology, the debauchery or prostitution of a minor” as contained under article 380.⁷⁰

Belgian law also includes provision criminalising the acts of recruiting, causing or coercing a minor into participating in **pornographic performances**.⁷¹ These offences are punished by imprisonment from 10 to 15 years and a fine of one thousand to one hundred thousand euro, as stipulated in article 380 paragraph 4.⁷² The wording of this article emphasises that this offence is punishable even if the victim has consented,⁷³ as it can be complicated to prove that a victim did not consent, or consented but on the basis of wrong information (promises of money, job, or a better future). If the offence of recruiting, causing or coercing a minor into participating in pornographic performances presents elements of human trafficking, article 433quinquies can also be invoked.⁷⁴

Article 371/1 punishes the dissemination of both audio and visual material that would be shared without the consent of the person involved in the given material and/or that would depict a nude person, or a person engaged in explicit sexual activity (also called **sexual extortion**).⁷⁵ The offence is sentenced by imprisonment from 6 months to 5 years.⁷⁶ If the offence is committed on the person or with the assistance of a minor, the punishment will be increased from 5 to 10 years imprisonment (minor over 16) or from 10 to 15 years (minor under 16).⁷⁷ It is assumed that a minor cannot consent to the dissemination of

the kind of content mentioned in article 371/1. Although it is welcome that the dissemination of such material is criminalised, it is a worrying omission that, with regards to audio material, only the dissemination, and not all other criminalised acts related to CSAM, is included as an offence.

The law also contains provisions criminalising **online grooming**. Article 377quater of the Belgian Criminal Code states that an adult, who “by means of information and communication technology, proposes a meeting to a minor under the age of 16 with the intention of committing an offence [...], shall be punished with imprisonment of one to five years, if the proposal has been followed by material acts leading to the said meeting”.⁷⁸ It is worth mentioning that, although this offence protects children under 16 from online grooming in accordance with the Lanzarote Convention, it does not offer any protection to those children who are over 16 and therefore have already reached the age of sexual consent. The **attempt** to commit CSAM-related offences is covered by general provisions of the Criminal Code provided in article 51.⁷⁹

Belgian law is also extensive in the sense that it contains provisions **protecting from prosecution** minors who would have committed offences related to online child sexual exploitation in a context of exploitation. Article 71 of the Criminal Code states that if a person was compelled to commit an offence by a force that he or she could not resist, a matter determined by the Public Prosecutor and the judge, this person cannot be prosecuted for the offence committed.⁸⁰ This is a welcome inclusion in the law as it protects children who may have produced self-generated CSAM in an exploitative situation (e.g. through sexting).

68 ECPAT Belgium. (2020). Personal communication.

69 *Ibid.*

70 Government of Belgium. (1867). *Criminal Code*. Article 380.

71 *Ibid.*, Article 380.

72 *Ibid.*

73 *Ibid.* “Anyone who, in order to satisfy the passions of others, hires, entices, diverts or detains, either directly or through an intermediary, a minor (...), even with his or her consent, with a view to debauchery or prostitution...”

74 Government of Belgium. (1867). *Criminal Code*. Article 433quinquies.

75 *Ibid.*, Article 371/1.

76 *Ibid.*

77 *Ibid.*

78 *Ibid.*, Article 377quater.

79 *Ibid.*, Article 51.

80 *Ibid.*, Article 54.

In addition to that, article 433quinquies provides that a victim of human trafficking who takes part in offences “as a direct consequence of his or her exploitation shall not be punished for such offences”.⁸¹

Even if the law is quite extensive on the subject of online child sexual exploitation, it **does not provide any obligation for Internet providers** to report and remove illegal content, including CSAM. Removal does not happen on a proactive basis but after a request from the police. The police receive reports from individuals and civil contact point such as Child Focus and ECPAT Belgium.⁸²

81 *Ibid.*, Article 433quinquies.

82 ECPAT Belgium. (2020). Personal Communication.

SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

Article 433quinquies of the Criminal Code defines **trafficking in humans** as the offence of **recruiting, transporting, transferring, harbouring, receiving, taking or transferring control over a person** for the purpose of sexual exploitation, labour exploitation, exploitation of begging, the removal of human organs or forced criminality.⁸³ Further, the movement or displacement of a victim is not required in order for an offence to be committed and domestic and international trafficking offences are criminalised under this article. The sentence for this offence is imprisonment from 1 to 5 years and a fine of five hundred to fifty thousand euro. The fine can be multiplied by the number of victims.⁸⁴ Moreover, when the victim of such an offence is a minor, it will be considered as an aggravating circumstance and the punishment will be increased to imprisonment for 10 to 15 years and a fine of 1000 -100 000 euros.⁸⁵ In addition to the general provision on the criminalisation of the attempt to commit a crime provided in article 51, Belgian law contains a specific provision that criminalises the **attempt** at trafficking in persons.⁸⁶

The definition of trafficking in persons as provided by the Belgian Criminal Code is consistent with the UN Trafficking Protocol. It is also quite extensive, due to the fact that the definition only specifies the acts and the purposes required to constitute the crime but not the means. Indeed, since coercion is not included in the constitutive elements, there is no need to prove that constraint has been used in order to qualify the situation as trafficking and therefore the consent of the victim –either adult or child- is irrelevant. The means used are listed as aggravating circumstances rather than necessary components

of the crime.⁸⁷

Despite national legislation effectively criminalising the trafficking of children for sexual purposes in line with international standards, an important omission exists with regards to the sale of children for sexual purposes. Indeed, this offence is not prohibited under Belgian law, neither as a standalone offence or as part of the offence of trafficking. In order to fully protect children from this crime Belgium should, therefore, prohibit the offering, delivering or accepting of a child for sexual purposes, as provided by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.⁸⁸

The 2021 Trafficking in Persons Report from the US State Department states that Belgium fully meets the minimum standards for the elimination of trafficking.⁸⁹ The efforts made by Belgium include investigating, prosecuting, and convicting traffickers, identifying significantly more victims, approving a new shelter for child sex trafficking victims, cooperating with foreign governments to prosecute suspected traffickers and drafting a new national action plan.⁹⁰ However, the report also mentions that identifying child victims still remains a weakness in Belgium.⁹¹

According to Myria's 2020 annual report (the latest available as of May 2022), a total of 331 human trafficking offences were recorded by the Belgian police in 2019, more than half of which were for sexual exploitation (171).⁹² In 2019, 373 files were submitted to the public prosecutors for human trafficking, of which 57% were for sexual

83 *Ibid.*

84 *Ibid.*

85 *Ibid.* Article 433septies.

86 *Ibid.* Article 433quinquies.

87 *Ibid.* Article 433septies

88 [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. \(2000\).](#) Article 3(1)(a)(i)(a).

89 US Department of State. (2021). [Trafficking in Persons Report 2021.](#) 118.

90 *Ibid.*

91 *Ibid.*

92 Myria. (2020). [Annual report.](#)

exploitation.⁹³ Of these cases that were brought forward for prosecution 37% were dismissed.⁹⁴ Unfortunately, the data provided does not specify how many victims were minors.

According to data from the Immigration Office, 144 victims of trafficking in human beings have started a procedure to apply for residence in Belgium in 2019, which is an increase compared to 2018. Only 11 were minors, and among them, 3 were victims of sexual exploitation.⁹⁵ As this data has not been disaggregated by gender, it is unclear how many of these minors were boys.

Specialised centres have accompanied a total of 145 victims of trafficking in 2019, of which 4 were minor victims of economic exploitation and 2 were minor victims of sexual exploitation.⁹⁶ Most of these victims of sexual exploitation were Nigerian,⁹⁷ a common country of origin for many victims of trafficking for sexual purposes in Belgium.⁹⁸ Victims of 'teenage pimps', if they do not come from Belgium, have been noted to come from Romania, Bulgaria and Albania.⁹⁹

Although trafficking is the most documented form of child sexual exploitation in Belgium, there is no centralised database providing disaggregated and comparable data. The lack of data can be explained by many obstacles in the identification of victims. Field actors are not sufficiently aware of the issue of human trafficking and do not detect the victims.¹⁰⁰ Moreover, many minors are not able/willing to cooperate with the law enforcement, which impedes the granting of a trafficking victim's status.¹⁰¹ Finally, many minor victims of trafficking disappear from shelter and centres. Child Focus recorded 99 reports of missing unaccompanied minors in 2020.¹⁰²

93 *Ibid.*

94 *Ibid.*

95 *Ibid.*

96 Myria. (2020). *Annual report*.

97 *Ibid.*

98 ECPAT Belgium. (2016). *La traite des enfants en Belgique, Identification et Protection des victimes*.

99 *Ibid.*

100 *Ibid.*

101 *Ibid.*

102 Child Focus. (2020). *Annual Report*.

SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

The lack of data makes it difficult to assess how many Belgian citizens engage in sexual activities with children abroad. ECPAT Belgium has identified 13 prosecutions in Belgium for sexual exploitation of children related to travel and tourism between 1996 and 2014. Among those prosecuted, ten were convicted at first instance, six went to appeal and two went to the Court of Cassation. In three cases, the charges were not pursued.¹⁰³ In all of these cases the offender was a Belgian citizen or resident and the offences committed related to the exploitation of children in prostitution, human trafficking, indecent assaults with and without violence, and production or possession of CSAM.¹⁰⁴

Volunteer tourism, (or voluntourism) describes a field of tourism, in which travellers visit a destination and take part in projects in the local community. Many of the more popular projects involve working with children in schools, orphanages or day care centres.¹⁰⁵ Whilst in many cases these projects can bring positive benefits to both the project and the volunteer, they may also put children at risk of sexual exploitation. Many organisations that offer voluntourism placements lack appropriate child protection policies and procedures and many fails to conduct any type of background check. This creates pathways for unknown adults to easily make contact with vulnerable children. Further, the short term nature of many of these placements may normalise frequent and irregular interaction with strangers which impacts children's ability to recognise signs of danger. Finally, many volunteers are placed in positions of responsibility (despite often being unskilled or unqualified) which allows for a power imbalance that may make it easier for

offenders to exploit children.¹⁰⁶

Voluntourism is quite popular in Belgium and attracts an increasing number of (young) people. A lot of organisations offer volunteering experiences abroad, such as WEP¹⁰⁷ and Projects-abroad.¹⁰⁸ A wide variety of projects are proposed, ranging from environmental and animal protection to education and building construction. Some non-governmental organisations, such as Quinoa, also offer the possibility to volunteer and work for the organisation's projects overseas.¹⁰⁹ Quinoa sends abroad between 40 and 80 volunteers per year, for a duration between 2 and 4 weeks. The most popular destination is Nepal.¹¹⁰

Despite a robust legal framework with regards to extraterritorial legislation, stronger measures need to be implemented to enforce its implementation and engage with the voluntourism industry. All nationals and non-nationals who work directly with children within Belgium must show a certificate of good conduct which shows that they have not been convicted for child sexual offences.¹¹¹ However, when it comes to volunteering abroad or nationally, there is rarely legal provisions to check the background of volunteers before they work with children.

Extraterritorial legislation enables Belgium to prosecute anyone who has committed a crime of sexual exploitation of children outside the territory of the Kingdom of Belgium, including encouraging a child to engage in prostitution and producing or disseminating CSAM.¹¹² The organisation of travel arrangements or transportations that are explicitly or implicitly

103 ECPAT Belgium. (2015). [Study on the impact of the Belgian extraterritorial legislation](#).

104 ECPAT Belgium. (2020). Personal communication.

105 ECPAT International. (2022). [Issues Paper: How Voluntourism may facilitate the sexual exploitation of children](#).

106 *Ibid.*

107 WEP Belgium. (n.d). [Faire du volontariat](#).

108 Projects-abroad. (n.d). [Missions de volontariat à l'étranger](#).

109 Quinoa asbl. (n.d). [Sur Quinoa, philosophie](#).

110 ONG Quinoa. (n,d). [Rapports d'activités and e-mail communication](#).

111 Government of Belgium. (1967). [Code of Criminal Investigation](#). Article 596.

112 Government of Belgium. (1867). [Criminal Code](#). Article 10ter.

meant to create or facilitate opportunities to **engage children in sexual activities** is criminalised. As stated in article 380ter of the Criminal Code, it is an offence to advertise, publish, distribute or disseminate an offer of services of a sexual nature.¹¹³ Committing this offence on the person of a minor is an aggravating circumstance punished by imprisonment from 10 to 15 years and a fine from one thousand to ten thousand euro.¹¹⁴ It is also established in article 379 that promoting or facilitating, in order to satisfy the passions of others, the debauchery of a minor of either sex is punishable by imprisonment from 5 to 10 years and a fine of five hundred to twenty five thousand euro.¹¹⁵ The sentence will be increased depending on the age of the minor.¹¹⁶

Prevention of child sexual exploitation is done on a voluntary basis by a limited number of tourism organisations, in collaboration with the civil society. Since 2004, ECPAT Belgium has coordinated the “I say STOP!” campaign to raise awareness of the issue of child sexual exploitation among travellers and encourage the reporting of suspicious situations. The campaign is a multi-stakeholder initiative gathering public partners (the Police, the Federal Public Service Justice, the Federal Public Service Foreign Affairs and the Defence), travel organisations (the Federation of the Tourism Industry and the Royal Belgian Federation of Transporters and Logistics Service Providers) and non-governmental organisations (Child Focus, Plan International Belgium, ECPAT Belgium and the Samilia Foundation).¹¹⁷

Provisions compelling tour operators to include a warning against the illegality of crimes related to sexual exploitation in their informative material or obligations for tourism operators to implement child protection policies could be considered.¹¹⁸

Belgian law does not contain provisions to monitor the (inter)national travelling of a convicted offender, nor does it provide for specific provisions which would exclude sex offenders from bail. Technically, a person who would be a threat for public order could see their passport withdrawn by the Ministry of Foreign Affairs, but this option does not seem to be widely known or applied for suspected or convicted child sex offenders. Further, Belgium does not have a national sex offender registry that details all those who have committed sexual crimes against children.¹¹⁹

As regards to international agencies, INTERPOL can issue green notices (to warn about a person’s criminal activities, where the person is considered to be a possible threat to public safety) or red notices (international arrest warrant) to alert the police authorities about (potential) child sex offenders.¹²⁰ The European Criminal records Information System enables the exchange of information on the criminal records of European citizens.¹²¹ The Europol’s Joint Investigation Teams allow two or more States to carry out criminal investigations involving cross-border crimes (including child sexual exploitation).¹²² However, as ECPAT Belgium’s study showed, these tools are not systematically used in the country for travelling sex offenders.

113 *Ibid.*, Article 380ter.

114 *Ibid.*

115 *Ibid.*, Article 379

116 *Ibid.*

117 STOP GROUP (2020). [I say STOP!](#)

118 ECPAT Belgium. (2020). Personal communication.

119 ECPAT Belgium. (2021). Personal communication.

120 Interpol. (n.d). [About notices.](#)

121 Europol. (n.d). [European Criminal Records Information System.](#)

122 Europol. (n,d). [Europol’s Joint Investigation Teams](#)

CHILD, EARLY AND FORCED MARRIAGE

Child early and forced marriage is an issue that disproportionately affect girls, yet it is important to stress that boys are also affected by the problem. It has been estimated that, globally, currently, 115 million boys and men are married before the age of 18, out of whom 23 million were married before they turned 15 years of age.¹²³ Although boys are not likely to face risks of sexual violence in the way that girls do, those who marry early face increased social pressure to play the role of the ‘breadwinner’ and take up responsibilities of the household which ultimately brings their childhood to an early end.¹²⁴

As stipulated in article 144 of the Belgian Civil code, it is illegal to be **married before the age of 18**.¹²⁵ This applies to both boys and girls. If a minor wishes to get married before 18, they will need the approval of the parents. If one of the parents does not give consent, the judge may still authorise the marriage if the latter considers the refusal unfounded or unreasonable in accordance with article 148 of the Civil Code.¹²⁶

Belgian law contains general provisions on the offence of **forcing someone into marriage** or into legal cohabitation (articles 391sexies and 391septies of the Criminal Code).¹²⁷ As stipulated in these articles, the offence of forcing a person into marriage by violence or threats is punishable by imprisonment for 3 months to 5 years and a fine of two hundred and fifty euro to two thousand five hundred euro.¹²⁸ The offence of forcing someone into legal cohabitation by violence or threat is punishable by imprisonment of 2 months to 3 years and a fine of one hundred

and twenty five euro to two thousand five hundred euro.¹²⁹ There are no specific provisions concerning minors: general provisions apply.

Despite these provisions, **child marriage** is a reality in Belgium, however poorly documented. In its 2015 report, the Federal Migration Centre reports that only 56 complaints of forced marriage had been registered by the police between 2010 and 2015.¹³⁰ It is unclear how many of these complaints concern the forced marriage of minors. According to first-line organisations (Network Marriage and Migration or the Youth Law Service in Liège), these figures are much lower than the reality.¹³¹ The Esperanto centre, which specifically provides shelter for minors presumed to be victims of human trafficking, has in recent years been confronted with young girls who have been victims of early marriages from the age of 12.¹³² Since 2002, the Esperanto centre has accompanied 32 minor victims of child marriage.¹³³ Forced marriages in Belgium have been identified amongst some ethnic minority groups in Belgium.¹³⁴

In 2014, the criminal court in Verviers convicted parents on the **grounds of human trafficking** for the purpose of sexual exploitation. The parents arranged a marriage between two minors, the girl being under the age of 16.¹³⁵ The boy’s parents paid a big amount of money so that the girl’s parents would guarantee the young girl’s virginity. After the wedding, the girl moved in with the boy’s family and was forced to do household chores instead of going to school.¹³⁶

123 UN News. (2019). [Around 23 million boys have married before reaching 15; ‘we can end this violation’ says UNICEF chief.](#)

124 ECPAT International. (2020). [Summary Paper on Child, Early and Forced Marriages as a Form of, or Pathway to Sexual Exploitation of Children.](#) 2.

125 Government of Belgium. (1990). [Civil Code.](#) Article 144.

126 *Ibid.*, Article 148.

127 Government of Belgium. (1867). [Criminal Code.](#) Article 391sexies – 391septies.

128 *Ibid.*

129 *Ibid.*

130 Myria. (2019). [Annual report.](#)

131 Parlement Francophone Bruxellois. (2018). [Mariages forcés et violences faites aux femmes au nom de l’honneur.](#)

132 Myria. (2019). [Annual report.](#)

133 Esperanto centre. (2019). Powerpoint shared during a training given by the Esperanto centre.

134 E. Leye, A Sabbe. (2015). [Forced marriage in Belgium. An analysis of the current situation.](#)

135 Myria. (2015). [Annual report.](#)

136 *Ibid.*

EXTRATERRITORIALITY AND EXTRADITION

Article 10 ter of the Preliminary Title of the Code of Criminal investigation, which states that anyone can be prosecuted in Belgium for having committed the following offences, as contained under the Criminal Code, abroad: **indecent assault** with or without the use of violence (articles 372 and 373), **corruption of young persons** (article 379), **grooming** by means of information and communication technology, **"child prostitution"** or **exploitation of prostitution** (article 380), **producing, possessing or accessing CSAM** (article 383bis) and **trafficking** (433quinquies).¹³⁷ Although, **extraterritorial legislation** applies for the vast majority of offences of sexual exploitation of children, it does not cover the crime of forcing another person to marry (as covered by articles 391sexies and 391septies of the Criminal Code). Double criminality is not required to prosecute offences listed in article 10ter, which enables Belgium to prosecute offenders even if the offence is not criminalised in both Belgium and the country where it happened. Further, the scope of article 10ter is broad enough to allow the prosecution of anyone who is found on Belgian territory who has committed sexual offences against children, irrespective of the nationality of the offender or victim. This provision covers passive extraterritoriality, and thus allows Belgium to prosecute foreign offenders, but it will only be done so as a last resort when the other country is unable or unwilling to prosecute the offender.¹³⁸

This is compounded with the Act of 13th April 1995, with which the Belgian authorities became competent to prosecute any sexual abuse of

children committed abroad, regardless of the nationality of the victim or offender, provided that the latter is found on Belgian territory.¹³⁹ Unlike other European countries, Belgium does not limit its extraterritorial jurisdiction to its residents or citizens. It is applicable to all citizens of the world. The presence of the suspect on Belgian territory at the time the prosecution is initiated is an essential condition. If the prosecution is set in motion before the suspect arrives in Belgium, it is not admissible.¹⁴⁰

In order for extradition to be enforced, specific measures must be regulated in extradition treaties. Belgium is a party to the European Convention on Extradition, which includes all forty-seven members of the Council of Europe, as well as Israel, South Africa and South Korea.¹⁴¹ In addition, Belgium has bilateral extradition agreements with many countries.¹⁴²

In theory, there is no reason why extradition of a person responsible for child sexual exploitation would be opposed. However, difficulties may arise when a country, with which Belgium does not have an extradition treaty, refuses the extradition of a criminal, as happened with Cambodia.¹⁴³ In 2016, the Belgian resident Pieter Ceulen was sentenced to 19-year imprisonment for the rape of two Cambodian girls that he had previously sponsored. Since no bilateral agreements exist between Belgium and Cambodia, the latter had refused to extradite Ceulen.¹⁴⁴ Finally, Ceulen surrendered to the Cambodian authorities and he was repatriated back in Belgium to serve his sentence.¹⁴⁵

137 Government of Belgium. (1878). [Preliminary Title of the Code of Criminal investigation](#). Article 10ter.

138 ECPAT Belgium. (2020). Personal communication.

139 Government of Belgium. (1995) Act of 13th April 1995.

140 Personal communication with the Federal Public Service Justice.

141 Council of Europe. (n,d). [Signatories and ratifications to the European Convention on Extradition](#).

142 List of countries with which Belgium has a bi-lateral extradition agreement: Algeria, Australia, Argentina, Bahamas, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, United States, Fiji Islands, Guatemala, Honduras, India, Kenya, Lebanon, Morocco, Mexico, Nicaragua, Pakistan, Paraguay, Peru, El Salvador, Solomon Islands, Tanzania, Thailand, Tunisia. Senate of Belgium. (2011). [Written question n° 5-880 by Bert Anciaux on January 27, 2011 to the Minister of Justice](#).

143 [Sudinfo](#). (2016). [Condamné à 19 ans de prison le pédophile Pieter Ceulen a réussi à s'enfuir avant son jugement!](#)

144 *Ibid.*

145 [La Libre](#). (2016). [Le pédophile Pieter Ceulen a atterri à l'aéroport de Zaventem](#).

ACCESS TO JUSTICE AND REMEDIES

National complaint mechanisms and reporting

If practitioners working with children and institutions are bound to professional secrecy according to article 458 of the Belgian Criminal Code,¹⁴⁶ they may break it if they have knowledge of offences of sexual exploitation of children, as stipulated in article 458bis.¹⁴⁷ However, private citizens are not required by law to report cases of child sexual exploitation, unless the life of the person is in danger. In this case, an individual can be prosecuted for failing to assist a person in imminent danger (Article 422bis).¹⁴⁸ The fact that the victim is a minor is considered to be an aggravating circumstance. The Code for Criminal Investigation does contain a provision stating that “any person who has witnessed an assault, either on public safety or on the life of an individual, shall likewise be required to notify the Public Prosecutor’s Office”¹⁴⁹ but the wording of this article makes it clear that this provision is not legally binding and more a moral obligation. Further, the Public Prosecutor has a duty to initiate investigations of crimes *ex officio* (with the power of the office), on the basis of information they have obtained from any source.¹⁵⁰ Another point to be stressed is that a complaint is optional, which means that a complaint by the victim is not necessary to initiate the proceedings.¹⁵¹

It is worth mentioning that, in Belgium, there are no statutory limitations for the prosecution of offences of sexual exploitation of children. When sexually exploited children do disclose their

abuse, their disclosure is often delayed. In these cases, their access to justice can be thwarted by short statutes of limitations for sex crimes.¹⁵² Therefore, the lack of such limitations removes an important obstacle for the reporting of these crimes, allowing children in Belgium to come forward if and when they feel comfortable to do so.

The national legislation establishes an effective system for receiving and addressing reports. First of all, the law on the **Police** states in article 46 that “the police services will bring persons requesting help or assistance into contact with specialised services. They shall provide assistance to the victims of crime, in particular by providing them with the necessary information”.¹⁵³ This general law has been translated into a national guidance with special attention to different types of victims/situations. These guidelines set a line of conduct when in contact with victims, how to help, useful information to provide, victim’s rights, forms to fill in for the judicial procedure, specific addresses to refer victims and who intervenes is the specific situation.¹⁵⁴ Whilst there are specific guidelines relating to, among other things, domestic and sexual violence, there is no specific national guidance for dealing with child victims of sexual exploitation.¹⁵⁵ In addition to these provisions, article 75bis of the Code for Criminal Investigation provides the possibility to keep the identity of the victim confidential.¹⁵⁶

Some **organisations**, other than the police, are entitled to receive reports on CSAM.¹⁵⁷ The conditions that an organisation must comply with to receive reports are laid down in the Royal

146 Government of Belgium. (1867). [Criminal Code](#). Article 458.

147 *Ibid.*, Article 458bis.

148 *Ibid.*, Article 422bis.

149 Government of Belgium. (1967). [Code of Criminal Investigation](#). Article 30.

150 Government of Belgium. (1967). [Code of Criminal Investigation](#). Article 28ter.

151 ECPAT Belgium. (2020). Personal communication.

152 ECPAT International. (2017) “[Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation](#) [ECPAT International](#)”. (2017), 58.

153 Government of Belgium. (2018). [Law on the Police Function](#). Article 46.

154 ECPAT Belgium. (2020). Personal communication.

155 *Ibid.*

156 Government of Belgium. (1808). [Code of Criminal Investigation](#). Article 75bis.

157 Government of Belgium. (2016). [Criminal Code](#). Article 383bis/1.

Decree of 18 September 2016.¹⁵⁸ Furthermore, article 383bis is supplemented by the Royal Decree of 15 November 2016 approving the organisation Child Focus as an organisation referred to in article 383bis/l.¹⁵⁹ This decree was adopted in order to meet the requirement of “rapid” removal of CSAM as stated in article 25 of the Directive 2011/93/EU.¹⁶⁰

Since November 2017 Belgium has set up three Sexual Assault Care Centres in line with article 25 of the The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. These centres are a multidisciplinary service based in a hospital and adopting a holistic approach to provide victims with the necessary help 24/7. The victim receives free support and assistance: medical and psychological care, forensic examination, help for filling a complaint and a thorough follow-up.¹⁶¹ By 31 July 2019, over 1,700 victims had been admitted (88 new victims/month in average) and this despite little promotion for the services. Just under one third (27%) are children, but most of the victims are young adults with an average age of 24.8 years. About 90% of victims are female. 10% are male and transgender victims.¹⁶² Although males make up a relatively small proportion of these victims, it is likely that the data is skewed due to issues such as social stigma and gender norms contributing to the under reporting of sexual crimes by male victims. Now there are already 5 centres present in Belgium. This service is offered in several hospitals, namely UZA in Antwerp, UMC Sint-Pieter in Brussels, UMC Marie Curie in Charleroi, UZ Ghent and UMC Liège. In 2022-2023, 5 new centres will open in Roeselare, Louvain, Namur, Genk, and Arlon.¹⁶³ The Belgian government promised that these 10 centres would be operational by 2023, increasing

their budget from €13.5 million (2021) to €17.8 million (2023).¹⁶⁴

There are also a number of **helplines**, available on a 24/7 basis in different languages. These helplines are managed by the different linguistic communities¹⁶⁵. The main helplines for the French-speaking community include Ecoute Enfant (a service that provides a safe place for children and teenagers to ask any questions they have on any topic),¹⁶⁶ the SOS Enfants teams (teams of professionals available by phone for children victims of physical or psychological violence)¹⁶⁷ and SOS Rape (a helpline for victims of sexual violence).¹⁶⁸ In 2020, SOS Rape received 602 calls regarding sexual assaults, of which 89% were from girls and 11% from boys. In 46% of these cases the victim was a minor at the time of the assault.¹⁶⁹ For the Flemish community, the helpline Tele-Onthaal is a service to which children can turn to when they feel the need to talk,¹⁷⁰ and JAC helps young people between 12 and 25 with all their questions and problems, including question about sexual violence and abuse.¹⁷¹ A national referral mechanism has been established for the identification, support and protection of victims of human trafficking. Its functioning has been detailed in the 26 September 2008 circular introducing a multidisciplinary cooperation on the identification of potential victims of trafficking.¹⁷² The circular was revised in December 2016 to extend the definition of trafficking victim to Belgian nationals. The circular also contains specific guidelines for minors.¹⁷³

In practice, the implementation of the circular and the identification of victims are impeded by the lack of training of frontline workers. It is consequently not surprising that the Council

158 Government of Belgium. (2016). Royal Decree of 18 September 2016.

159 Government of Belgium. (2016). Royal Decree of 15 November 2016.

160 European Parliament and Council. (2011). [Directive 2011/93/EU](#). Article 25.

161 Nathalie Muylle. (2020). [De 3 à 10 Centres de Prise en charge des Violences Sexuelles](#). Nathalie Muylle. (2020).

162 *Ibid.*

163 Zorgcentra na seksueel geweld. (2021). [Sexual Assault Care Centres](#)

164 Nathalie Muylle. (2020). [De 3 à 10 Centres de Prise en charge des Violences Sexuelles](#). Nathalie Muylle. (2020).

165 ECPAT Belgique. (2020). [COVID-19: Children at greater risk of sexual abuse and exploitation](#)

166 Fédération Wallonie-Bruxelles. (n.d). [Ecoute-enfant](#).

167 Birth and Childhood Office. (n.d). SOS Enfants teams.

168 SOS Viol. (n.d). SOS Viol.

169 SOS Viol. (n.d). [Le Service En Chiffres](#).

170 Tele-Onthaal. (n.d). [Bel 106](#).

171 Centrum Algemeen Welzijnswerk. (n.d). [JAC](#).

172 Government of Belgium. (2008). [Circular on the implementation of multidisciplinary cooperation concerning victims of trafficking in human beings and / or certain aggravated forms of trafficking in human beings](#).

173 Government of Belgium. (2016). [Circular on the implementation of multidisciplinary cooperation concerning victims of trafficking in human beings and / or certain aggravated forms of trafficking in human beings](#).

of Europe's Group of Experts on Action against Trafficking in Human Beings encouraged the Belgian authorities to "continue and increase their efforts to train relevant professionals, including social inspectors and judges."¹⁷⁴

Child-sensitive justice

The Criminal Investigation Code provides **standards for interviews with children**, including videotaped hearings conducted by trained police officers for child victims of sexual offences, sexual exploitation/exploitation in prostitution, genital mutilation or trafficking.¹⁷⁵ It is worth mentioning that a minor aged 12 or more must give their consent to such hearings.¹⁷⁶ Also, the technical setting of the hearing rooms needs to meet certain standards followed by the Federal Police.¹⁷⁷ These provisions are provided in articles 91 to 101 of the Code for Criminal Investigation.

The above-mentioned Sexual Assault Care Centres also provide a holistic approach and ensure appropriate care for victims of sexual violence, including minors. These centres provide access to psychological assistance and support during the legal proceedings as well.¹⁷⁸

A minor does not have legal capacity and must be represented in the exercise of their rights and duties. It is the **legal representative** (usually the parents) who will represent the minor.¹⁷⁹ If the legal representative cannot represent the minor or if there is a conflict of interests, an ad hoc guardian will be assigned to a minor.¹⁸⁰ Minors are entitled to free legal assistance, no matter the income of the parents.¹⁸¹ Finally, a minor must always agree to a protective measure, regardless of their age.¹⁸²

There are no specific provisions which legally bind

non-governmental organisations to assist victims during an investigation or judicial proceeding. However, a minor can ask to be accompanied by a staff member of a non-governmental organisations during the videotaped hearing. Shelters for victims of human trafficking provide assistance to identified (minor) victims of trafficking in accessing justice.¹⁸³

The multiplication of individuals and entities involved in the protection of child victims of trafficking/sexual exploitation (guardianship service, (investigating) judges, public prosecutor, lawyers, psychologists, social workers, centres for unaccompanied foreign minors centres for victims of trafficking, ...) may have a detrimental effect.¹⁸⁴ The lack of systematic information sharing is a recurring obstacle, especially given that Belgium has three linguistic communities. The unclear position on professional secrecy also makes it difficult to share information. For example, doctors and shelter staff do not always feel comfortable sharing information given by a child, even if it leads them to suspect trafficking.¹⁸⁵

The Belgian criminal system provides for the **confidentiality** of information and investigation. The violation of this confidentiality can lead to sanctions, as provided by article 378bis of the Criminal Code which states that "the publication and distribution by book, press, cinematography, radio, television or by any other means, of texts, drawings, photographs, images of any kind or sound messages of such a nature as to reveal the identity of the victim of an offence referred to in this chapter are prohibited, unless the victim has given their written consent or the public prosecutor or the magistrate in charge of the investigation has given their consent for the purposes of information or investigation."¹⁸⁶ In 2016, the legislator inserted an article which **prohibits the publication** in any way whatsoever

174 Council of Europe. (2017). [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium](#). Page 48.

175 Government of Belgium. (1808). [Code of Criminal Investigation](#). Articles 91-101.

176 *Ibid.*, Article 92.

177 *Ibid.*, Article 94.

178 Personal communication. (2020). ECPAT Belgium.

179 Bruxelles-J. (n.d). [La capacité : Ai-je le droit d'agir seul en tant que mineur ?](#)

180 Government of Belgium. (2003) [Civil Code](#). Articles 378, 410.

181 Government of Belgium. (2003). Royal decree 18 December 2003. Article 1.

182 Economic and Social Council. (2005). [Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime](#).

183 Personal communication. (2020). ECPAT Belgium.

184 ECPAT Belgium. (2015). [Entre devoir moral et secret médical : quel rôle peuvent jouer les professionnels de la santé dans la lutte contre l'exploitation sexuelle des enfants?](#).

185 *Ibid.*

186 Government of Belgium. (1867). [Criminal Code](#). Article 378bis.

of the **identity of a minor** who is a victim of indecent acts.¹⁸⁷ The Criminal Code provides further provisions that prohibit the publication of judicial proceedings before juvenile courts and the identification of minors.¹⁸⁸

Access to recovery and reintegration

All victims of child sexual exploitation are entitled to the support and reintegration services provided by the French,¹⁸⁹ Flemish¹⁹⁰ and German¹⁹¹-speaking communities, no matter their gender or nationality.

In 2006, Belgium introduced the status of **victim of trafficking in human beings**, which enables recognised victims to benefit from a specific protection and the granting of a residence permit. Conditions to enter the “trafficking procedure” and apply for this status are stated in the Foreign Act.¹⁹² They include breaking off any contact with the traffickers, being supported by a specialised reception centre for victims of trafficking and collaborating with the law enforcement authorities.¹⁹³ The official status of victim of human trafficking will be granted if the public prosecutor has qualified the case as trafficking or if the judicial proceedings lead to a human trafficking conviction.¹⁹⁴

It is, however, complicated for minor victims to **meet the conditions** to enter the procedure. For instance, how can a minor victim break off contacts with their exploiters if the latter are the minor’s parents? Consequently, unaccompanied foreign minor’s guardians and lawyers seem to choose “faster procedures” so that the minor can obtain a residence permit before reaching the age of 18.¹⁹⁵ In 2017, 5 minor victims of trafficking entered the procedure, of which 4 were girls and 1 was a boy. Unfortunately, this “trafficking

procedure” is seen by many as too complex, too long and too painful for minors.¹⁹⁶

Because minor victims of trafficking need specific support, a **specific shelter** has been created in 2002 in Wallonia¹⁹⁷ This shelter, provided by Esperanto, provides for accommodation, support, and reintegration of the child victims. It has also adopted the necessary measures to ensure the safety of minors (closed centre, secret location, limited use of smartphones, in-house schooling, etc.).¹⁹⁸ Young people are referred to Esperanto by various partners, among others guardianship services, youth support services, youth judges and police services. Initially focused on unaccompanied foreign minors, the mandate of Esperanto has been expanded to support Belgian/EU-national victims of trafficking (e.g. those trafficked through the “loverboy” technique) and victims of forced marriages.¹⁹⁹ Although the victims receiving assistance tend to be predominantly female, boys also have access the same services. Indeed, in 2020 boys made up 24% of the cases attended by Esperanto.²⁰⁰

In Flanders, a centre for unaccompanied foreign minors,²⁰¹ Minor-Ndako, has developed special expertise to support child victims of trafficking. However, it remains an open centre which doesn’t have all the infrastructure adopted by Esperanto.²⁰² A specific setting for girl victims of “loverboys” has opened in 2017 at the initiative of an individual person.²⁰³ There are no services in Belgium that cater specifically for boy victims.

Access to compensation

Child victims of sexual exploitation have the possibility to seek compensation, even though very few do so in practice. A minor may act alone

187 *Ibid.*, Article 383 quinquies.

188 *Ibid.*, Article 433bis.

189 Government of Belgium. (2014). [Constitution of Belgium](#). Article 11.

190 Government of Belgium. (2013). [Decree on comprehensive assistance to young people](#). Article 6.

191 Government of Belgium. (2008). [Decree relating to youth assistance and aimed at implementing youth protection measures](#). Article 4.

192 Government of Belgium. (1980). [Act of 15 December 1980 on access to the territory, settlement and removal of foreigners](#).

193 *Ibid.*, Article 61/3.

194 *Ibid.*

195 ECPAT Belgium. (2016). [La traite des enfants en Belgique, Identification et Protection des victimes](#). 34.

196 Personal communication. (2020). ECPAT Belgium.

197 [Esperanto](#). (n.d). [Association Esperanto](#).

198 *Ibid.*

199 *Ibid.*

200 Esperanto. (2020). [Rapport D'activité 2020](#).

201 Minor-Ndako. (n.d). [Minor-Ndako](#).

202 ECPAT Belgium. (2020). Personal communication.

203 Ne(s)t. (n.d). [Ne\(s\)t vzw](#).

during the preparatory phase of the criminal trial, themselves an injured party in accordance with article 5 bis of the preliminary Title of Code of Criminal Investigation.²⁰⁴ However, a child cannot act alone during a legal proceeding in court. As stated in article 371 of the Civil Code, it is the **responsibility of the parents to represent the minor** in all legal actions concerning them until the child reaches the age of majority or is emancipated.²⁰⁵ When the child is not subject to the authority of their parents, it is the duty of the guardian to represent the child in court, upon authorisation by the judge in accordance with Article 410, paragraph 1 of the Civil Code.²⁰⁶ Should a conflict of interest occur between the victim and the parents, the judge will appoint an ad hoc guardian to represent the victim in court.²⁰⁷ A subrogated guardian will be appointed as well to supervise the guardian and represent the victim in case of conflict of interest between the guardian and the victim.²⁰⁸

In order to assist certain victims of crime, whose damage has not been repaired a **“Special Fund for Assistance to Victims of Intentional Acts of Violence”** has been created.²⁰⁹ A person who has suffered significant physical or psychological harm as a direct result of an intentional act of violence committed in Belgium may apply for assistance through this “Special Fund” if the compensation for the harm cannot be effectively and adequately provided by other means.²¹⁰ This fund is available to all victims of sexual exploitation of children and is supplied by the contribution of people sentenced for a criminal offence: each person has to contribute 150 euro to the fund.²¹¹

204 Government of Belgium. (1878). [Preliminary Title of the Code of Criminal investigation](#). Article 5bis.

205 Government of Belgium. (1995). [Civil Code](#). Article 371.

206 *Ibid.*, Article 410.

207 *Ibid.*, Article 378.

208 *Ibid.*, Article 404.

209 Government of Belgium. (1985). Act of the 1st August 1985. Article 28 to 41

210 *Ibid.*, Articles 31 and 32.

211 *Ibid.*, Article 29.

CONCLUSION

Overall, Belgium has shown a strong commitment to addressing the sexual exploitation of children. This is evident through their ratification of a plethora of international instruments and through their robust national legislation that criminalises the sexual exploitation of children. In particular, it is extremely encouraging that there is no distinction between boys and girls under the Belgian legislation. However, although boys are afforded equal protection to girls in the eyes of the law, there is room for improvement within the Belgian legislation in order to adequately protect children from all offences of sexual exploitations.

Under cases involving article 375 of the Criminal Code, children over 14 will be required to prove their lack of consent in order to prosecute an offender who has engaged in sexual intercourse with them. This has the potential to hinder prosecution efforts, revictimise the child and cause avoidable stress in the reporting process and can therefore be regarded as a weak point in the legal protection of children.

Whilst Belgium has relatively strong laws in relation to online child sexual exploitation, there are still a number of areas in which protection could be improved. The definition of CSAM should be expanded beyond visual materials to include the likes of audio and written material.

CSAM can exist in many different forms, each with the potential to cause harm and distress to a child, and so this should be reflected with an extensive definition in law. Further, although it is welcome that Belgium has criminalised online grooming in line with the Lanzarote Convention, this protection could be expanded further by offering protection to all children, instead of just those below the age of sexual consent. Finally, Belgium could more effectively tackle online child sexual exploitation by imposing legal obligations on Internet service providers to block, filter and report to the relevant authorities all evidence of CSAM encountered on their servers.

Whilst Belgium has adequately criminalised trafficking in line with international law, an important oversight remains with regards to the sale of children. Whilst there is a certain overlap between the crimes of trafficking and sale of children, they are not the same offence and so should be treated separately in law. Distinguishing between the two offences and creating a standalone offence for the sale of children would aid prosecution efforts and enhance the protection of children in Belgium.

RECOMMENDATIONS

LEARNING 1:

Improvements may be made to laws regarding age of sexual consent and trafficking

- Remove the burden of proving lack of consent for minors aged between 14 and 18.
- Although unlikely due to the prosecutorial opportunity system, consider instituting a close-in-age exemption for sexual activity between minors to fully protect from the risk of prosecution.
- While the trafficking of children for sexual purposes is covered under law, include also the sale of children for sexual purposes.

LEARNING 2:

Enhance provisions to criminalise all forms of online child sexual exploitation

- Define 'child sexual abuse materials', to also include non-visual materials such as those found in written or audio form.
- Although it is interpreted that live-streaming of child sexual abuse could be covered under article 380, consider independently defining offences of live-streaming child sexual abuse in law.
- Introduce requirements for Internet service providers to block, filter or report instances of child sexual abuse materials that appear on their servers, including proactively, rather than only on request from police.

LEARNING 3:

Further research and monitoring is needed to explore the extent and impact of sexual exploitation on boys

- Disaggregate minor victims, and gender of victims within data collected and published by police related to cases of human trafficking.
- Research exploring the impact of sexual exploitation on boys, including how gender norms may inhibit disclosure and help-seeking is needed.

LEARNING 4:

Improve legislation relating to the sexual exploitation of children in the context of travel and tourism

- Create provisions that compel tour operators to include a warning against the illegality of crimes related to sexual exploitation in their informative materials.
- Create obligations for tourism operators to implement child protection policies.

LEARNING 5:

Improve access to compensation and child sensitive justice for victims

- Lack of systematic information sharing. Train frontline actors to understand limits and use of professional secrecy requirements.
- Ensure the further five Sexual Assault Care Centres are established by 2023 as committed by the Belgian government. Increase access to these services for underreported populations like male victims.



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