

Supplementary report to the combined 5-6 periodic reports of Belgium on the implementation of the Convention on the Rights of the Child regarding,

“Sexual Exploitation of Children in Belgium”

For the examination of the implementation of the Convention on the Rights of the Child in Belgium

Submitted by

ECPAT Belgium
and
ECPAT International

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ECPAT Belgium was established in 1994. It is a coalition of more than 30 NGOs working on the issue of human rights, child rights and development. ECPAT Belgium works mainly in the areas of combating child sex tourism and trafficking of children; assisting youngsters at risk; increasing youth participation; and stemming demand for commercial sexual exploitation of children (CSEC).

ECPAT Belgium is working with different tourism schools to disseminate information on CSEC and participates in several tourism fairs, such as Belasia and Salon du Tourisme Autrement. As part of the Children's Rights Network, ECPAT Belgium lobbies for legal reform as well as for the implementation of the recommendations provided by the UN Study on Violence against Children. A working group involving members of the police force and other law enforcers has been set up to review the present extraterritorial legislation for CSEC-related crimes and formulate proposals to improve its implementation.

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ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 26 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 103 network members operating in 93 countries.

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Context of this Supplementary Report

1. This report is meant to supplement the information on the implementation of the OPSC provided by the Government of Belgium (hereinafter ‘GoB’) in its fifth and sixth combined periodic reports on the implementation of the CRC under title VII (UN Doc. CRC/BEL/5-6, received 20 July 2017). In addition, this report is complementary to the Alternative Report of the Belgian child rights NGO’s .
2. The GoB has shown commitment to eradicate sexual exploitation of children (SEC) since its ratification of the CRC in 1991 and the subsequent ratification of the OPSC in 2006. The GoB invited the UN Special Rapporteur on the sale of children, child prostitution and child pornography to the Kingdom of Belgium in 1998.¹ In 2009, the GoB reported for the first time on its implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC).² In 2015, the GoB re-committed itself to the cause through the adoption of the 2030 agenda for Sustainable Development, which aims to eliminate all forms of violence against children, including sexual abuse and exploitation.³
3. The present submission is an update on SEC in Belgium and aims to review the progress since the last review of the implementation of the OPSC the results of which can be found in the Concluding Observations of 18 June 2010 by the Committee on the Rights of the Child,⁴ and to provide additional information to the information provided by the GoB in its fifth and sixth combined periodic reports on the implementation of the CRC. The submission has the aim to help to further strengthen political will to focus on the issue of SEC in Belgium and prevent this heinous crime committed against children.

Methodology and Scope

4. This report is based on the practical experience and research of ECPAT Belgium and ECPAT International.
5. The scope of this supplementary report is limited to SEC and its different manifestations, including exploitation of children in prostitution,⁵ online child sexual exploitation (hereinafter ‘OCSE’), child sexual abuse materials⁶ (hereinafter ‘CSAM’), trafficking of children for sexual purposes and sexual exploitation of children in the context of travel and tourism⁷ (hereinafter ‘SECTT’) and child, early and forced marriage (hereinafter ‘CEFM’). Under Belgian law, CSAM is referred to as ‘child pornography’. The Belgian terminology will be utilised when specifically referring to the law.

Current status and developments of sexual exploitation of children in Belgium

6. Belgium has a population of more than 11 million and borders the Netherlands, Germany, Luxemburg and France. Belgium is ranked 22nd in the world according to its Human Development Index in 2015.⁸ However, according to the most recent data available, in 2015, 11% of the children living in Belgium were living below the poverty line,⁹ and in the same year, the Federal Police recorded 3,997 complaints involving psychological, physical, sexual, or other abuse of children within the family (3,469 in 2012),¹⁰ and the federal police investigated 769 CSAM cases.¹¹ Belgium is also a country of destination, and transit for many men, women and children who are victims of forced labour and sexual exploitation, and a country of origin for cases of internal trafficking. The majority of victims exploited in Belgium come from countries in Eastern Europe, North and sub-Saharan Africa, among them Romania, Morocco, India, Nigeria, Albania, Hungary, and Thailand.¹²

Female Belgian minors and foreign children (mostly of Roma origin, Bulgaria, Romania and Albania) living in Belgium are predominantly recruited by local procurers, such as loverboys, who force or traffic them into prostitution in the country.¹³ In fact, in her 2015 Report, MYRIA (the Belgian national rapporteur on trafficking in human beings) called for better identification and protection of the victims of ‘loverboys’ (loverboys are pimps who recruit their victims through seduction and rendering the victims emotionally dependent on them).¹⁴ Although the phenomenon of ‘loverboys’ is not new in Belgium, a tragic event brought more media attention to the issue at the end of 2014, when four young girls (aged 14 to 16) were found by the Police in a hotel in Antwerp where they had been coerced into prostitution by three *loverboys*.

7. Belgium’s fight against SEC gained momentum following the Marc Dutroux case in 1996, which brought to light the sexual abuse of six young girls. Through this case, Belgian citizens and the government were forced to realise that children are at a great risk of sexual abuse and exploitation. This led to significant initiatives such as, the establishment of the child rights NGO, Child Focus, and the Government’s adoption of the Stockholm Declaration and Agenda for Action on how to eradicate the commercial SEC.¹⁵
8. To date, Belgium still does not have a centralised data collection system or database on the violations of children’s rights awarded in the OPSC.¹⁶ However, some statistics on the different manifestations of SEC are available.
9. According to official statistics from the Federal Police, the number of convictions for inciting minors to be exploited in prostitution has constantly increased in recent years. In 2016, 69 convictions were made, nearly doubling the convictions made in 2012 with 38 convictions.¹⁷ On 24 February 2012, the Brussels Criminal Court sentenced four defendants from Nigeria to prison terms of one to five years and fines of 2,700 to 5,500 euros. Young Nigerian women, some of them minors, were brought to Belgium for prostitution. They were required to pay 55,000 euros for this trip and were expected to repay this debt with income from their prostitution activities. The court held that the acts fell within human trafficking for purposes of sexual exploitation and exploitation of the prostitution of minors.¹⁸ This type of case has been a recurrent one in Belgium. Young Nigerian women being brought by sea to Belgium and being forced into prostitution to repay the debt of their journey and being threatened with violence and voodoo practices.¹⁹ Several operations with the same modus operandi were tried in court, two of them in 2016, and one is currently ongoing.²⁰
10. In regards to *child, early forced marriage*, Belgium is confronted with cases from ethnic minorities who have been established in Belgium for several generations (i.e. Turks, Moroccans, Roma and Afghans), as well as new migrants (i.e. Serbs and Chechens).²¹ However, many cases go unreported and unidentified due to a lack of training and awareness of indicators by governmental workers, teachers, judges, and police officers.²² In 2014, for the first time, the parents of two minors were convicted for facilitating through CEFM, human trafficking for the purposes of sexual exploitation, rape, indecent assault with violence and threats.²³
11. Concerning *OCSE* and *CSAM*, according to official figures, the Federal Police investigated 789 cases of child pornography in 2015 (392 in 2012).²⁴ In contrast to the investigated cases, in 2015, 64 cases of distributing child pornography were convicted and 182 cases for possessing child pornography materials.²⁵ In 2013, an artist and psychiatric nurse was prosecuted for having obtained, for a fee, a minor for prostitution and for the production, possession, distribution and sale of CSAM. The investigation was first conducted in Brazil where the artist had photographed minors for a fee, including when, at his request or on his instruction, they performed naked, sexual acts with other minors or adopted erotic positions. The investigation in Belgium uncovered, during a

search of his home, over 10 million CSAM. In January 2014, the Brussels Court of Appeal sentenced the defendant to 4 years of imprisonment, to a fine of 1,000 euros, and to be placed at the disposal of the Sentencing Court for a period of 10 years after the end of his sentence.²⁶

12. Vis-à-vis the sexual exploitation of children in travel and tourism, the Belgian courts issued out one of its rare convictions on 18 February 2013. Under extraterritorial jurisdiction, a former Belgian journalist who engaged in sex tourism in Morocco was sentenced to an 18-month suspended prison sentence. He was found guilty by the Criminal Court of Brussels of “corruption or prostitution of a minor,” “degrading treatment” and “exhibition and distribution of pornographic images.”²⁷ Most recently, on 21 January 2016, a Dutch national was convicted in absentia for sexually abusing children in Cambodia and the Philippines, three of which were his adopted daughters, and for possessing and producing child pornography. The judgement was delivered in absentia due to a lack of the perpetrator’s travel restriction, allowing him to flee to Cambodia a month before his final hearing. He was however, caught by the Cambodian police and despite a lack of extradition treaty, was sent back to Belgium where he was formally arrested. His sentence of 19 years of imprisonment was recently reaffirmed in appeal.²⁸

General measures of implementation

National Plan of Action

13. Belgium operates through three distinct but hierarchically equal levels: the federal level, the community level comprising of three communities (the French, Flemish and German Community), and the regional level comprising of three regions (the Brussels region, the Flemish region and the Wallonia region). These levels are not differentiated based on hierarchy, but rather according to their different competences.²⁹ Protecting children’s rights from sexual exploitation falls under the judicial competence of the federal level, the community level’s competence of providing assistance to people, and the regional level may choose to incorporate elements of child protection through their competences, such as, social actions, health or housing. Due to this allocation of competences, Belgium currently holds a myriad of child protection action plans.
14. At the federal level, there currently is no national action plan targeting SEC specifically. Nevertheless, the federal government has issued its third action plan on human trafficking for the period of 2015-2019.³⁰
15. The Flemish community has an action plan that mostly focuses on the abuse of children and wrongful conduct against children, and another of 2016 that focuses solely on the phenomenon of ‘loverboys’.³¹ The French Community (otherwise known as the Federation Wallonia-Brussels), currently finished its 2015-2017 action plan on the rights of children, which did not address SEC.³²
16. The Wallonia region decided to enact an action plan for 2016-2019 relative to the rights of children and addresses three axes; access to rights, access to information, training and education, and youth participation in governance.

Coordination

17. To ensure cooperation between all levels on the rights of children, a Common Community Commission and a French Community Commission were established in 2005. This permanent structure coordinates actions and, since 2007, the government selected around 90 key stakeholders to contribute to official national reports and to formulate policy recommendations.³³

18. More specifically to the fight against child trafficking, an interdepartmental taskforce of coordination (*Cellule Interdépartementale de coordination de la lutte contre la traite et le trafic des êtres humains*) was created in 1995. This taskforce reunites all federal actors working on this issue, as well as the NGO Child Focus and the specialised centres for victims of trafficking.³⁴

Training and Awareness Raising

19. Belgium does not currently have an institutionalised training process for frontline workers on SEC.³⁵ Some progress has, however, been noted with the training of the employees of Fedasil (the Federal Agency for the reception of asylum seekers) on identification and protection of child victims of trafficking and the development of a guide for professionals containing indicators to identify victims of forced marriage by the federal institute '*Institut pour l'égalité des femmes et des hommes*'.³⁶ Additionally, the Belgian authorities have reported to training 60 frontier inspectors each year on the issue of trafficking and provide them with access to the federal police's intranet containing all of the relevant information on victims of trafficking. Local police officers also have to attend a workshop on trafficking in order to be promoted in their career.³⁷

20. *Ombudsman*

21. In Belgium, the French Community appointed its first *ombudsman* for children in 1991, followed by the Flemish Community in 1997. There is a federal ombudsman who can receive complaints from both minors and adults when it relates to the operation and acts of the federal administrative authorities. If a complaint received does not concern a federal matter, then the ombudsman can refer the complaint to the appropriate Community ombudsman. However, an ombudsman for the German Community has yet to be appointed.³⁸

Prevention of the sale of children, child prostitution and child pornography (art.9 (par. 1 and 2))

Measures adopted to prevent offences prohibited under the Optional Protocol

22. Awareness-raising campaigns for the main public on SEC is left to NGOs, such as the campaign '*Je dis STOP!*' coordinated by ECPAT Belgium since 2004 and to which some ministries, like the Ministry of Foreign Affairs, are partners to, or the campaign '*Don't Look Away*'.³⁹ The "I say STOP!" campaign aims to incite travellers to react to situations of SEC and to report them in Belgium and abroad. Once a situation is reported through the website, www.isaystop.com Belgian authorities will be alerted and will transmit the information to other countries involved, as well as to EUROPOL and INTERPOL if deemed necessary. The '*Don't Look Away*' campaign promotes a website that enables individuals to report suspected SEC cases even if they are abroad through providing links to existing national online reporting mechanisms. Where no national reporting mechanism exists, the website will provide alternatives on how to report. In addition, the NGO Child Focus focuses on preventing and reporting SEC through public campaigns, helplines, chat lines and a public reporting mechanism for CSAM.⁴⁰
23. The *Code of Conduct for the protection from Sexual Exploitation in Travel and Tourism* is a worldwide tool to prevent SEC in the context of tourism and travel.⁴¹ The Code provides tools to the travel and tourism sector to prevent and intervene against SECTT. Members commit to publicly take a stance against SECTT, train their staff, adopt policies and monitor their implementation. In 2018, three companies based in Belgium and 12 with operations in Belgium are currently member of the Code of Conduct.⁴² However, SECTT is neither known nor recognised well by the public. The NGO Child Focus also only received one case report of SECTT in 2016.⁴³

24. Finally, the creation of a *national registry of sex offenders* has been in debate for the past decade. In 2014, an official legislative proposal was established, however, it still has not been passed. In the meantime, some citizens have gathered to set up their own registry through the NGO Wanted Pedo in 2014.⁴⁴

Child and Youth Participation

25. In 2013, following the action plan of the French community on child rights, a pilot project was initiated to set up a consultation process involving the participation of children with the government of the French community. A Youth organisation was tasked with organising small-group debates, awareness days, informative games etc, which would inform children of their rights and to lead them to reflect on the political context.⁴⁵ The Youth Council generally works in partnership with their German and Dutch-speaking counterparts. Various political bodies, particularly the Minister for Youth from the French Community, regularly consult with the Council. The new action plan of 2015-2017, includes further initiatives such as, training public servants to develop a child friendly approach that would welcome and interest children in the public services.⁴⁶
26. The Flemish Community has its own Youth Council, the *Vlaamse Jeugdraad*.⁴⁷ The German Community has the *Rat Der Deutsch-Sprachigen Jugend*, and the Brussels Region has the *Brusselse Jeugdraad*.⁴⁸ These councils ensure that young people's voices are heard by decision makers and that their rights are advocated for. However, there are no indications that SEC issues are on their agendas.

Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4(2) and (3), 5 and 7)

Existing criminal or penal laws and regulations

27. In line with the Convention on the Rights of the Child, article 100ter of the Penal Code defines minors as under 18 years of age. It was included into the Penal Code with the Law of 2000 November 28 and it is also codified in article 388 of the Civil Code. The term 'child' is used interchangeably with the term 'minor' and the term 'child' is not defined in the Penal code. In addition, the Penal Code at times distinguishes minors according to their age by providing for harsher sentences for the perpetrators if the minor is below a certain age. In 2000, through the law of 23 March 2000, article 22bis was also inserted into the Constitution laying down that children's moral, physical, psychological and sexual integrity should be respected and that all decisions involving a child should be taken with the child's best interest as a priority consideration.
28. Belgium penalises the *trafficking of human beings* under article 433quinquies of the Penal Code and sentences perpetrators to one to five years of imprisonment and to a fine of 500 to 50,000 euros. Through the law 29 April 2013, the definition of human trafficking was expanded to cover cases of prostitution and other forms of sexual exploitation. Article 433quinquies was further modified through the law of 24 June 2013 to allow for multiplication of the fine by the number of victims. Belgian law does not have a specific offence for the crime of child trafficking, but the law of 10 August 2005 inserted the aggravated sentence of 10 to 15 years of imprisonment and a fine of 1,000 to 100,000 euros if the crime of human trafficking involved a minor. The attempt to commit human trafficking is also penalised in article 433quinquies and sentenced to one to three years of imprisonment and a fine of 100 to 10,000 euros that is also multiplied by the number of victims.
29. *Child prostitution* is specifically prohibited under article 379 of the Penal Code and is punishable by a prison sentence of five to 10 years and a fine of 500 to 25,000 euros. If the minor was younger

than 16 years of age, then the penalty for the perpetrator is increased to five to 15 years of imprisonment and a fine of 500 to 50,000 euros, and if the minor was younger than 14 years of age, the penalty is increased to five to 20 years of imprisonment and a fine of 1,000 and 100,000 euros. The attempt to facilitate prostitution is only criminalised when involving non-minors in article 380 but could be extrapolated to minors as subparagraph 4 of paragraph 1 refers to anyone involved in the prostitution of others. The attempt is thereby punishable by six months to three years of imprisonment and a fine of 100 to 5,000 euros. However, the term ‘prostitution’ is not defined in Belgium law and thus not complying with article 3 and article 2b of the OPSC. Case law does not adopt a consistent definition and in most cases does not even provide a definition.⁴⁹ Nonetheless, as Belgium is a monist country and has no conflicting definition, the definition of prostitution provided in article 2 of the OPSC, can be used as an interpretive tool in courts.⁵⁰

30. CSAM (or ‘*child pornography*’) is penalised through article 383bis of the Penal Code for whoever has exposed, offered, sold, rented, transmitted, provided, distributed, published, broadcasted made available or created, imported, or made imported with five to 10 years of imprisonment and a fine of 500 to 10,000 euros. Possessing or watching child pornography through technology is punishable to one month to one year of imprisonment and a fine of 500 to 1,000 euros. The Law of 31 May 2016 changed the previous law that limited the conviction to activities with the intent to commercialise or distribute the child pornography. Its definition in paragraph of article 383bis was also amended with the previously stated law, which in line with article 2(c) of the OPSC now includes all representations of CSAM instead of exclusively visual representations. Viewing/watching/listening to or showing visuals or audios of a sexual nature by someone for whom that material was not intended for was also penalised in January 2016 with the introduction of article 371/1 into the penal code. This article also aimed to curb the phenomenon of ‘revenge porn’ where a minor’s photo or visual representation of a sexual character was posted onto the internet and through social media without permission.⁵¹ This crime is penalised for the perpetrators with an imprisonment of five to ten years if the minor was below 18 years of age, and to 10 to 15 years if the minor was below the age of 16.
31. The Belgian federal government also enacted the law of 10 April 2014 in order to protect children from *online sexual exploitation*. The law inserted article 377quater into the Penal Code to penalise adults from setting up a meeting with a minor below the age of 16 through the internet with the intent to commit a crime included in the chapter of the penal code addressing SEC and sexual abuse. The punishment for infringing this law is set at one to five years of imprisonment if the online solicitation led to an actual meeting. Another more general law was enacted in 2016 to insert article 433bis/1 into the penal code convicting any adult of communicating through the use of technology, with an actual or supposed minor, in order to facilitate the realisation of a crime, to three months to five years of imprisonment.
32. Belgian law does not contain any legal provision that specifically addresses *SECTT*. There is neither a legal provision prohibiting sexual exploitation and abuse of minors abroad, nor a legal provision prohibiting the facilitation, promotion and organisation of travel arrangements or transportation related to sex tours involving children.
33. Belgian law prohibits *CEFM* through article 391sexies of the Penal Code, outlawing forced marriage with a possible conviction of three months to five years of imprisonment and a fine of 250 to 5,000 euros. The attempt is also punishable by two months to three years of imprisonment and a fine of 125 to 2,500 euros. Forced cohabitation is also prohibited under article 391septies and punishable to the same extent. In addition, a judge who finds violation of those articles can annul or render void the marriage or legal cohabitation through article 391octies. Article 144 of the Civil Code supports the Penal Code by prohibiting marriage under the age of 18 unless authorised by the

parents and guardians and is done consensually and without threat or violence (articles 145-148 Civil code). However, despite forced marriage being outlawed since 2008 in the Penal Code, the first criminal case was only tried in 2014 and the forced and early marriage was treated as a case of human trafficking prohibited under article 433quinquies.⁵² The Belgian government considers forced marriage as a case of human trafficking when it serves to exploit the person and thereby, when it is used to take control of a person or transfer the control to someone else.⁵³ Subsequently the law prohibiting forced marriage has more of a symbolic value as it has not used as a sole basis to convict someone.

34. In another attempt to curb *early forced child marriage*, the Belgian migration legislation, the Aliens Act of December 1980, has been amended several times. Most notably, in 2006, the minimum age for spouses to be reunited was raised from the age of 18 to 21, and the legitimacy of the marriage is controlled by extending the period of control for the non-Belgian spouse to gain a permanent residence permit to three years. However, this law has been reported to act as a trap for minors, as birth certificates are often falsified and then the victim is forced to stay in the marriage for at least three years.⁵⁴
35. Finally, Belgium holds several laws pertaining to victims' and witnesses' protection. Firstly, Belgian law does not allow perpetrators of child prostitution to be eligible to replace their sentence with electronic surveillance (article 37ter Penal Code). The same is applicable for the possibility of being awarded a probation sentence or community work (articles 37octies and 37quinquies). Secondly, people found guilty of having facilitated child prostitution can have certain of their rights restricted in the name of child protection. For example, the perpetrator, after completing his/her sentence, could be restricted from taking on jobs such as in hotels, travel agencies, and adoption agencies or even be restricted from living in certain areas for a term of one to 20 years (articles 382 and 382bis Penal Code). Thirdly, under article 433novies/1 of the Penal Code, introduced through the Law of 31 May 2016, the unlawful exposure of the identity of the child victim involved in child trafficking through texts, drawn pictures, photography or images or sonar messages or the attempt to disclose is punishable by two months to two years of imprisonment and/or a fine of 300 to 3,000 euros. The same is punishable under article 378bis for child victims of voyeurism, abuse and rape. Article 382quinquies covers the same provision for child victims of prostitution. However, victims of the crime of CSAM (article 383bis Penal Code) are not awarded such protection. Finally, in line with article 7 of the OPSC, according to articles 433novies and 382bis of the Penal Code, when a perpetrator is found guilty of having committed child trafficking or child prostitution, his goods, materials and assets which served or were meant to serve to commit the crime, even when these goods do not belong to the perpetrator, can be confiscated by the Courts.

Extraterritorial jurisdiction and extradition

36. Article 10ter of the Code of Criminal Procedure on the principle of extraterritoriality allows Belgium to prosecute Belgian nationals or foreigners present on Belgian territory having committed sexual offences abroad if these offences were committed against a minor. Therefore, anyone in Belgium that has not been extradited and has committed one of the following offences abroad will be prosecuted: child trafficking (articles 433sexies to octies), child pornography (art. 383bis), and child prostitution (articles 379 and 380). The law of 31 May 2016 also extended this extraterritorial jurisdiction possibility to perpetrators who have not committed but attempted to commit child trafficking. Moreover, Article 10ter does not include a dual criminality requirement. Therefore, in this sort of case, the crime or offence does not have to be punishable abroad for the criminal law to be applied.

37. The extradition procedure is regulated by the Act of 15 March 1874. Belgium generally does not extradite its nationals. This is because articles 6 and 7 of the Preliminary Title of the Code of Criminal Procedure allow the prosecution of Belgian citizens who have committed offences on foreign soil. Moreover, individuals who are not Belgian nationals cannot be extradited unless Belgium has a bilateral treaty with the concerned state and the punishment incurred is at least one year. The treaty must be based on the principle of reciprocity (Belgium can authorise extradition to another country only if the latter authorises extradition under the same conditions). However, as Belgium is a party to the OPSC, it could make use of Article 5(2) of the OPSC that establishes a legal basis for extradition of offences covered by OPSC between parties of the OPSC.

Protection of the rights of child victims (art. 8 and 9(3) and (4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

38. The Belgian Code of Criminal Procedure (CCP) contains special protection measures for minors who are victims or witnesses of all offences related to SEC. Firstly, article 91bis states that any minor has the right to be accompanied by the adult person of his or her choice during hearings with judicial authorities. Secondly, articles 91 and 100 provide that, to avoid multiple hearings where young victims or witnesses to sexual offences must be heard, audio-visual recordings should take place of interviews with minors who are victims or witnesses of the offences of child prostitution (article 379 penal code), the sexual abuse of minors, and the watching or listening to visuals or audio recordings of children in a sexual character (article 371/1 penal code). For other offences such as, disseminating CSAM (art. 383bis) and child trafficking for sexual purposes (art 433quinquies penal code), the prosecutor or the judge may order the audio-visual recordings of interviews. Thirdly, during the audio-visual recording, the young victim may be assisted by an expert psychiatrist or psychologist (article 94 CCP). Fourth, according to article 95 CCP, the minor can interrupt the recording at any time during the recorded hearing. However, a new interview or confrontation between the victim and the perpetrator of the offence can be ordered through a reasoned decision if it is essential for the trial (article 98 CCP). This means that the law allows for the person under investigation to request the judge for a confrontation with the victim.⁵⁵
39. Articles 104 to 111 CCP regulate the *protection of witnesses* specifically. The Witness Protection Commission can grant protective measures, such as, police patrols or the witness' relocation for 45 days. However, the measure to change the identity (article 106 CCP) of the person at risk is only available to people holding the Belgian nationality. In addition, there are no protective measures specific to children's needs.
40. The age of a suspected minor is determined based on a medical test, coined as the 'triple test', which has been highly criticised by NGOs. This test combines a dental examination known as an orthopantomogramme, an x-ray of the wrists and an x-ray of the collarbone. If the results are inconclusive or contradictory, the suspected child is awarded a presumption of truth and the lowest age estimated is the one awarded. This decision can be contested in front of the Conseil d'état, but this has never been done before (articles 6 and 7 of the law of 24 December 2002 on the '*Tutelle des mineurs étrangers non accompagnés*').⁵⁶
41. Moreover, the Belgian government provides for special procedures for unaccompanied foreign minors (UFM) who are victims of human trafficking, which includes those affected by sexual exploitation, and for victims of being manipulated/forced into prostitution by loverboys. First, a presumption of victimhood is awarded to people not based on their confessions or pleas, but rather based on a number of indicators identified to recognise child victims. The circular COL 1/2015

contains a brochure with a list of indicators to recognise child victims of trafficking that can be requested from the federal police or the competent SPF.⁵⁷

42. Once an unaccompanied minor victim is identified, there is an obligation to refer the victim to a specialised centre, where the victims should be provided with the following support: a place to stay, medical and psychological assistance, administrative assistance, judicial assistance and the option to ask for an interpreter. However, it has been reported that UFM referred to the specialised centre only after their minority is confirmed and are until then kept in places where their freedom is restricted, such as, alternative detention or '*maisons de retour*'. In addition, placing them in a detention centre is permitted under the law.⁵⁸
43. Once at the centre, child victims of trafficking are awarded a temporary residence permit of three months compared to a reflection period of 45 days to adults. According to the 23 December 2016 Circular on the multidisciplinary cooperation concerning victims of human trafficking, a person, no matter their nationality, can be given a temporary status of victim and residence permit that would allow them to stay in Belgium if the following conditions are met; (1) a legal complaint was lodged by the victim and is ongoing or a statement was given to the police; (2) the victim's situation fits under the definition of human trafficking provided under article 433quinquies of the penal code; (3) the potential victim manifests a willingness to cooperate; (4) the potential victim cut all ties with the presumed perpetrator (5) the potential victim cannot be a danger to the public order or to national security.⁵⁹ In 2015, 44 people were awarded the victim status of human trafficking for sexual exploitation. Only five were minors.⁶⁰
44. Belgium currently holds two specialised centres for unaccompanied minors. One in the Wallonia region (*Esperanto*) and one for both the Flemish and Brussels regions (Juna-Minor N'Dako). However, only the one located in the French region is specialised in the needs of child victims of trafficking.⁶¹ These shelters are run by NGOs and although they are currently receiving funds from the government, they are not provided with dedicated institutionalised governmental funding.⁶² These centres ensure that the minors are awarded a guardian who will accompany and support them through the judicial and administrative procedures.⁶³ The guardianship system has been in place since 2002, however, in 2016, due to the impact of the refugee crisis, the number of trained and available guardians doubled.⁶⁴ In addition, in 2014, the guardianship service was opened up to child victims from European countries.⁶⁵
45. In trafficking cases, the victim can request compensation by bringing a civil action during the criminal proceedings taking place. Specialised centres ensure that UFM's rights and interests as victims are protected. To do this, they keep victims informed and provide them with a lawyer. The victim can, therefore, make an informed decision about whether to bring a civil action. The specialised certified centres more suited for adults (Pag-Asa, Sürya, and Payoke) are certified to bring a civil action in their own name or in the name of the child victim.⁶⁶ However, if a request is made in civil court, the judgement will be put on hold until the penal case is tried.⁶⁷
46. Victims can also seek financial aid from the Commission of Financial Aid for Victims of Deliberate Acts of Violence and for Occasional Rescuers if they can demonstrate that they have suffered either physically and mentally from an intentional act of violence and that these damages are a direct consequence of the act. The commission awards three types of financial aid; principle aid which obliges them to wait until the end of the investigation or penal procedures and then to lodge a civil complaint; urgent aid, which can be requested as soon as a civil complaint is lodged, and supplementary aid which is given when the victim suffers aggravating damages. This financial aid does not replace any opportunity for compensation. In a 2010 ruling, the Commission awarded

62,000 Euros (the maximum amount for primary aid) to a victim of sexual exploitation. The victim was fourteen years old when she was first forced to prostitute herself by a loverboy.

47. Moreover, article 43bis to the Penal Code also allows confiscated goods to be awarded to the civil party. Furthermore, the courts have the possibility to order a financial investigation in the finances of the perpetrators through article 524bis CCP. These confiscations and investigations can serve as a way to provide the victims with compensation. However, reportedly this procedure is rarely successfully implemented as the goods or finances are gone by the time the court has established the need for confiscation.⁶⁸
48. Regarding the protection of the private life of the victim, the law of 8 December 1992 established a Commission for the protection of private life and mandated it with assuring that someone's details will be kept protected by the law. In addition, the law of 31 May 2016 prohibits the identification details of a trafficking victim to be published or disclosed.⁶⁹
49. Regarding the non-sanction of victims for illegal acts committed during their exploitation, the Belgian government has issued a Circular 01/2015 that advises police officers and prosecutors that the status of victim should be given priority.
50. The Belgian Federal Police contains units specialised in human trafficking composed of officers trained in the detection and investigation of trafficking cases. The central office is located in Brussels and functions as the unit for analyses, information, advice and coordination. Some local police forces also contain a human trafficking unit.⁷⁰ The federal police have also established the website <https://www.ecops.be/request.php?Lang=FR> which permits internet users to report cases of child pornography. Moreover, the police work in collaboration with Child Focus by responding to reports of CSAM sent to Child Focus' website <http://childfocus.be/fr/stop-child-porno-form>.⁷¹
51. The hotline relied upon by the police and victims of SEC was established by the NGO Child Focus which has a cooperation agreement with the police and the judicial authorities of Belgium. The hotline number 116 000 has been set up since 2009.⁷²
52. Belgium's federal police is also connected to INTERPOL's International Child Sexual Exploitation (ICSE) database, which enables trained officers to use image and video comparison software in order to identify victims and perpetrators of SEC around the world since 2011.⁷³ In 2013, this led to 36 perpetrators and 53 child victims being identified.⁷⁴ Four officers of the specialised section named "child pornography" of the department SJSOC (*Direction de la lutte contre la criminalité organisée*) were trained to use the software by INTERPOL.⁷⁵
53. Moreover, pertaining to the 1951 Refugee Convention, Belgium considers CEFM cases as a relevant well-founded fear of persecution needed to attain asylum in Belgium.⁷⁶

Recovery and reintegration of victims

54. In 2006, a programme was launched by the Foundation King Baudouin entitled "Trafficking Victims Re/integration Programme". This programme aims to support better reinsertion programmes for victims of human trafficking in their countries of origin such as in Romania, Bulgaria, Albania, Serbia, Macedonia and Kosovo. Between 2007 and 2015, more than 1,5 million euros were awarded to the NGOs helping victims' reintegration.⁷⁷
55. Non-Belgian minors who are victims of child trafficking, can benefit from an access to education and social assistance. Since 2008, they are awarded the additional access to health insurance.⁷⁸ In

addition, when the foreign minor wishes to return to his/her country of origin, the specialised centre and his/her guardian, can contact the International Organisation of Migration or another governmental organisation to organise a safe trip home.⁷⁹

56. Moreover, the NGO Child Focus, has developed a free chat website (www.maintenantjenparle.be) that victims can use to talk about their experiences in complete confidentiality.⁸⁰

International cooperation

57. On 2 December 2016, Belgian's Ministry of Justice signed a declaration of intention of cooperation in the fight against human trafficking with the governments of Luxembourg and the Netherlands. This declaration facilitates intergovernmental investigations by establishing common investigating teams. Other such common teams were created in 2015 with Bulgaria and Romania. In addition, cooperation agreements were made with several neighbouring countries, including Albania, Bulgaria, Moldova, Russia, Serbia, Romania and Ukraine.⁸¹
58. The Federal police is also part of the project CIRCAMP (Cospol Internet Related Child Abuse Material projects) which unites 14 police forces of European countries with the aim to dismantle criminal networks that produce and distribute CSAM and to identify child victims.⁸²
59. Belgium is also involved in the development of projects in origin and destination countries. For example, Belgium announced in April 2017, that it would be providing financial support to UNFPA operations in Benin for a project seeking to educate children on how to combat sexual violence against girls, and support UNICEF's access to justice project to combat child marriage.⁸³

Recommendations to the GoB

General Measures of implementation

1. Adopt a national action plan that targets SEC specifically and harmonise the action plans across the different levels of governance;
 - Allocate sufficient budget and institutionalise the allocation of the budget for implementation of the action plans;
 - Develop a proper monitoring and evaluation of the action plan(s);
2. Provide disaggregated data in a SEC database, including data on prosecution and conviction involving different cases of SEC, and use monitoring systems to inform policy and action on SEC;
 - Develop common indicators for data collected at federal, community, and regional levels;
3. Appoint an ombudsman for children's rights in the German Community.

Prevention

4. Implement, coordinate, support, monitor and evaluate awareness raising activities to inform about SEC, specifically among vulnerable groups, and the sanctions of the crime;
5. Invest in child empowering prevention programmes included in the standard school curricula on SEC and its root causes;
6. Incorporate in basic police training how to identify victims of the different types of SEC;
7. Mainstream in the education, the sensitisation and training of other frontline professionals (i.e. hospital staff, social services, magistrates, judges, reception facilities, etc), on how to detect victims of SEC and how to address the problem (i.e. who to refer them to);
8. Ensure adequate training of immigration staff, transport companies and employees of what? and provide them with the indicators to identify victims of trafficking;
9. Promote the implementation of the provisions of the UNWTO Framework Convention on Tourism Ethics;
10. Inform the travel and tourism sector on the harmful effects of SECTT, encourage the development of child protection policies by the private sector and support the companies and NGOs that are involved in the fight against SECTT. Encourage business enterprises in the tourism industry to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;
11. Pay due attention to children who are at heightened risk of falling victims of SEC, in particular children in street situations, migrant children, disabled children or children at risk of running away from home, children coming from deprived families and children in conflict with the law;
12. Encourage actions to raise awareness, especially in schools (on marriage, spouses' rights, its implications, forced marriage);
13. Provide services that are cultural specific, such as intercultural mediators, to minorities susceptible to become victims of CEFM to promote discussion and provide a safe environment;
14. Establish a child sex offender register which complies with international standards on confidentiality and privacy. Recommendations to ensure compliance with international standards on confidentiality and privacy can be found in the Expert paper 'The right to privacy of travelling child sex offenders versus the right of children to protection' by Marta Gil Gonzalez for ECPAT International.
15. Encourage or publish a circular advising judges to prosecute criminals for facilitating CEFM under the current laws available in the Penal Code;
16. Provide special conditions, such as a temporary residence permit, to non-Belgian spouses who allege to being minors or victims of CEFM, but were brought to Belgium under the migration legislation requesting a non-Belgian spouse to stay married for at least three years before they can be awarded a permanent residence permit.

Prohibition

17. Codify a definition for the term ‘prostitution’ as provided for in the OPSC;
18. Provide harsher penalties for watching CSAM;
19. Raise the age of the minor to 18 in article 377quater of the Penal Code in order to penalise adults from setting up a meeting with a minor below the age of 18 through the internet with the intent to commit a crime included in the chapter of the penal code addressing SEC and sexual abuse;
20. Codify the prohibition of SECTT into the penal code;
21. Criminalise the disclosure of the identity of a child victim of child pornography through texts, drawn pictures, photography or images or sonar messages or the attempt to reveal the identity of the child;
22. Dedicate a budget to allow for extraditions and extraterritorial investigations;
23. Withdraw the condition that only allows extradition where an extradition treaty exists and consider using the Article 5(2) of the Optional Protocol as a legal basis for extradition in respect of all offences against children as defined therein.

Child victims/witnesses: protection, recovery and reintegration

24. Allocate regular/institutionalised/earmarked funding for NGO-run shelters for trafficking victims and victims of sexual exploitation;
25. Create in the Flemish and Brussels region, as well as in the German community, a shelter that is specialised in cases of child trafficking, or to train and bring support to the shelters that already deal with similar cases;
26. Create centres in all of the regions/communities specialised in cases of child victims of SEC;
27. Take away the condition of cooperating with judicial bodies to get access to the residence permit and the status of child victim;
28. Include a multi-agency assessment, including a psychological interview when determining the age of a suspected minor;
29. Set up a presumption of minority for individuals that are requested to prove their minority through a medical test, to grant them direct access to the special protection measures set up for child victims instead of having to wait until their minority is proven;
30. Remove the possibility for perpetrators of SEC to request a confrontation with their victims during the investigation and during the judicial proceedings;
31. Provide the same witness protection measures for Belgian and non-Belgian nationals; i.e. provide the possibility to change a witness’ identity to non-Belgian children.
32. Provide children with information on their rights and the procedural steps they are facing as soon as they are in contact with law enforcement agencies;
33. Make use of the Youth Councils to provide for more child-friendly protection measures and reintegration programmes;
34. Enable the centres specialised in child victims of SEC to bring a civil action in their own name or on behalf of the child victims;
35. Temporarily and pre-emptively confiscate the goods and freeze the finances of an alleged perpetrator of a SEC offence, to increase the chances of compensation for the victims;
36. Systematise and promote the non-sanction of victims of SEC with the law enforcement agencies; the burden of proof falls on the authorities and not on the victim;

37. Set up reintegration services that can provide psychological and administrative support to child victims after they leave the specialised centres.
38. Train more police officers on how to use INTERPOL's ICSE database and connect other police units to the database at the regional, community and local levels.

International Cooperation

39. Enhance the regular exchange of up to date information about travelling child sex offenders among law enforcement agencies across jurisdictions of countries of demand, supply and transit, including greater use of the following tools:
 - INTERPOL 'Green Notice' for convicted sex offenders who are likely to reoffend in other countries;
 - denying entry to convicted child sex offenders who are likely to reoffend; and
 - the development of sex offender registries that comply with the international standards on confidentiality and privacy.

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² Belgium (2009), “Consideration of reports submitted by States parties under Article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography: Belgium”, CRC/C/OPSC/BEL/1.

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⁴ Committee of the Rights of the Child (2009), “*Concluding observations on the report submitted by Belgium under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*”, CRC/C/OPSC/BEL/11.

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⁶ ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016”, Bangkok: ECPAT, 39, accessed on 31 July 2017, <http://luxembourgguidelines.org/>.

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