



# Global Monitoring

status of action against commercial  
sexual exploitation of children

## AUSTRIA



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

This publication has been produced with the financial assistance of the Swedish Cooperation Agency (SIDA), The Body Shop International, The Oak Foundation and Irish Aid. The views expressed herein are solely those of ECPAT International. The support from these donors does not constitute endorsement of the opinions expressed.

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# GLOSSARY OF TERMS AND ACRONYMS

- **ADA:** Austrian Development Cooperation
- **AIDS:** Acquired Immune Deficiency Syndrome
- **BID:** Best Interest of the Child Determination
- **Code of Conduct:** A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation
- **COSPOL:** Comprehensive Operational Strategic Planning for the Police
- **CRC:** United Nations Convention on the Rights of the Child
- **CSEC:** The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.
- **CST:** Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.
- **ECPAT:** End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes
- **EU:** European Union
- **FMEIA:** Federal Ministry for European and International Affairs
- **Frontex:** European Agency for the Management of Operational Cooperation at the External Borders
- **ICMPD:** International Centre for Migration Policy Development
- **HIV:** Human immunodeficiency virus
- **IOM:** International Organization for Migration
- **KiJA:** Child and Youth Advocate Offices
- **LEFÖ-IBF:** Interventionsstelle für Betroffene des Frauenhandels
- **NGO:** Non-governmental organization
- **NPA:** National Plan of Action
- **NPA-HT:** National Plan of Action Against Human Trafficking
- **NRM:** National Referral Mechanism
- **OPSC:** Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
- **STD:** Sexually transmitted diseases
- **TBS:** The Body Shop
- **TF-HT:** Task Force on Human Trafficking
- **THB:** Trafficking in Human Beings
- **UN:** United Nations
- **UNICEF:** United Nations Children's Fund
- **UN.GIFT:** United Nations Global Initiative to Fight Human Trafficking
- **YAP:** Young Rights Action Plan
- **WG-CT:** Working Group on Child Trafficking

# FOREWORD

The 2008 Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (CSEC) represents a broad societal alliance that builds on more than twenty years of global action. The First World Congress against Commercial Sexual Exploitation of Children was held in 1996 in Stockholm, Sweden. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to an Agenda for Action adopted by 122 governments.

Since 1996, many actors around the world have focused their efforts around this common agenda, and more government and non-government entities have joined in to advance positive change for children and to protect their right to live free from sexual exploitation.

However, the increasing sophistication of resources available to those who seek to exploit children has grown in equal measure. Responding to these challenges, and particularly to new CSEC manifestations such as exploitation using the Internet and mobile technologies, requires new partnerships, and more coordinated and targeted efforts to address a borderless crime.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection determines the nature, quantity and quality of what the country achieves overall for its children. Unfortunately, country actions have not been uniform, and far more urgent work must be done. In particular, the Rio Declaration highlights the increased vulnerability of children in a less stable world.

This is why I welcome the publication of second editions of ECPAT International's Agenda for Action (A4A) Country Reports Monitoring the Status of Action against the Commercial Sexual Exploitation of Children.

We are confident these unique publications will support governments to take prescribed actions to protect children from such heinous violations, which are still perpetrated with impunity in many countries. They also have the potential to stimulate the exchange of experience and knowledge among different actors to create a dialogue that can enhance our collective efforts against CSEC.

Over the years, ECPAT's A4A reports have become a baseline of information on actions taken and a roadmap for addressing gaps in each country based on the framework of the Stockholm Agenda. The reports succeeded in their goal of providing a basis for more systematic assessment of progress on implementation of country commitments. Moreover, we know they provide an important support to the implementation of other international mechanisms that exist to protect children's rights, such as the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*. Today, 193 countries have ratified the CRC, and 143 the OPSC.

Production of such comprehensive publications requires global collaboration. ECPAT International would like to thank all those who participated in the work and contributed their inputs. This includes ECPAT member groups, local experts and organisations, as well as the dedicated staff and interns in the Secretariat of ECPAT International. We acknowledge the generous support of donors who back these efforts. The A4A reports would not have been realised without their support and solidarity.



Kathleen Speake  
Executive Director, ECPAT International

# METHODOLOGY

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

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

information from different sources and parts of the world.

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

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

specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

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

validating information as different actors offered their perspective and analysis based on their direct work.

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

# AUSTRIA



## INTRODUCTION

Austria is a federal republic with a democratically elected parliament. Although the international financial crisis and global economic downturn in 2008 led to a recession that persisted until the end of 2009, Austria remains one of the richest countries in the world, with a gross national income per capita of \$47,030.<sup>1</sup> The country has developed a high standard of living and in 2009 was ranked 19th in the world on the Human Development Index.<sup>2</sup>

Compulsory education, which begins at the age of 6 and lasts nine years, is fully in place and implemented throughout Austria. The enrolment rate for non-compulsory secondary school is also very high. In 2006, 93% of 16- and 17-year-olds were enrolled in the formal education system.<sup>3</sup>

Measures to fight poverty and social exclusion of children and youth have been adopted. The Austrian government in its Strategic Report 2008-2010, predicted a reduction of income-related poverty from 15% to 10%, (primarily by giving parents better opportunities of earning and by enhancing chances for underprivileged children and youth). However, NGOs debate the accuracy of that figure due in part to the 2008-2009 global economic crisis. Presently, all Länder (federal states) offer special measures to fight child poverty.<sup>4</sup>

Despite having a good child protection system in place, Austria continues to be affected by child abuse, child trafficking for

prostitution,<sup>5</sup> and other forms of commercial sexual exploitation of children (CSEC), including child pornography and child sex tourism (CST). According to authorities, approximately 20,000 incidents of child abuse are reported annually. The Ministry for Economics, Family, and Youth estimates that 90 percent of child abuse is committed by close family members or family friends.<sup>6</sup>

Unaccompanied minors in Austria are particularly vulnerable to trafficking and sexual exploitation. While there may be a number of circumstances under which unaccompanied foreign minors come to Austria, they are in many cases smuggled or trafficked.<sup>7</sup> It is reported that victims of child trafficking are usually children from Southeast Europe who have been sold by their parents to traffickers under false pretences. The victims are forced to engage in illegal activities such as theft, pick pocketing and prostitution or sold for adoption and marriage.<sup>8</sup>

Figures made available by the “Drehscheibe” – a centre operated by the Vienna youth welfare authority for victims of child trafficking and unaccompanied minors – show that the number of unaccompanied minors who were used for criminal activities in Vienna (mainly theft but also prostitution) before being apprehended by the police and subsequently sent to the shelter amounted to 72 in 2007<sup>9</sup> and 88 in 2008.<sup>10</sup> These numbers declined in 2009-2011. During this time, 315 alien minors caught by the police



committing a crime (e.g. pickpocketing) were cared for in the “Drehscheibe”. In 118 cases child trafficking was suspected (2009: 17 boys and 31 girls, 2010: 25 boys and 30 girls, 2011: 4 boys and 11 girls). Although this suspicion could only be confirmed in three cases, all these children were used for or forced to perform illegal activities such as begging, stealing or prostitution. 90% were Roma from Southeastern European countries such as Bulgaria, Hungary, Slovakia or Romania.<sup>11</sup>

There were also suspicions of child trafficking in other Länders of Austria. The authorities of Tirol report that there were several instances of child trafficking, especially concerning youth from the Maghreb-region. In Lower Austria a substantial number of victims of child trafficking is suspected within the group of unaccompanied minor asylum seekers (UMA). There are indications that especially children and youth from Eastern Europe are brought to Austria and are forced to apply for asylum and engage in criminal activity. Usually they are exploited for a short time in Austria and quickly disappear. In 2011 the number of UMA in the reception centre in Lower Austria increased considerably, especially the number of children under 14 years of age. Although it is believed that there are victims of trafficking among UMA, hardly any are identified, largely due to the high number of UMA and the insufficient care and support systems. The authorities from Carinthia also reported cases of illegal international adoptions and illegal surrogacy.<sup>12</sup>

Marginalized and socially excluded minority groups, such as Roma, are more exposed to human trafficking, especially trafficking in children.<sup>13</sup> Whilst in-depth research and detailed information on this issue is still lacking (see section on Trafficking in Children),<sup>14</sup> official statistics on child trafficking confirm that most of the victims from Eastern European countries sheltered at the “Drehscheibe” belong to Roma

communities.<sup>15</sup> Though it is not possible to generalise throughout Austria on the basis of data provided by a shelter in Vienna, in the absence of comprehensive country-wide data, these figures do provide a useful snapshot.

Austria is also experiencing migration from countries that have a tradition of cultural norms that require children to become “adults” at an early age.<sup>16</sup> In this context, some undocumented cases of child marriage were reported in 2009, primarily from the Muslim and Roma communities. Some male immigrants married underage girls in their home countries and returned to Austria with them.<sup>17</sup> It is, however, unclear whether these reports of child marriage were linked to trafficking or resulted in sexual exploitation.

Unfortunately, there are no reliable statistics about the extent of forced marriage and child marriage in Austria. However, results from a parliamentary inquiry to the Ministry for Women’s Affairs indicate that cases of forced marriage do not just occur occasionally. In 2008, the Vienna-based organisation “Orient Express” carried out 426 counselling services for victims seeking help, in person or via telephone.<sup>18</sup> Victims of forced marriage are mostly female minor Austrian citizens (second or third generation) who are forcefully married to men in their families’ home countries.<sup>19</sup>

Girls and boys threatened by forced marriage presently do not receive the protection and support they need. Currently girls and boys are placed and cared for in the existing youth welfare institutions and women’s refuges. These institutions are inadequate for girls and boys affected by forced marriage, which explains why the children often leave the respective care institutions and return to their families – often with far-reaching consequences.<sup>20</sup> However, in March 2012, NGOs met and began work on a needs assessment for a specialised shelter for female child victims of forced marriage.<sup>21</sup>

In spite of the government's efforts in prevention, protection, and recovery and reintegration, CSEC is still an area of great concern in Austria and requires targeted solutions. Contributing factors to CSEC in Austria are continuing demand both

domestically and abroad, limited awareness and preventive measures, consumerism, peer pressure, difficulties in data collection on child victims, and a lack of coordination at national and provincial levels.

## Child prostitution

There are no official statistics or estimates of the number of children exploited through prostitution in Austria. The only available statistical data are those related to criminal complaints and convictions for child prostitution-related offences. Despite the lack of quantitative information, there is enough evidence to show that this form of sexual exploitation affects Austria and is very often linked to drug addiction, consumerism, and child trafficking.

According to criminal statistics, the number of reported cases of sexual abuse of adolescents, including sexual contact with adolescents for remuneration (Art. 207b of the Penal Code), increased from 27 in 2005 to 82 in 2007.<sup>22</sup> Similarly, reports for promotion of prostitution and pornographic performances involving adolescents (Art. 215a of the Penal Code) have increased from 4 in 2005 to 6 in 2007.<sup>23</sup> It is not possible to say, however, whether this increase reflects a real growing trend in child prostitution or is simply the result of enhanced law enforcement efforts against this crime. However, later figures have remained similar to those of 2007, with 80 such cases in 2008 and 72 in 2009. These cases led to 11 convictions in 2009 and 7 in 2010. Mostly the victims knew the perpetrators personally.<sup>24</sup>

Apart from data on relevant criminal offences, the existence of child prostitution was ascertained by a qualitative study from 2005 based on 45 interviews carried out in Vienna and Salzburg. The majority of respondents surveyed were under the age of 18. In Salzburg, some of the juveniles interviewed were older, but 40% (of the five interviewed in Salzburg) reported becoming involved in prostitution when they were under 18 years of age.<sup>25</sup>

Another study published in 2006 found that at least 200 children were involved in street prostitution in Vienna, including girls as young as ten. Teenage girls from all social backgrounds reported having to face violent pimps and customers who insisted on having sex without a condom. Although the main motivation behind involvement in child prostitution appeared to be drug addiction, the study claimed that the pressure on young girls to keep up with the latest fashions can also push them into prostitution, with the money earned being used to buy designer clothes.<sup>26</sup>

The Sexually Transmitted Diseases (STD) Medical Centre, which offers medical services to sex workers in Vienna, confirms that some Austrian children who are involved in prostitution are mainly getting involved to acquire drugs. Conversely, this does not appear to be a significant push factor for foreign children engaging in prostitution as a result of trafficking.<sup>27</sup>

There is no data on the proportion of children commercially sexually exploited in prostitution in Austria and their country of origin. However, several sources point to the links between organised child prostitution and child trafficking as well as to a connection between child prostitution

and the problem of asylum-seeking minors outside of the trafficking context.<sup>28</sup>

According to Volkshilfe Vienna – SOPHIE, which provides support services to adults who have been involved in prostitution, the phenomenon of children commercially sexually exploited on the streets or in other locations, such as shopping malls, peep shows or massage salons, has occurred only in isolated cases. In 2007, there were two such cases of children engaged in prostitution. As there is no institution or organisation doing outreach work specifically targeting children, it is extremely difficult to identify the prevalence of this problem or follow up on single cases.<sup>29</sup>

In 2010 concrete indications of child prostitution were reported from nearly all Länder by non-governmental and governmental institutions, especially by organisations and institutions providing outreach work. These reports indicate that at least 25 adolescents in contact with those organisations were engaged in prostitution in 2010. The institutions also discussed emerging phenomena that still needs to be researched in depth, for instance “lover boys” or “prostitution in return for goods.”<sup>30</sup> Apart from these phenomena, most of the victims are homeless and get involved in prostitution for the procurement of drugs or a place to sleep. Usually the young people do not consider what themselves as involved in prostitution. Girls often act very self-secure and do not consider themselves victims.

Nonetheless, many of them are afraid that their parents, friends or health insurance providers will find out about their situation. For boys, prostitution is still taboo because it generally involves sexual activity with men and homophobia is prevalent in Austrian society. Standard programmes and services for adult prostitutes seem to be inadequate for boys and are usually rejected for the aforementioned reasons.<sup>31</sup>

Regarding the procurement of sexual contact with adolescents for remuneration (Art 214 Penal Code), male youth between 14 and 18 years frequently appear as suspects (Art 214 Penal Code). In 2010 six of the ten suspects were between 14 and 18 years old, one of them female. Furthermore it can be seen that according to Art 216 Penal Code (pimping) female suspects can be found as well. In this context, detailed studies on the roles of children as procurers in the sexual exploitation of other children are necessary. A lack of data on victims hampers the analysis of the phenomenon of child prostitution. For instance, the existing statistics regarding Art 207b Penal Code (sexual abuse of adolescents) do not differentiate between cases where the offender took advantage of his relationship of authority with the victim (i.e. teacher-student-relationship) and cases where the adolescent is being remunerated for sex (child prostitution).<sup>32</sup>

## Research on prostitution involving boys urgently needed

There are currently no studies on the involvement of boys in prostitution. The STD Medical Centre does not provide data on prostitution of male children, as this agency mainly employs female social workers. However, the *Alternative report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, compiled by ECPAT Austria and its partners in 2008, notes that according to information received from a social worker, there is credible information that male children are commercially sexually exploited in organised prostitution, especially in connection with child trafficking. More in-depth research is

urgently needed to shed light on this phenomenon which has so far received no attention.<sup>33</sup>

The situation has not improved since 2008. In 2012, the prostitution of boys is still not being addressed by the authorities, even though a Viennese organisation for male prostitutes reported that from 2008 to 2010 several minors were encountered during counselling services.<sup>34</sup>

## Child trafficking for sexual purposes

Knowledge on child trafficking for sexual and other purposes in Austria has improved due to the creation of the Taskforce on Combating Trafficking in Human Beings and of the Taskforce-related multi-stakeholder Working Group on Trafficking in Children under the Task Force on Human Trafficking (WG-CT). The 2012 report released by this agency draws a partial picture of child trafficking based on information received from federal states.<sup>35</sup> The report also confirms that Austria is affected by child trafficking both as a transit and a destination country. Exact figures on the actual scope of child trafficking are very hard to determine, however, both due to the clandestine nature of trafficking as well as difficulties in differentiating between unaccompanied alien/asylum seeking minors, smuggled children, and child victims of trafficking.<sup>36</sup>

It is not possible to provide reliable statistics of children trafficked to and through Austria for sexual exploitation. Existing estimates provided by government authorities and other agencies working to combat trafficking in persons as well as statistics from courts do not disaggregate the number of children trafficked from adults nor do they differentiate different forms of trafficking, origin countries or age and gender.<sup>37</sup>

According to the Federal Ministry of Justice only 15 cases of human trafficking (Art. 104a Penal Code) have resulted in conviction since the introduction of the Article in 2004. It is not clear if, or how many, child victims were affected in these cases. On a positive note, the government has decided to reform law enforcement's statistical system. As of 2012, all offences resulting in a conviction will be listed in the criminal statistics (previously only the predominant offence was listed) and victim data will be available as well (gender, age and nationality of the victim, relationship to the offender). While these are marked improvements, the newly re-organised statistical system will not differentiate the

form of the exploitation, essential data in order to formulate comprehensive and targeted measures against child trafficking and the recognition of trends.<sup>38</sup>

Information on child trafficking is already partially available for 2009 from the criminal statistics, which provide information on age, gender and nationality of the victim. Altogether 22 victims were identified in 2009 under Art 104a Penal Code (Human Trafficking). Of these, six victims were minors and overall 11 victims were under 21 years old.<sup>39</sup>

Effective data collection is also hampered by the low level of awareness of child trafficking (i.e., among Youth Welfare Authorities as well as NGOs dealing with unaccompanied minors), which often leads to low numbers of identified child victims in relation to likely actual cases.<sup>40</sup> As a result of the lack of sensitisation/awareness to child trafficking among officials, cases involving trafficked children are frequently treated as cases involving delinquents (when the children are apprehended stealing, engaging

in prostitution etc.), illegal migrants, or as unaccompanied minor refugees.<sup>41</sup>

According to Vienna state authorities, from 2003- 2007, between 100 and 700 children per year were accommodated in the local Viennese shelter “Drehscheibe.” Of that figure an estimated two-thirds may have been trafficked. Some of this informal data collection from care institutions show that the number of children trafficked from certain countries such as Romania and Bulgaria has reportedly decreased in comparison to the high numbers in the years before – especially in conjunction with the recent accession of Romania and Bulgaria to the European Union and bilateral cooperation among certain countries, enabling the return of most of the victims to their country of origin. According to the statistics provided by “Drehscheibe,” 88 unaccompanied foreign children were housed there in 2008 and 98 such children through mid-October 2009 (about 1/3 being trafficking cases).

From 2009-2011, 315 alien minors that were caught by the police committing a crime (e.g. pickpocketing) were cared for in the “Drehscheibe”. In 118 cases child trafficking was suspected (2009: 17 boys and 31 girls, 2010: 25 boys and 30 girls, 2011: 4 boys and 11 girls).<sup>42</sup> Although this suspicion could only be confirmed in three cases, all these children were used for or forced to engage in illegal activities such as begging, stealing or prostitution. 90% were Roma from South Eastern European countries such as Bulgaria, Hungary, Slovakia or Romania.<sup>43</sup>

There were also suspicions of child trafficking in other Länder of Austria. The authorities of Tirol report that there were several indications to child trafficking, especially concerning youth from the Maghreb-region. In Lower Austria a substantial number of victims of child trafficking is suspected within the group of unaccompanied minor asylum seekers (UMA). In 2011 two girls who were cared for in a special care institution of the youth welfare for

UMA were identified as victims of child trafficking.<sup>44</sup> However, victims are often unwilling to disclose their identities or file official complaints against traffickers for fears of discrimination or reprisals; hence, the scale of the problem is likely to be much greater than this rough estimate.

As previously mentioned, Austria is both a transit and destination country for children trafficked for commercial sexual exploitation and forced labour. In 2008, the countries of origin of trafficked children housed in the “Drehscheibe” shelter included Romania, Bulgaria, Hungary, Russia, Chechnya, Serbia, Poland, Croatia, and countries in Africa and Asia (e.g. China).<sup>45</sup> Victims originating from Africa (both Northern and Sub-Saharan) have been trafficked to or through Austria via Italy, while Italy has served as a destination for victims from Ukraine and Belarus trafficked through Austria.<sup>46</sup> In all, 90% of the children were Roma from Southeastern European countries such as Bulgaria, Hungary, Slovakia and Romania.<sup>47</sup>

The report of the Working Group on Child Trafficking shows a concentration of child trafficking cases in Vienna, with only a few suspected or reported incidents in Salzburg, Tyrol, and Lower Austria. Poverty is considered the major root cause of trafficking in children to and through Austria. This is often combined with other vulnerability factors such as low level of child education, adverse family situations, and societal marginalisation or lack of prospects offered by the social environment in the countries of origin.<sup>48</sup>

The report also notes an increase in the average age of identified child victims harboured in the Vienna shelter. This is mainly due to the fact that younger children are more often interdicted at the border crossing into Austria, as authorities more actively search for younger children, increasing the risk of interception. Whereas in 2005 almost 90% of children at the Drehscheibe shelter were under 14, by 2008, 65 % of the children were between 13 and

15 years old, 15% were between the ages of 8 and 12 and only 20% were between the ages of 15-18.<sup>49</sup> The youth welfare authorities from Lower Austria observed that the number of UMA below 14 years of age in the initial centre for asylum seekers increased considerably in 2011. Among these UMA also victims of child trafficking are suspected.<sup>50</sup>

Traffickers include citizens who were

generally connected with licensed brothels and foreign nationals who were involved primarily with unlicensed brothels. Authorities estimated that organised crime groups from Eastern Europe, including Russia, controlled much of the trafficking business. Police were also aware of cooperation between domestic and foreign citizens in managing trafficking for prostitution through the country.<sup>51</sup>

The U.S. Department of State releases annually its Trafficking in Persons Report, which places countries in different categories (called Tiers) based on the efforts they deployed to effectively combat trafficking in human beings. Countries which have the highest level of compliance with the international anti-trafficking standards are placed in **Tier 1**, those who have made some efforts but which do not meet the anti-trafficking standards are placed in **Tier 2** - but if the number of victims is significant or is increasing or there is a failure to provide evidence of efforts to combat trafficking these countries are placed in the **Tier 2** Watch List - and countries which are not making efforts to combat trafficking in human beings are placed in **Tier 3**.

Austria was placed in **Tier 1** in the U.S. Department of State Trafficking in Persons Report 2011.<sup>52</sup>

## Child pornography and exploitation over the Internet

No extensive research has been conducted on the incidence of child pornography and online sexual exploitation of children in Austria. However, news reports, police information and data from the Austrian hotline against child pornography - Stopline – reveal that viewing, downloading, distributing, and possessing child abuse images have become major issues in the country. Cases of manufacturing child pornography have also been identified but remain generally less prevalent.

Young people and children have considerable access to the Internet throughout Austria, but data concerning their attitudes toward online risks and problematic content are rare.<sup>53</sup> Information about child “grooming” for online and offline sexual exploitation or dangerous behaviours such as self-victimisation through “sexting” is also completely lacking. However, there is indication that Austrian children may be exposed to unwanted sexual content and other potential risky situations when using the Internet and other Information and Communication Technology (ICT).<sup>54</sup>

Thanks to increased cooperation with law enforcement agencies from other countries, Interpol, and Europol, the Austrian police has uncovered several worldwide child pornography networks. In 2007, Austria detected an international child pornography ring involving more than 2,360 suspects from 77 countries,<sup>55</sup> including at least 23 Austrian citizens. The suspects paid to view videos posted on a Russian website showing

extremely violent child sexual abuse; in some cases, the illegal material was also downloaded.<sup>56</sup> The offenders involved in distributing child abuse images included not only adults but also teenagers aged 16-18 years. In 2009, two multi-national operations uncovered a total of 220 Austrian men who were later accused of possessing and trading child pornography material hosted on Croatian and Brazilian websites.<sup>57</sup>



## Uncovering an international child pornography ring

Conducted in 2009, Operation “Typhon,” enabled the identification of 286 child sex offenders in 19 countries, and resulted in 118 arrests. The investigation, led by the Austrian Criminal Intelligence Service BK, detected an ISP that was misused by child sex offender groups to distribute illegal content. Log files collected by the Austrian investigators were sent to Europol together with the child abuse images. After structuring and analysing the content, Europol provided intelligence packages and analytical reports to EU Member States and those countries with a Europol cooperation agreement that were also affected.

The offenders had various professional backgrounds, some of whom were teachers or caretakers and were in close contact with children. Furthermore, this case led to the identification and rescue of five children, between the ages four and twelve, who were the victims of sexual crimes in different countries.<sup>58</sup>

Distribution of online child pornography is also confirmed by data published annually by the private Austrian hotline against child pornography, Stopline. In 2011, Stopline received 2,776 reports of child pornography, of which 508 were deemed illegal. In the first month and a half of 2012, Stopline received 181 reports of child pornography, of which 26 were deemed illegal. Child pornography reports represent a substantial majority of all reports received by the organisation.<sup>59</sup> In the event that a report identifies clearly illegal content, Stopline requests that the relevant ISP remove the content (if within Austria) or forwards the report to authorities in the country of origin (if identified to be a foreign ISP). Additionally, Stopline will forward the report to an INHOPE partner hotline in the relevant country if such a partner exists. In 2010, there were no cases of verified child pornography originating from an Austrian ISP, but Stopline was able to forward 90 percent of these cases to an INHOPE partner in a foreign country. The most common countries of origin for illegal material were the USA, Russia, the Netherlands and Germany. Users predominantly report websites as the source of child pornography, while the number of reported newsgroups, file-sharing programs, and e-groups is constantly decreasing.<sup>60</sup>

With the growing prevalence of the Internet and other ICTs, Austrian children and youth are being exposed to a number of potential threats which may impact their safety and wellbeing. “Comparing Children’s Online Opportunities and Risks across Europe,” published in 2008, suggested that Austria belongs to the European countries categorised as being at medium risk for children. Unlike their peers in the UK, Sweden, and other countries, Austrian children do not appear to have experienced dangerous online situations such as receiving unwanted sexual comments, meeting in person a stranger introduced online, or giving out personal information. However, 50% of those aged 10-15 years and 60% of those between 11 and 18 years were reported to have seen pornographic material online or were involuntarily exposed to sexual content.

The research also investigated perceptions of online risks by parents. According to the survey, nearly 41% of Austrian parents said that their child had encountered harmful content on the Internet, and 70% of them declared that their child knew what to do in such situations. About 43% of parents used filters and, of the ones who did not use any, 69% did not feel the need to install them because they trusted their child. Parents in Austria also suggested arranging special web portals for children with a child safety lock

offered by Internet providers that would preclude complicated filter software.<sup>61</sup>

In 2010, the Institute for Youth Culture Research conducted a representative survey about the opportunities and risks faced by Austrian children when using social networks. Based on interviews with 402 young people between the ages of 11 and 19, the survey found that privacy protection was perceived as an important issue, even though 35% of interviewees admitted to having a profile that was visible to all the members of the community. Among bad experiences in online communities, 12% of teenagers surveyed revealed that they had been sent nude pictures.<sup>62</sup>

A 2012 study revealed that parents lack knowledge about their children's online behavior. Only half of them actually knew what their children were doing online, less

than 50 % talk with their kids about the risks of the Internet and in only four out of ten households were the children's online experiences discussed within the family.<sup>63</sup>

Recent data on child pornography in the criminal statistics also indicate an increase of suspects within the group of under-18-year olds. This shows a problematic area, where youths increasingly become offenders themselves, probably due to careless usage of new media. The majority of offenders were male but also female offenders were identified. Cases where extraterritorial law (Art 64 StGB) was applied in connection with Art §207a (child pornography) are not statistically recorded. Since child pornographic material is frequently produced in connection with child sex tourism offences, an extensive investigation is necessary in this field.<sup>64</sup>

## Sexual exploitation of children in travel and tourism

There has been no in-depth research on the sexual exploitation of children in travel and tourism by Austrian nationals. Documented cases and information scattered in various studies and media reports suggest that destinations for Austrian child sex tourists include mainly countries in Africa, South/Southeast Asia, and the Czech Republic.

A report by UNICEF and the Kenyan Government published in 2006 has found that after Italians, Germans, and Swiss, Austrian travelling child sex offenders are the most represented nationality engaging in child sex tourism in Kenya.<sup>65</sup> Another study released in 2007 has highlighted child sexual abuse by Austrians in the Philippines, Cambodia and Vietnam.<sup>66</sup> Further documented cases received by ECPAT Austria concerned Austrian citizens who abused children in Nepal and India.

A relatively new case involving child sex tourism in Thailand is still pending. A middle-aged Austrian man was caught by the police in Pattaya, Thailand in December

2010 in a hotel room, with two under-aged boys and child pornography. The man was arrested based on allegations of child abuse and for production and possession of child sex abuse images. Two weeks later, he left prison because the victims had withdrawn their statement and the police file had disappeared. Fortunately, since January 2011, Austria has based a Police Liaison Officer (LO) at the Austrian Embassy in Bangkok. The Austrian LO managed to have the case re-filed. However, the suspect had already left Thailand for Austria at the beginning of 2011. The Austrian police and the prosecutor requested from Thailand all the evidence that had been gathered and secured on the basis of formal judicial assistance. As of the date of



this report decision of the general prosecutor in Thailand is still pending.

Although sex tourists from Austria (and Germany) continue to fuel the demand for sex services from children along the border region between the Czech Republic,

Germany, and Austria, there is no data available about the latest trends of this phenomenon. Austrians are reported to travel to the Czech Republic mainly to sexually exploit boys; sometimes young Czech boys may go abroad with their Austrian “clients” for short periods.<sup>67</sup>

### **Perseverance in securing a conviction for a travelling child sex offender**

In December 2007, a 39-year-old unemployed man from Linz who was living in Vienna was sentenced to two years’ imprisonment without probation. Testimony before the court established that the man, who had two similar previous convictions, travelled to India repeatedly for several months at a time. Witnesses said that he took small boys into his hotel room a few times per week. Two witnesses, an Australian living in Britain and a French citizen who worked as volunteer for a charity in Calcutta, observed the Austrian in March 2006 when he went to his hotel with a boy between six and nine years old. The two men followed the accused and saw him performing sexual acts on the boy via his hotel window. Back in Britain, the Australian witness reported the incident to the police. He had been trying for months to compel action to be taken but was unsuccessful in securing cooperation from law enforcement. After a year with no official action taken, the witness contacted ECPAT International. In collaboration with ECPAT Austria, ECPAT UK, and ECPAT International, the UK police finally took the witness’s statement, ultimately leading to the perpetrator’s conviction and imprisonment.<sup>68</sup> This case illustrates the importance of international cooperation among NGOs and law enforcement in dealing with cases of child sex tourism, as the difficulties of gathering evidence and witness testimony in multiple countries can render traditional law enforcement methods less effective.

Following the 1996 Stockholm and the 2001 Yokohama global forums on Commercial Sexual Exploitation of Children, Austria reaffirmed its commitments at the World Congress III against the Sexual Exploitation of Children and Adolescents, in November 2008 in Brazil. The World Congress III renewed a global commitment to resolving and combating sexual exploitation of children and adolescents and galvanised international attention on the issue.

## NATIONAL PLAN OF ACTION

With the exception of the *National Plan of Action against Human Trafficking*, which encompasses interventions to address child trafficking for sexual purposes, Austria has not developed any new comprehensive strategies and programmes against CSEC since 2006. The other existing NPAs dealing with this topic are outdated and have been insufficiently implemented, mainly due to a lack of adequate resources.

The *First National Plan of Action against Human Trafficking* (NPA-HT) developed by the Task Force on Human Trafficking was adopted by the Austrian Government in March 2007. The NPA-HT was comprehensive in its approach, including measures on national coordination, prevention, protection of and compensation for victims, prosecution, international cooperation, and data collection/monitoring/evaluation. The NPA-HT also specifies for each activity the competent government body, deadlines, and indicators of progress.<sup>69</sup> An overview of the anti-trafficking measures implemented between March 2007 and the end of February 2009 as part of the NPA-HT is provided by the First Austrian Report on Combating Human Trafficking which was prepared under the aegis of the Federal Ministry for European and International Affairs. In order to provide child-specific information on the NPA-HT implementation, the Working Group on Child Trafficking also produced a separate report focusing on actions targeting children.<sup>70</sup>

The *Second National Action Plan against Human Trafficking* for the period of 2009-2011 was adopted in May 2009. Consisting of nine chapters in total, it includes a number of measures addressing child trafficking. Apart from activities on trafficking prevention in schools and in the community, the second NPA-HT outlines actions for improving the situation of child victims as well as systematic care and support of trafficked children, based on

recommendations elaborated by the Working Group on Child Trafficking.<sup>71</sup> It must be said that whilst representatives from NGOs and civil society organisations are supposed to play an essential role in developing and implementing activities under the NPA-HT, there appears to be no systematic consultation and involvement of children and young people in the design, realisation, and monitoring of this strategy. Also, due to the present financial crisis, the implementation of the second NPA-HT may not have been well funded.<sup>72</sup> Additionally, there is currently no consultation of children in the decision making process.

The *Third National Action Plan against Human Trafficking* for the period of 2012-2014 was adopted in March 2012.<sup>73</sup> There has been considerable progress concerning the integration of measures against child trafficking into the NPA. It is the first NPA that will include a separate goal focusing on specific measures in the field of victim support for children including the development of a national referral mechanism, sensitisation of professionals/institutions concerning adequate placement and support for victims, consideration of the usefulness of guardianship models for potential victims and analysis of the approaches in cases of repatriation and development of a nationwide concept to optimise repatriations compliant with the rights of the child. Furthermore, the section on general sensitisation and awareness-raising includes the support for trainings on child trafficking with a special multi-

stakeholder focus.<sup>74</sup>

One major problem of the NPAs is that the Task Force does not have its own budget for the implementation of these measures. Thus, each measure has to be implemented and funded by different ministries. Furthermore, the NPAs do not address external monitoring or evaluation. Moreover, there is considerable lack of coordination between the Länder, which rarely participate in the Task Force meetings as most Länder do not show much commitment to contributing to combating child trafficking. Many key measures against child trafficking – such as victim support and sheltering – fall into their sphere of competences, as youth welfare is part of the jurisdiction of the Länder.

The *Young Rights Action Plan* (YAP), approved by the Austrian Government in 2004 after a comprehensive consultation

process that also involved children and youth, was implemented from 2004-2007<sup>75</sup> but has not been updated since then. Although the YAP was the first such document to contain an entire chapter on child trafficking and sexual exploitation, the Committee on the Rights of the Child expressed concern that the YAP did not address all forms of CSEC.<sup>76</sup> Additionally, its implementation encountered difficulties due to coordination and cooperation problems (resulting from the federal structure of Austria), and a lack of resources, political will and clarity regarding roles and responsibilities for its implementation. The implementation report approved in 2007 provided a summary of the measures undertaken between 2004-2007 but did not define follow up activities.<sup>77</sup> There are currently no plans to update the YAP.<sup>78</sup> Several NGOs have criticised the lack of implementation of these measures by the Austrian government.<sup>79</sup>

## COORDINATION AND COOPERATION

### Local and national level

A number of efforts to foster collaborative approaches in the fight against child trafficking and CSEC have been undertaken by the Austrian Government since 2006. Dedicated multi-stakeholder working groups and roundtables comprising of NGO representatives have been established at the national, provincial and municipal level. Despite these positive developments, information exchange (especially with civil society organisations) remains limited and the active involvement of key actors for child rights issues from the Länder needs to be further enhanced.<sup>80</sup> The Committee on the Rights of the Child was also concerned about the absence of a mechanism mandated to coordinate effectively among existing institutions dealing with CSEC issues, including at the provincial and national levels.<sup>81</sup>

The Task Force on Human Trafficking (TF-HT) was set up in 2004 to promote and coordinate measures against trafficking in persons. Headed by the Federal Ministry for European and International Affairs (FMEIA), it is composed of representatives of all competent ministries, the federal

Länder and non-governmental organisations. In order to facilitate coordination and cooperation with the Länder on all levels, Contact Persons in all Länder were appointed in 2007. The meetings of the Task Force with these Contact Persons take place several times a year.<sup>82</sup> Unfortunately, as

mentioned earlier, not all Länder participate in the Task Force meetings hampering

coordination and cooperation efforts.

## The National Coordinator on Combating Human Trafficking

The first Austrian National Coordinator on Combating Human Trafficking - a senior official at the FMEIA who is also the Head of the Austrian Task Force against Human Trafficking - was nominated in March 2009 by the Austrian government. The appointment of the National Coordinator has contributed to enhancing both the external visibility and general awareness of the work performed by the Task Force on Human Trafficking.<sup>83</sup>

Two working groups were set up in 2007 within the TF-HT, one dealing with the topic of "Child Trafficking" and the other with "Prostitution." The Working Group on Child Trafficking (WG-CT) is coordinated by the Department for Children and Youth, under the Ministry of Economy, Family and Youth<sup>84</sup> and brings together representatives of the ministries in charge, the governments of the Länder, and NGOs (including UNICEF, ECPAT, IOM Austria). The WG-CT is mandated to elaborate proposals for concrete measures regarding the prevention and protection of child victims and to monitor the implementation of child-focused interventions contained in the NPA-HT.<sup>85</sup>

Although the establishment of the WG-CT has to be seen as a positive measure to address child trafficking on a coordinative level, a large number of the recommendations of the Working Group could not be implemented yet. Furthermore it could not be achieved yet to build up a sustainable and formalized cooperation between Federal Government and the Länder in regards to measures for the prevention and protection of victims of child trafficking.<sup>86</sup>

The Working Group on Prostitution, a sub-committee of the Austrian Taskforce on Combating Trafficking in Human Beings, was commissioned to develop comprehensive policies for improving the situation of prostitutes in Austria under the coordination of the Ministry for

Women's Affairs. It completed its activities in June 2008 by preparing a final progress report on "Prostitution in Austria – Legal Situation, Effects, Recommendations" ("Prostitution in Österreich – Rechtslage, Auswirkungen, Empfehlungen").<sup>87</sup> The report includes, among other proposals, concrete recommendations to counteract the sexual exploitation of minors in prostitution, such as the non-criminalisation of minors involved.<sup>88</sup>

The NAP-HT 2009-2011 provides for a continuation of this working group under a Working Group on Prostitution – the Länder's Scope of Responsibility (Arbeitsgruppe- Länderkompetenzen "Prostitution") to be set up in order to enable a follow-up on the possibilities outlined in the progress report that fall within the federal Länder's scope of responsibility and competence.<sup>89</sup> As of the release of this report, this Working Group has not submitted a second report, but is planning to do so before the end of 2012.<sup>90</sup>

The municipality of Vienna enacted a new prostitution law that also includes a provision that minors are not to be criminalised when they reach the attention of police for the first time. Instead, they are obliged to undergo a counseling session. However, in general none of the nine federal Länder has yet abolished administrative fines for minors involved in prostitution. Prostitution is under the jurisdiction of the federal Länder; accordingly there are nine different laws.

However, all of the laws issue administrative fines for illegal prostitution, which includes child prostitution.<sup>91</sup>

The municipality of Vienna also “launched” a working group on the prostitution of children in 2008. However, this working group was not well attended and subsequently has been “put on hold.” The reason for this, as stated

by the responsible authority (Youth Welfare Department), is that currently there is no indication of minors involved in prostitution in Vienna.<sup>92</sup> However, the information described in chapter I (Introduction) supports different conclusions.

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In 2009, the Youth Ministry formed an interdepartmental Working Group on Sexual Exploitation of Children (“CC-CSEC”) (full title of the group in English and in German is: Coordination Committee on the Protection of Children from Sexual Exploitation, Koordinationsgremium zum Schutz von Kindern vor sexueller Ausbeutung), which includes representatives of the competent ministries and NGOs.<sup>94</sup> The main task of this body is to follow up on the recommendations contained in the final declaration of the World Congress III against Sexual Exploitation of Children and Adolescents held in Rio de Janeiro in 2008, coordinate related activities, initiate necessary measures, and evaluate the process.<sup>95</sup>

It should be noted that the activity of this committee is limited to experts’ exchange and discussion on the topics of the OPSC. The mandate of the coordination committee does not envisage an action plan or a budget and there is no permanent mechanism for coordination and evaluation of the OPSC. The Federal Youth Representative Council (BJV) is only partially included.

There are a number of examples of cooperation with civil society organisations on CSEC issues. Within the Ministry of Economy’s tourism section, a Round Table on Ethics in Tourism was set up in 2005 bringing together NGOs (namely ECPAT Austria and RESPECT), the tourism industry, and Ministry representatives. The Round Table provided an ongoing platform for keeping both sexual exploitation of children in travel and tourism and ‘The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism’ [The Code of Conduct] on the agenda, and for promoting a concerted response to child sex tourism.<sup>96</sup> (See Regional and International sub-section below for more

information about efforts in this area)

The Round Table on Trafficking in Children launched by UNICEF in 2007 provides an important forum for networking and information exchange among different national government, non-governmental, and international actors (namely the Federal Ministry of the Interior, ECPAT, FICE, ICMPD, IOM, LEFÖ-IBF, UNICEF and UNDOC) and also contributes to the raising of awareness of child trafficking.<sup>97</sup>

Cooperation between government agencies and NGOs has also been established to address both child pornography and child prostitution. The Hotline for Child

Pornography at the Federal Ministry of Interior cooperates closely and successfully with Stopline (see Introduction- Child pornography above). Personnel meetings for the exchange of legal and technical knowledge and experience take place

several times a year. Three Round Tables on Child Prostitution were also held in Vienna in 2007, following the publication of a qualitative study that revealed this form of sexual exploitation in the city (see Introduction- Child prostitution above).

## The Child and Youth Advocate Offices

Between 1989 and 1995, Child and Youth Advocate Offices (KiJA) were created in all Länder under the Federal Act on the Principles of Youth Welfare. Initially established as low-threshold counselling institutions, they currently represent the interests of children and youth and are responsible for awareness raising and lobbying for the implementation of the UN Convention on the Rights of the Child. According to Austrian government, the KiJAs are also mandated to receive complaints from, or on behalf of, children on violations of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC). Nonetheless they are not equipped with an official mandate for the monitoring of the CRC and its Additional Protocols.<sup>98</sup> In order to ensure that the KiJA's development from a counselling institution to an independent ombudsman organisation is reflected in federal legislation, a federal act on support for children and youth (Bundes-Kinder- und Jugendhilfegesetz) was drafted, which discusses related tasks in broader terms. The draft legislation considers counselling and mediation, awareness-raising concerning the rights of the child, representation of interests, as well as national and international networking to be the main duties of the organisation.<sup>99</sup> Unfortunately this Act has not yet become law and there is no consensus about it on a political level. Since its initiation in spring 2008, four drafts have been presented. The original included achievements (such as youth welfare measures for young adults) that were weakened in subsequent drafts. In redrafting, financial considerations were obviously put above the best interests of the child and the law is still waiting to be implemented.<sup>100</sup> One of the main factors hampering the passing of this legislation are conflicts between the federal government and some Länder, mainly on financial matters. Regardless of their specific tasks, it must be stressed that KiJAs do not devote particular attention to CSEC issues.<sup>101</sup>

## Improving child victim protection through enhanced coordination

The Government of Austria has promoted several efforts to improve child victims' protection through enhanced multi-stakeholder cooperation and coordination. Following a decree of the Ministry of Justice dated January 2009, the Presidents of the first-instance courts for criminal matters were asked to convene and chair a *Round Table on Victim Support in Court Proceedings* at regular intervals, at least one a year, in coordination with the chief public prosecutors at their courts. These networking meetings bring together judges in charge of criminal proceedings and public prosecutors, representatives of victim support institutions under contract for providing support in court proceedings, representatives of the local Bar Societies, lawyers who work in legal victim support, representatives of the local police force, the youth welfare offices, and the office of the local advocate for children and youth (KiJA),<sup>102</sup> though CSEC is not a focus of these efforts.

To facilitate the identification of maltreatment and abuse of children and provide counselling and assistance measures in cases of suspected violence, child protection groups in all children's hospitals have also been established. These multidisciplinary teams include doctors, nurses, psychologists and social workers.<sup>103</sup> At the provincial level, KiJA Upper Austria fosters exchanges of information to enhance continuous training and cooperation through quarterly working meetings with institutions assisting child victims of abuse and violence. There are round tables for people providing victim

support in court proceedings and the Cooperation Fora Upper Austria, which serve as meeting points for various professional groups with a goal of improving coordination and quality.<sup>104</sup> However, unfortunately both the KiJA and child protection groups in hospitals deal only marginally with CSEC issues.

## Regional and international level

Austria has provided extensive support to international cooperation projects to counteract and prevent CSEC, especially child trafficking for sexual purposes. It has also taken a lead role in implementing anti-trafficking programmes at the EU level and has undertaken to enhance cooperation against CST. Despite these efforts, the Committee on the Rights of the Child noted that Austria should further enhance international cooperation by developing multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.<sup>105</sup>

In response to the Committee on the Rights of the Child, the Austrian government has participated in two new initiatives/ approaches:

1. In November 2010, EUROPOL (European Law Enforcement Agency), launched Project HAVEN (Halting Europeans Abusing Victims in Every Nation).<sup>106</sup> The Austrian Dep. for Crimes of Violence and against Morality (which addresses child sexual abuse and exploitation as well as child pornography) joined Project HAVEN soon after. (HAVEN coordinates efforts conducted by EU Member States to combat sexual exploitation of children committed by EU citizens in foreign countries. This includes the implementation of prevention activities such as awareness-raising initiatives as well as the coordination of international operations conducted by EU law enforcement authorities.) In January 2012, a European operation was planned and executed by Europol Child Sexual Exploitation Team within the Operations Department, in joint cooperation with police, customs and border authorities in Austria (Vienna/Schwechat), Bulgaria (Sofia and Burgas), Finland (Helsinki/Vantaa), France (Paris/Roissy Charles

de Gaulle), Hungary (Budapest/Liszt Ferenc), the Netherlands (Amsterdam/Schiphol), Slovenia (Ljubljana/Joze Pucnik), and the United Kingdom (Stansted, Birmingham, East Midlands, Cardiff, London City and Luton).<sup>107</sup>

2. The Austrian police has begun to carry out more undercover investigation related to child abuse online. This effort is particularly notable as Austria has strict procedural laws related to privacy rights. Experts from the Ministry of Interior state that due to the clandestine nature of the crime, undercover operations are the only effective way of identifying and nabbing offenders.

The NPA-HT for 2009-2011 has an entire chapter devoted to "International Cooperation," which envisages prevention measures (e.g. awareness raising, promotion of economic activities among risk groups), measures for the protection of victims, and training for prosecution bodies. In the area of human and child trafficking, Austria also supports activities within the EU to develop guidelines and standards of data collection. In this context, Austria managed a project in cooperation with the International Organisation for Migration (IOM) and



five other EU member states, Europol, the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), and the International Centre for Migration Policy Development (ICMPD), presenting the result in the spring of 2009 at an international conference. The guidelines established in this framework are currently being used in another project in partnership with other EU member states.<sup>108</sup> The NPA-HT for 2012-2014 also includes several measures in the field of international / development cooperation such as preventive information campaigns and the

establishment of shelters in origin countries and repatriation programmes.<sup>109</sup>

The Austrian police is also a member of the *European Financial Coalition against Commercial Sexual Exploitation of Children Online*,<sup>110</sup> which was established in March 2009. The organisation brings together major financial, Internet and technology corporations, law enforcement agencies and specialist child protection NGOs from EU Member States to disrupt commercial profits made by those who distribute child abuse material online.

## Cooperation with Romania and Bulgaria on repatriation of trafficked children

Cooperation agreements concerning child trafficking exist between the shelter “Drehscheibe” and youth welfare authorities in Bulgaria and Romania. The centre developed a specific repatriation model for children trafficked from those two countries. Crisis centres in Romania and Bulgaria receive trainings and care for the children according to international standards and submit reports about the well-being of the child for a period of six months after the handover. Repatriation is organised in close cooperation with the embassy of the respective country and the IOM. As a result of this partnership, the number of children needing the services of the “Drehscheibe” has been reduced. However, these agreements have been achieved through the personal engagement of the director of the shelter rather than any organised program.<sup>111</sup> Furthermore cooperation achievements in Romania have been hampered by political changes. Cooperation with Bulgaria is better established, and the Drehscheibe-leader, Mr Ceipek, visits the country and the 11 crisis centres on a regular basis. However, the crisis centres are facing structural problems and budget resources are insufficient. For the first time, an assessment of assistance and reintegration of victims of child trafficking is being carried out in the framework of an EU-project, led by the Ludwig Boltzmann Institute for Human Rights (member organization of ECPAT Austria): Assistance and reintegration of child victims of trafficking – ARECHIVIC. ECPAT Austria Director, Astrid Winkler, is involved as an expert for the national report.<sup>112</sup>

Combating human and child trafficking is a top priority on the agenda of the Austrian Development Agency (ADA). Under the international cooperation mechanism, a number of projects on prevention, victims’ protection, and prosecution have been implemented and co-funded in Southeast Europe, including Albania, Bosnia Herzegovina, Moldova, Ukraine, Georgia and Kazakhstan.<sup>113</sup> Despite these positive initiatives, it is important to note that the means of the ADA were reduced dramatically within the last years. This will also have a negative effect on cooperation

programs.<sup>114</sup>

Austria also leads the Comprehensive Operational Strategic Planning for the Police (COSPOL) project to combat trafficking in human beings (THB). COSPOL, established in 2004, runs under the guidance of the EU Task Force of Police Chiefs. In June 2006, the EU Task Force of Police Chiefs established a THB project to develop new methodologies for the police to cooperate more effectively at the EU level, focusing especially on combating Romanian criminal organisations involved in human



trafficking. Apart from Austria and Romania, co-facilitators of the project, this initiative garners participation from Finland, Italy, Malta, the Netherlands, the Slovak Republic, and Spain.<sup>115</sup> International cooperation at the law-enforcement level is further complemented by the activities of the Federal Ministry of the Interior's liaison officers, who are posted in the majority of countries of origin and transit for child trafficking.<sup>116</sup>

Until 2010, the Ministry of Interior and the anti-trafficking programme of the ICMPD were engaged in a joint initiative with Greece, Italy, and Romania (project "AGIRE") coordinated by an Italian NGO.

The objective of AGIRE was to develop strong private and public partnerships in the field of identification of child victims and support and assistance for children who are victims or at risk of trafficking. The main activities of the project partners are exchanging information and reviewing existing methodologies for the support and identification of child victims. Research was carried out in the four participating countries with the aim of identifying profiles of child victims of trafficking or vulnerable children. Training modules have also been developed for the national police and other stakeholders in all four participating countries.<sup>117</sup>

## **Austria, Germany and Switzerland join forces against child sex tourism**

In December 2009, the First Trilateral Workshop on Sexual Exploitation of Children in Travel and Tourism was organised in Vienna by the Department for International Tourism Relations under the Federal Austrian Ministry for Economy, Family and Youth, in close cooperation with ECPAT Austria. The aim of this gathering was to strengthen cooperation among the three German speaking countries, Austria, Germany and Switzerland, in counteracting and preventing child sex tourism. The 25 participants came from various professional backgrounds, such as Governmental Departments/ Ministries (Justice, Interior, Foreign Affairs, Family Affairs, etc.), the tourism industry, and NGOs. Issues addressed in this framework included the development of a reporting system and mechanism for child sex tourism cases abroad, a possible joint awareness raising campaign, and other activities.

ECPAT Austria welcomes the Austrian government's initiative on awareness raising regarding child sex tourism, started in December 2009, entitled 'Witness-Don't Look Away.' This joint campaign, which was launched in September 2010, aimed at sensitising and informing the general public in Austria, Germany and Switzerland and to gather reliable information on sex tourism in order to convict perpetrators.<sup>118</sup> The campaign material consists of a short film, folders and a reporting address/hotline operated by national police forces in each of the three countries. The campaign has been actively promoted. Austrian Airlines renewed its commitment in 2012 and is continuing to show the spot on long-haul flights. However, ECPAT Austria regrets, that the Ministry of Economy, Family and Youth has not allocated a special budget to implement the campaign in a strategic and structured way ( e.g. by creating or supporting a three-year working plan). Additionally, there are also no special measures expected from the Ministry of Interior for promoting the reporting address for cases of child exploitation and child sex tourism over a longer period of time.

With regard to counteracting the manufacture and distribution of child pornography, the Ministry of the Interior's Hotline for Child Pornography confirmed that cooperation with the affected persons/ countries was very effective within Interpol and Europol as shown by the various cross-

border cases investigated and prosecuted over the last several years. However, collaboration with countries that do not actively take part in common activities or that do not – or only conditionally – make child pornography a punishable offence remains problematic.<sup>119</sup>

## PREVENTION

Preventive measures in the area of awareness raising and sensitisation about CSEC topics are insufficiently financed. A comprehensive approach for combating sexual exploitation of children through targeted measures is not yet recognisable. Hence, there is still a lack of systematic anchoring of CSEC topics in the training and further education of relevant professional groups, such as police officers, immigration and asylum authorities, judges and public prosecutors, youth welfare officials, teachers etc. Sensitising measures and trainings should also be introduced for medical personnel to better protect the rights of the victims. Medical personnel are not sufficiently trained to meet the specific needs of victims as is required by the OPSC.<sup>120</sup> Currently, no specific training is offered for public prosecutors or judges concerning the topics of the OPSC. There is also a lack of sensitisation in court proceedings involving children who are victims of sexual exploitation. Generally, authorities tend to equate training on the topic of child abuse with topics of the OPSC. However, these topics are too narrow, in that they exclude the

aspects of commercial exploitation covered in the OPSC.

Additionally, the prevention and protection of child victims from domestic violence and sexual violence within the family is often equated with prevention or protection of victims from sexual exploitation or child trafficking.<sup>121</sup> There are a number of positive examples of child abuse-related public awareness raising and sensitisation programmes, like the recent Federal Ministry of Economy, Family and Youth initiative of an information website about different forms of violence, root causes, laws, and where to seek help, ([www.gewaltinfo.at](http://www.gewaltinfo.at)). Nonetheless, the website does not contain any information on CSEC topics.

A wide sensitisation of the public (for example through media campaigns) has not yet taken place. Apart from that, basic research that would enable target-oriented and target-group specific awareness-raising is lacking.<sup>122</sup>

### Prostitution of Children

There is a general lack of awareness-raising activities and other preventive measures in the area of child prostitution from both the government and non-governmental side. Initiatives to reach out to vulnerable groups such as children addicted to drugs or asylum-seeking minors are yet to be developed. Likewise, there has been no campaign to stem the demand for sex with children within the country.

The Ministry of Education, Arts and Culture primarily concentrates on the prevention of sexual violence against children in general. In the framework of the project “My body is mine”, school children are taught to defend themselves from sexual abuse and to report any potential incidents. Teaching materials, information booklets and other activities

(such as staff meetings and sensitisation evenings) have also been developed targeting teachers, educators and parents.<sup>123</sup> Although this is one of the few projects that addresses children directly and has a potential preventive effect regarding child prostitution and other forms of sexual exploitation, it is not specifically focused on reducing the risk

of sexual exploitation. Furthermore, whilst measures in schools are very important, children sexually exploited in prostitution

are not reached if they do not attend school regularly.<sup>124</sup>

## Trafficking in children for sexual purposes

Awareness-raising measures implemented by the Austrian government typically address trafficking in persons generally without any events or campaigns focused specifically on child trafficking. As recommended by the Working Group on Child Trafficking, sensitisation on this issue should be enhanced through the dissemination of information targeting the general public, and the media, and focusing on the demand for services from trafficked children, and conducting awareness-raising activities in and outside schools.<sup>125</sup>

An information folder on “Child Trafficking in Austria” has been designed by the Working Group on Child Trafficking to facilitate the identification of child victims and to assist staff in addressing this issue. The material was made available to ministries, provincial governments, and civil society institutions for use in training and sensitisation activities on child trafficking.<sup>126</sup> According to the Working Group, as of 2011, 18,000 folders have been distributed. The effect of these folders has not been evaluated though. However, due to budget cuts the production of a second edition is pending as of the date of this report.

The Government plans to create a special section dedicated to child trafficking on the [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at) webpage, making information on this issue readily available to the public at large. This information platform aims to raise awareness of the fact that child trafficking is an important issue in Austria.<sup>127</sup> As of the date of this report, the expansion of the [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at) website has not occurred. However, a new website was set up by the ministry of Economy, Family and Youth: [www.gewaltinfo.at](http://www.gewaltinfo.at), which provides information on all forms of violence against children and young people, women, men and the elderly. There is a special section on this website related to online violence and pornography, “sexting”, and general illegal content accessed by children.<sup>128</sup>

Since 2007, the Austrian Government, in cooperation with UN agencies and other actors, has been organising the celebration of the EU Anti-Trafficking Day. As part of the programme, a conference with a focus on child trafficking was held on 16 October 2009 in Vienna with the participation of government institutions and several experts from the NGO sector.<sup>129</sup>

The Austrian Government has also supported a number of activities against trafficking in persons in general. For example, in 2009, it subsidised several TV programmes about trafficking and hosted international conferences aimed at raising awareness of trafficking. It also distributed information brochures for use by police and NGOs on trafficking, and by police and NGOs maintaining an active presence in well-known “red light districts.” A leaflet was produced and distributed by an NGO offering support to victims.<sup>130</sup>

The topic of human trafficking has been included in the consular staff training curriculum and in information folders distributed to raise awareness among government officials responsible for issuing visas.<sup>131</sup> In 2008, the government funded an NGO-organised course to sensitise Austrian troops on human trafficking before they were deployed on international peacekeeping

missions.<sup>132</sup> While these steps are positive, there are still existing gaps concerning comprehensive multi-stakeholder training of

law enforcement, judges, youth welfare and alien and asylum authorities.<sup>133</sup>

## School education on human trafficking

Whilst a number of schools educate students on child rights, sexual abuse within the family, and other related social issues directly concerning children in Austria, very few organise workshops on the topics of sexual exploitation and child trafficking. These types of seminars are mainly supported by NGOs and are based on individual schools' interest, rather than being institutionalized through a State policy to ensure compulsory education on these subjects. Furthermore, there is no state supported peer-to-peer training on the above issues, which is especially important when talking to teenagers about topics involving sex and other sensitive issues.<sup>134</sup>

Nevertheless, the Ministry for Education, Arts and Culture has made some effort to introduce the issue of human trafficking in school education by making available a handbook on this topic. Developed by the Ludwig Boltzmann Institute of Human Rights and Italian and Polish partner organisations in the framework of the DAPHNE-project<sup>1</sup>, the toolkit contains information materials and methods to raise awareness among high school teachers and students on human rights issues and trafficking in women and young people.<sup>135</sup>

Furthermore, in collaboration with a service organisation, the Task Force on Combating Human Trafficking developed teaching material on human trafficking/child trafficking and created a touring exhibition for schools. The use of these materials is optional though and the topic of child trafficking is not a part of the mandatory school curriculum. A comprehensive concept for sensitising and training teachers and students is still lacking.<sup>136</sup>



### STOP Sex Trafficking of Children & Young People Campaign

Conducted in partnership between The Body Shop and ECPAT, this three-year campaign, launched in 2009, seeks to provide immediate relief to child victims with funds raised and to create long-term changes

by engaging the public in awareness-raising and by lobbying decision-makers to strengthen concerted action against child trafficking for sexual purposes.

For the launch of the campaign, ECPAT Austria held a press conference in Vienna supported by UN.GIFT, the Institution of Vienna Youth Welfare, and the Chair of Austrian Government Task Force on Trafficking to highlight that children and young people are also



victims of sex trafficking. Similarly, the ECPAT Austria youth group was also involved in implementing the campaign awareness-raising activities by participating in the 'window display' at The Body Shop stores, showing a teenage girl as an 'item for sale,' which resulted in many

<sup>1</sup> The DAPHNE Initiative (and its successor, the DAPHNE Programme) is a project of the European Parliament to combat violence against and exploitation of children by supporting the development of organisational capacity to create targeted programmes. For more information, see: [http://ec.europa.eu/justice\\_home/daphnetoolkit/html/daphne\\_experience/dpt\\_experience\\_11\\_en.html](http://ec.europa.eu/justice_home/daphnetoolkit/html/daphne_experience/dpt_experience_11_en.html)

customers inquiring about the campaign. Moreover, the campaign funds were allocated to ECPAT Austria's advocacy and lobbying work to demand that the Austrian government improve data collection on child trafficking, to strengthen the collaboration of the human trafficking task force with the relevant stakeholder network, and to support several multi-stakeholder training initiatives

for law enforcement officials, prosecutors, and youth welfare on child trafficking and commercial sexual exploitation of children. On 7 July 2011, ECPAT Austria and The Body Shop presented 55,352 campaign petitions to the President of the National Council of the Austrian Parliament, Barbara Prammer, and asked that the government take action to implement the calls to action.

Ms. Prammer replied, 'I know we need many more initiatives and activities. What is really very, very important is the training for the police... it is really important that they are aware of this problem and know what to do in such situations'. The petition is regarded as 'parliamentary citizen's initiative' and will be introduced to the Austrian Petition Committee in early October 2011.

## Child pornography and exploitation of children online

There have been no activities in Austria focused on addressing the exposure of children to pornography or the use of children in the manufacture of child pornography. However, there has been progress with regard to protecting children online through enhancing safety in the use of the Internet and other ICTs.

In 2007, the Austrian government adopted a "Package of Measures against Internet Criminality and Dubious and Illegal Internet Services" and implemented an information campaign, "Safe Use of the Internet" nationwide. Similarly, Microsoft Austria has launched the "Safe on the Internet" project, which warns against risks connected to the use of online media. The issue of child pornography is, however, not explicitly mentioned within the project.

The "Rat auf Draht" campaign launched by the public broadcast television network ORF, provides professional help over the telephone and online consulting services to children and adolescents throughout Austria.<sup>137</sup> TV ads and radio spots on relevant issues concerning children and young people have been produced, including on the secure use of new media.<sup>138</sup>

Saferinternet.at is the Austrian awareness centre in the European Internet Safety Network (Insafe) and works to empower children, parents, and teachers to use the

Internet and other ICT safely and responsibly. Apart from running an awareness raising campaign, Saferinternet.at provides a number of services, including the websites [www.saferinternet.at](http://www.saferinternet.at) and [www.handywissen.at](http://www.handywissen.at) with news, tips, and information on youth protection, privacy, social networks, cyber-bullying, etc.; brochures for children and parents available online; organising safer internet events; and helpline services.<sup>139</sup>

Online safety has also been included in the curriculum of secondary schools. More specifically, the subject *Informationstechnische Grundbildung in vernetzten Systemen* (Information technology education in networked systems) is taught on a voluntary basis for students aged 10-14 in schools actively using ICT, while the subject *Netzwerktechnik mit Übungen* (Networking with exercises) is taught on a voluntary basis to students aged 14-18 with a stronger emphasis on technical aspects.<sup>140</sup> In 2010, with the support of the Federal Ministry of Education, Arts and Culture and the Austrian Data Protection Commission, Saferinternet.at,

Microsoft Austria, and experienced teachers developed and published the teachers' handbook "Data Privacy Protection on the Internet." The handbook mentions the topic

of child pornography and can be used to raise students' awareness on the need to protect themselves from online threats.<sup>141</sup>

## The Mobile Alliance against Child Sexual Abuse Content

In February 2008, Mobikom Austria joined the Mobile Alliance against Child Sexual Abuse Content, which was launched by the global trade association for mobile operators (the GSM Association). The objective of the Alliance is to prevent the use of the mobile network by individuals or organisations wishing to consume or profit from child sexual abuse content. In creating this alliance, members undertook to develop a number of measures, including the implementation of technical mechanisms to prevent access to websites identified as hosting child sexual abuse content. They also planned to implement Notice and Take Down processes to enable the removal of any abusive content posted on their own services, while supporting and promoting 'hotlines' or other mechanisms for customers to report such content discovered on the Internet or on mobile content services.<sup>142</sup> This cooperation effort is seen as a welcome change, as currently access to child sexual abuse content in the internet is not blocked in Austria.<sup>143</sup>

## Child sex tourism related offences

Several preventive activities have been implemented to address child sex tourism since 2006. In collaboration with government actors and the tourism industry, ECPAT Austria and RESPECT have conducted sensitisation activities and capacity-building targeting various groups, including the general public, students and tourism staff. These initiatives were also used to promote the implementation of the Code of Conduct.

In 2007, ECPAT Austria was mandated by the Ministry of Economic Affairs and Employment to develop a series of measures for raising awareness about CSEC in the tourism industry. In this context, information material for travellers, travel agencies, and tour operators, as well as educational material for tourism schools were developed.<sup>144</sup>

With the support of the Ministry of Economy, in 2008 the working group "Business and Schools" also published a media package entitled "Tourism and Leisure Industry," thematising the issue "Ethics in tourism," in particular "Sexual exploitation of children."<sup>145</sup>

## Accor Austria signs the Code of Conduct

In 2008, the hotel chain Accor Austria officially signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism and undertook to promote its implementation, primarily by ensuring training of its staff on CST issues. Following the Code's adoption, training sessions were conducted in May and June 2008 by ECPAT Austria for General/Assistant and Front Office Managers. Further capacity building for key hotel staff was planned and identified as a key step to guarantee sustainable implementation of future staff training.

As part of the Code's promotion, Accor Hospitality Austria also printed 413,000 copies of the leaflet "Having a Sexual Relationship with a Minor Is Punishable by Imprisonment," and distributed it to all 30 Accor hotels in Austria for distribution to guest rooms.<sup>146</sup>

In the framework of the ongoing EU project "OFFENDERS BEWARE – Raising Awareness, Capacity and Motivation for the Protection of Children from Commercial Sexual Exploitation in Tourism (2008 – 2011)", information events have been organised in several schools. Further training-of-trainer programmes, which educate teachers about using available

materials, and workshops at tourism schools are also offered. The project is supported by the European Commission, Austrian Development Cooperation, and the Ministry of Economy, and is carried out by the NGOs RESPECT and ECPAT Austria, in collaboration with ECPAT groups from Germany, Italy, Netherlands, Estonia and partners from the Global South.<sup>147</sup>

### ECPAT's "Offenders beware!" Project

The three-year project "Offenders beware!" aimed at increasing awareness and knowledge of sexual exploitation of children in tourism and building capacity for preventive actions among tourism professionals, students, and other relevant stakeholders, such as law enforcement and governmental authorities. As part of this initiative, several outcomes have been achieved in Austria.<sup>148</sup>

Following Training-of-Trainer Meetings held in July and September 2008, a team of 12 trainers, comprising students and teachers at tourism schools, gained the necessary skills to deliver training on Sexual Exploitation of Children in Tourism. The related training sessions were carried out beginning in October 2008 in the Austrian vocational school for travel agency staff.<sup>149</sup>

In July 2009, 25 international trainers held a knowledge-exchange seminar in Vienna to discuss and further develop new training methods and materials for future trainings in the tourism field to combat the sexual exploitation of children. Innovative training methods were presented and applied in the training-of-trainers by international experienced experts. Tools developed included a booklet with basic background information, an E-learning program designed to train tourism professionals and their management officials in countries of origin and destination of child sex offenders, as well as a training manual suited especially for basic trainings in companies that have already signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.<sup>150</sup>

In the framework of this project, in 2009, ECPAT Austria also participated in the "Holiday Fair" in Vienna. During this event, the group had an opportunity to raise awareness of and lobby for implementation of the Code of Conduct and to present a twenty-minute film entitled "Sexual Abuse of Children in Tourism."<sup>151</sup>



# PROTECTION

## International and Regional Children's Rights Legal Standards

International instruments		
Human Rights Bodies and Instruments related to Child Rights	Comments	
Charter-based bodies		
Working Group on the Universal Periodic Review (UPR)– Human Rights Council	Tenth Session of the Working Group: 24 January–4 February 2011	
Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography	No visit so far.	
Special Rapporteur on Trafficking in Persons, Especially Women and Children	No visit so far.	
Treaty-based bodies		
Committee on the Rights of the Child		
CSEC Children’s rights instruments	Date of ratification	Date of submitted reports
Convention on the rights of the child (CRC)– 1989	1992	1996 –Initial report 2002 – Second report 2009 - 3rd – 4th report
Optional protocol on the sale of children, child prostitution and child pornography (OP-CRC-SC) – 2000	2004	2007 - Initial report 2009 – Second report
ILO Minimum Age Convention – 1973 (No. 138)	2000	
ILO Convention on the Worst Forms of Child Labour – 1999 (No. 182)	2001	
UN Convention against Transnational organized crime – 2003	2004	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) – 2000 (supplementing the UN Convention against transnational organized crime)	2005	
Regional instruments		
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	2011	
Council of Europe Convention on Actions against Trafficking in Human Beings	2006	
Council of Europe Convention on Cybercrime	Signed in 2001 but not yet ratified	



There have been no substantial changes in Austrian legislation against CSEC crimes since 2006, despite the 2008 recommendation of the Committee on the Rights of the Child to strengthen existing provisions, especially with regard to child pornography-related offences.<sup>152</sup>

Although many of the legal provisions from the OPSC are incorporated in national legislation, there are still some gaps, particularly related to the severity of punishment and differing age limits across pieces of legislation.

Within the national domestic Austrian legal framework, the CRC was not approved as a constitutional law and was not self-executing in courts and with administrative authorities due to “Reservations.” On February 16, 2011, almost 20 years after the ratification, the Federal Constitutional Law on the Rights of the Child (BVG Kinderrechte) finally came into effect. This law identifies certain individual rights and principles of the CRC and makes these principles self-executing at the constitutional level for courts and administrative authorities. The Constitutional Law clearly establishes a fundamental improvement concerning judicial review, legal protection and sensitisation to children’s rights as legally enforceable entitlements of young people; yet there are significant restrictions concerning the extent of the guarantees. The ruling parties chose a very selective approach for this law, only including single rights and not the CRC as a whole document/treaty. Additionally, the ruling party added a highly problematic limitation clause (which was not foreseen by the CRC and limits functions of key CRC principles).<sup>153</sup> Nonetheless, the right to protection against economic and sexual exploitation and the right to compensation and rehabilitation of victims of exploitation are now part of this constitutional act (Art 5). However, one year after the passing of this legislation, no substantial effect of this legislation can be detected yet in practice.

Substantial legislative efforts have been undertaken to tackle sexual abuse and

violence, especially against children. For instance, in 2008, criminal proceedings reform brought about improvements in victims’ rights. The Second Protection against Violence Act of 2009 included: an elevation of the severity of punishments for sexual offences stipulating imprisonment for up to three years, with offences committed under aggravating circumstances carrying sentences of 10-20 years<sup>154</sup> (included in Child Pornography, Art 207a Penal Code); and the adoption and elevation of minimum penalties (including Child Pornography as well as the Procurement of sexual contacts with minors against remuneration, Art 214 Penal Code). Furthermore, procedural rights of victims were strengthened and laws in relation to relapse prevention were fortified (occupational ban on work with children, access to offenders’ criminal records). In addition, the deliberate access to child pornography was criminalised and is now punished in the same way as the possession of child pornography.<sup>155</sup> Furthermore, in 2012, extraterritorial legislation was extended and grooming was criminalised.

Despite these positive legislative developments, there are still gaps in legal provisions securing the rights of victims of sexual exploitation, such as the criminalisation of minors involve in prostitution or the non-criminalisation of certain cases of child pornography depicting 14-18 year old adolescents.

The provisions of the Austrian Penal Code on the prostitution of children generally comply with the Optional Protocol, as they are wide enough to cover “the use of a child in sexual activities for remuneration or any other form of consideration.”<sup>156</sup> Furthermore, Austrian law prohibits all acts of obtaining, procuring or providing a child for prostitution, and specifies that the exchange of benefits or remuneration may be in cash or kind.

The age of sexual consent in Austria is 14 years old.<sup>157</sup> In some circumstances, intercourse with children under 16 years old is illegal, for example, when the offender exploits a child in difficult circumstances (drug addiction, homelessness, etc).<sup>158</sup>

Adult prostitution is legal in Austria, but the Penal Code specifically bans prostitution of children under the age of 18. Under Article 207b (3) of the Penal Code, any person who directly induces a child under the age of 18 to perform a sexual act on him or herself or on a third party, or to have a sexual act performed by him or herself or by a third party, by directly offering money or any form of remuneration to the child, shall be sentenced to a term of imprisonment of up to three years.<sup>159</sup>

Austrian criminal law also penalises procuring sexual contact with underage

persons in return for remuneration. Pursuant to Article 214 of the Penal Code, anyone who, with the aim of gaining a pecuniary or other advantage, arranges a personal contact between an under age person and a third party for the performance of a sexual act, is to be punished by imprisonment of no less than six months and no more than five years. If the victim is between 14 and 18 years old, the maximum term of imprisonment is reduced to two years.<sup>160</sup>

Under Article 215a of the Penal Code, whoever recruits a minor for the practice of prostitution, offers or mediates (procures a minor) for such a purpose, even where the minor was already engaged in prostitution, will be imprisoned for up to three years. The same punishment applies to anyone who uses a minor already engaged in prostitution in order to obtain a pecuniary advantage for himself or a third party.<sup>161</sup>

### Insufficient protection of minors involved in prostitution

According to the Alternative Report on the Implementation of the OPSC submitted by ECPAT Austria in 2008 as well as the Alternative Report on the Implementation of the CRC submitted by the National Coalitions for Child Rights in 2012,<sup>162</sup> children found engaged in prostitution are often treated as offenders rather than as victims of sexual exploitation. Although the current penal provisions ensure protection of minors from this crime, the regulations of the federal Länder include a legal penalty for engaging in prostitution below the age limit (which in most of the federal states is 18 years). As a result of this administrative measure, minors are often sentenced to pay a fine, which, as many NGOs have observed, often pushes children further into prostitution in order to earn sufficient money to pay the fine.<sup>163</sup>

The lack of an effective protection framework is compounded by the fact that, while children may incur legal sanctions, those seeking prostitution often are not prosecuted because of claims that they believed the girls were not underage. As highlighted by ECPAT Austria, this type of defence should not be considered valid since the “client” is responsible for verifying the age of the person involved in prostitution by, for example, asking for an official prostitution card disclosing age and medical tests.<sup>164</sup>

## TRAFFICKING IN CHILDREN FOR SEXUAL PURPOSES

Several articles of the Austrian Penal Code may apply to trafficking in children for sexual purposes, but they do not consistently provide for stricter punishments in cases where victims are children. Furthermore, while Austrian law generally covers most of the trafficking-related acts contemplated by the Trafficking Protocol, the wording of the articles may lead to some problems in their implementation. For example, while the situation of a child trafficked for the purpose of prostitution could fall under the scope of Article 217 (being brought out of the country to perform prostitution), such offences would also likely be captured by Article 104a, which provides harsher penalties in the case of child victims. These differences in penalties could increase due to the fact that the recent EU directive against human trafficking (2011/36/EU) demands even higher penalties for child trafficking. According to the Ministry of Justice it is not planned to revise Art 217 Penal Code as Art 104a Penal Code is considered the specific provision against human trafficking in Austrian criminal law and only Article 104a is to be adapted to the EU Directive. But in practice, Art 217 of the Penal Code does not provide higher penalties at all if the victim is a child, and is much more frequently used by public prosecutors and courts in cases of trafficking for sexual purposes than Art 104a Penal Code.

The Austrian Penal Code criminalises trafficking for the purpose of slavery. Article 104(1) of the Penal Code provides that persons found to be involved in the “slave trade” shall be liable to imprisonment for a period of 10 to 20 years. Additionally, anyone placing another person in slavery or in slavery-like conditions or exposing another person to slavery or a slavery-like situation is also subject to criminal liability.<sup>165</sup>

Besides this, Article 104a of the Penal Code (inspired by the Trafficking Protocol) on “Trafficking in Human Beings” makes it an offence to procure, harbour or otherwise take up, encourage, offer or pass on a child or an adult (using unfair means in the case of the latter)<sup>166</sup> for the purpose of sexual

exploitation, labour or organ removal. The offender faces imprisonment for up to three years.<sup>167</sup> Punishment is increased to imprisonment for six months to five years if violence or threats are used,<sup>168</sup> and to imprisonment for one to ten years if the offence is committed against a child below 14 years of age or by a criminal organisation or with the use of severe violence endangering the life of the victim.<sup>169</sup> Due to the recent EU-directive against human trafficking (2011/36/EU), the punishment will be increased to five years for a general offence and up to 10 years in any cases of child trafficking (the ten-year sentence only applies in cases involving victims below the age of 14).<sup>170</sup> The deadline of Directive 2011/36/EU’s implementation is April 2013.

## **The interpretation of the term “exploitation” may lead to insufficient protection from new forms of trafficking**

Although the 2004 criminal law reform established the crime of human trafficking within the national legislation of Austria in order to implement the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“Trafficking Protocol”) and the OPSC, the definition of the term “exploitation” within the definition of trafficking in Austria may be too rigid. Whereas the Trafficking Protocol lists forms of exploitation in a manner that allows for new forms of exploitation to be added, § 104a of the Austrian Criminal Code identifies three forms of exploitation that can be used by traffickers to profit from their victims: sexual exploitation, the removal of organs, and labour exploitation. The legislative materials to the 2004 criminal law reform show that the Austrian legislature intended this listing to be exhaustive.<sup>171</sup> While clear, specific laws are important for ensuring consistent enforcement, Austrian law should also recognise that there may be forms of exploitation not originally contemplated that may need to be added in order to supplement the definition of exploitation and keep the definition current.

Another provision of the Penal Code worth noting, although it applies to cross-border situations only and contains no reference to children, is Article 217(1), which makes it an offence for anyone to transport a person internationally to perform illicit prostitution, even if such a person is already involved in prostitution in a country other than the one in which he/she has citizenship or is his/her habitual place of residence, or to procure such a person for this reason. Punishment ranges from six months to five years and from one

to ten years when the crime is committed for profit.<sup>172</sup> Article 217(2) of the Penal Code provides that it is an offence to deceive a person into prostitution in a country other than the one in which he/she has citizenship or is his/her habitual place of residence or to coerce such a person through violence or threats to move to another country or convey such a person to another country through violence or exploitation. The applicable punishment is imprisonment for one to ten years.

## **Inadequate enforcement of anti-trafficking legislation**

Data mentioned in the U.S. Department of State *Report on Trafficking in Persons* suggests that the actual application of anti-trafficking legislation is inadequate, in particular the relatively small number of convictions and also the weak sentences issued. The Austrian government prosecuted 65 traffickers under Articles 217 and 104 (a) of the Austrian Criminal Code in 2009 compared to 67 in 2008. Thirty trafficking offenders were convicted under Article 217 in 2009, compared to 18 convictions in 2008. In 2008 half of the traffickers convicted served a jail term of only 12 months and one third received no jail term at all.<sup>173</sup> The government completely suspended sentences of four offenders while also partially suspending the sentences of nine others. An NGO report states that in 2009, the government released a potential suspect despite the victim testifying five separate times.<sup>174</sup> However, there was some improvement in 2010 with more convictions of trafficking offenders and stricter sentences.<sup>175</sup> The exact figures, however, are not available. A report on the number of convictions in 2009 reveals that the government strengthened the severity of some of the sentences during 2009, with trafficking offenders being sentenced to prison terms ranging from three months to a maximum of up to five years imprisonment for 10 of the convicted traffickers.<sup>176</sup> However, concerns about light sentences remain and have also been raised by a number of NGOs and international organisations.<sup>177</sup>

Legal provisions addressing child pornography are not in line with relevant international and regional standards as they provide weak legal protection to children between the ages of 14 and 18.

The Second Protection against Violence Act 2009 strengthened punishments for the production, import, transport or export of child pornography (Art 207a (2) Penal Code) from a minimum penalty of six months up to a maximum sentence of 5 years. Furthermore, the deliberate access to child pornography was criminalised (up to two years of imprisonment if the depicted victim is below the age of 14 years, up to one year if the victim is between 14 and 18 years old).<sup>178</sup> Furthermore, grooming is now a criminal offence under Art 208a Penal Code (Initiation of sexual contacts to minors below the age of 14). Article 208(a) Penal Code, which came into force in January 2012, criminalises the intentional initiation of sexual acts by means of telecommunication and computer systems as well as by any other means that deceive the child about the intention of the contact.

The definition of child pornography provided for by Article 207a includes four categories of materials. The first category comprises realistic depictions of a sexual act performed on a child under 14 years of age or by such a child on him/herself, on another person or with an animal. The second category consists of realistic depictions of an event supposedly performed with a child under 14 years of age, the examination of which creates the impression, according to the circumstances of the case, that it involved a sexual act performed on such a minor or by the minor on him/herself, on another person or with an animal. The third category consists of realistic depictions of a sexual act or event as described above, with adolescents over 14 years of age only or of the genitals or pubic region of such adolescents, provided such depictions are distorted in a sensational manner, with focus on the genitals or pubic

region and are detached from any other context in order to arouse the observer sexually. The last category refers to virtual child pornography, described as pictorial representations, the examination of which – (following alteration of the representation or without use of such alteration) creates the impression that it is a depiction within the meaning of the above described categories (i.e. a realistic depiction). The production or possession of representations of this last category is not considered a crime if it involves an adolescent over the age of 14 and if such production or possession is for personal use and there is no risk of dissemination (which is nevertheless hard to assess).<sup>179</sup>

Furthermore, the production or possession of child pornography is not criminalised if it was produced for personal use and the adolescent depicted is over the age of 14 and has consented to the production.

Under Austrian law, anyone who produces, offers, procures, transfers, presents or makes a pornographic depiction of a child available in any other manner to another person is subject to three years imprisonment. If committed for financial gain or when producing, importing, transporting or exporting a pornographic depiction of a child for the purpose of dissemination, penalties are increased from six months to five years imprisonment.<sup>180</sup> When committed by a criminal organisation or in such a way that a child sustains particularly grievous harm or suffers serious violence or their life is threatened. Offences are punishable by one to ten years' imprisonment.<sup>181</sup>

Criminal sanctions for the mere possession of child pornography were also extended to

two years' imprisonment for the possession of pornography depicting children under the age of 14 and up to one year imprisonment for the possession of pornography depicting adolescents under the age of 18.<sup>182</sup>

Furthermore, anyone who accesses child pornography is liable under the same statute. However, a continuing gap exists in that the production or possession of pornographic depictions of an adolescent over the age of 14 is legal if such adolescent has consented to possession and the possession is for the adolescent's own use. Also, the production and possession of virtual pornography for one's own use is not criminalised if there is no danger of dissemination.<sup>183</sup>

With respect to the recruitment of children for pornographic performances, Article 215a of the Penal Code states that anyone who recruits, offers or procures a child for a third party to participate in a pornographic presentation, or offers or procures such a person for another person for that purpose,

shall be imprisoned for up to three years.

The same punishment applies to anyone who uses a child who is already participating in a pornographic presentation in order to obtain a pecuniary advantage for him/herself or a third party.<sup>184</sup>

Legal provisions addressing child pornography are not fully compliant with relevant international and regional legal standards to the extent that they do not provide sufficient protection to children and adolescents aged 14–18 years. The definition of child pornography should not distinguish between children older and younger than 14, and the law should be strengthened to criminalise the possession of child pornography involving adolescents between the ages of 14 and 18 years regardless of the child's consent. Similarly, the manufacture or possession of virtual pornography involving adolescents over the age of 14 should be criminalised in a more comprehensive manner.

## EXTRADITION AND EXTRATERRITORIAL JURISDICTION

According to Article 64 of the Penal Code, any Austrian citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, as if the offence were committed in Austria and even if the actions are not punishable in the country where the abuse was committed (no *double criminality* principle is required to enforce extraterritorial laws).

In general, it is best to investigate and prosecute sex crimes against children in the state where the crime occurred, as witnesses and evidence are more easily collected. However, in states with weak legal frameworks or insufficient law enforcement apparatus, it may be better to try the crime in the perpetrator's home country. Furthermore, in some cases, travelling sex offenders have fled the country where they have committed their crime in order to escape prosecution and returned to their country of origin. Extradition is one option to deal with such cases, and Austria has entered into a number of agreements on extradition and mutual legal

assistance that can be used to prosecute CSEC offences, especially at the regional level. Apart from the European Convention on Extradition of 13 December 1957 and the Framework Decision on the European Arrest Warrant, Austria has signed the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 and the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union of 2000.<sup>185</sup>

However, under Austrian laws and extradition treaties signed with foreign governments, there is no obligation for

Austrian authorities to extradite their nationals. However, Article 4 of the OPSC makes it mandatory for State parties to prosecute child sex offenders if they do not extradite them.

In accordance with Article 64 of the Penal Code, Austrian citizens and persons who have their regular place of residence in Austria are liable to punishment if they sexually exploit children under the age of 18 abroad (Art. 207b, para. 3), exploit a situation of distress of a person under the age of 16

for sexual abuse (Art. 207b para. 2), commit crimes related to pornography depicting children (Art. 207a para. 1 and 2), promote prostitution and/or the pornographic presentation of children (Art. 215a), bring a person into a country to perform prostitution (Art. 217) or commit a crime according to Art. 104a (human trafficking). Furthermore, other CSEC-related crimes such as slavery (Art. 104), forced marriage (Art. 106 (1) clause 3) and illegal adoption (Art. 194) are covered by extraterritoriality under Art. 64.

There is no data available on the application of extraterritorial legislation in Austria. The crime statistics contained in the “Statistik Austria” (which are based on data received from the Ministry for Internal Affairs) do not provide information on whether the crimes reported to the police or tried in court were committed abroad. The U.S. Department of State Report on *Trafficking in Persons* notes that Austria did not report any investigations or prosecutions for child sex tourism related offences in 2008<sup>186</sup> and 2009.<sup>187</sup> In light of this lack of statistics, systematic data collection on extraterritorial legislation should be urgently developed and used to better shape policy development, measure programmes implementation and enhance law enforcement.

## Child protection units

The Federal Ministry of the Interior has established a Central Service Unit Combating Alien Smuggling and Trafficking in Human Beings within its Criminal Intelligence Service and each Länder has a specialised department on trafficking and smuggling at the “Landeskriminalamt” (state office of criminal investigation). Furthermore, the Ministry of the Interior established a special unit for child pornography at the national reporting office for child pornography. This division organises the collaboration between national, foreign and international law enforcement authorities and carries out official acts if there are suspicions of child pornography. It receives information about child pornography from authorities, the public or Stoptelefon. The department also supports other Austrian law enforcement authorities in cases of child pornography and coordinates investigations against major criminal groups.<sup>188</sup> Furthermore, a special police unit dealing

with violence against children, including sexual violence, has been set up in Vienna and in some Austrian counties.<sup>189</sup>

Additionally, there is a special department in the Federal Criminal Intelligence Office (Bundeskriminalamt) which is also running the reporting hotline [meldestelle@interpol.at](mailto:meldestelle@interpol.at) for child pornography and child sex tourism cases.<sup>190</sup> Nevertheless, there seems to be a lack of general knowledge regarding child protection and specialised units focusing on these issues. On the national and provincial level, there are often specialised units, but police officers “on the ground” are often not sufficiently trained to deal with victims of sexual exploitation. The police seems to be more capable of dealing with cases of general sexual abuse (e.g. within families), as this topic seems to receive more attention. Usually female officers are involved in examinations. Also, internal guidelines on child friendly procedures do exist. But



generally speaking, structural and nation-wide child protection guidelines and their implementation are lacking and there is no special attention to the needs of victims of (sexual) exploitation.<sup>191</sup>

A specialised police unit dealing with violence against children is active in most police stations of Vienna and is composed mainly of female police officers. The main task of these divisions is to ensure that children below the age of 14 years receive medical examinations that address the specific needs of victims of violence, especially sexual violence. In the Austrian counties, there are special units that ensure the right of victims of sexual abuse to be interrogated by a person of the same sex. Although the size of the special units differs in each country, at least one female officer is present. It has been noted, however, that not all cases of sexual violence can be investigated by these special units, as they lack sufficient resources.<sup>192</sup> Although special units still do not exist in all of Austria, the police are bound by internal guidelines on special child friendly procedures that are mandatory when the child is younger than 14 years.<sup>193</sup>

The Austrian Code of Criminal Procedure provides for child-sensitive investigative and judicial procedures. Prior to the first hearing, all possible child sex exploitation victims must be informed of their right to be interviewed by a person of the same sex, if possible.

In order to avoid ‘secondary victimisation,’ the possibility of ‘considerate examination’ also exists. According to this procedure, witnesses and victims under the age of 14 may be interviewed in a separate room without the presence of the accused, and the prosecution and the defendant are given the opportunity to ask questions indirectly (e.g. by using audio-visual equipment). In case the child under 14 is a victim of sexual exploitation, the Court is required to use this method.<sup>194</sup> Moreover, if the witness is under the age of 14, the video-link interrogation has to be conducted by an expert.<sup>195</sup> Although children older than 14 years are not entitled to ‘considerate examination,’ they can also be interviewed following this procedure (upon request by the public prosecution or court official) if it is in their interest, and in consideration of their maturity or psychological state. Following a “considerate examination”, the person does not have to testify at the main hearing.<sup>196</sup> There is no nation-wide model for child friendly procedures. Examination procedures of minors are based on a case-to-case assessment.<sup>197</sup>

In general, there is no minimum age for giving testimony, though experts may be consulted in order to make the determination of a child’s capability to testify. However, it has been argued that expert evidence about the capacity to testify is often obtained only after the child has already been interrogated, thus obligating the child to undergo a possibly traumatic hearing.<sup>198</sup>

## Support services for children

According to current legal provisions, child victims of sexual abuse are entitled to receive therapeutic treatment financed by the State as well as support from youth welfare institutions operated by Federal Länder. However, most of the services provided are not tailored to the special needs of children involved in commercial sexual exploitation. Furthermore, while a facility for child victims of trafficking has been established in Vienna, there is an overall lack of specialised shelters with staff specifically trained to assist these children throughout Austria. There is also no national reporting and referral system for trafficked children; however, the Working Group on Child Trafficking is making efforts to establish such a mechanism.



In 2010, 242 trafficking victims received support services, which included responsible repatriation, counselling and other assistance services by a government-funded specialised anti-trafficking NGO, compared to 182 in 2009. Ninety of the victims identified out of the 182 in 2009 were referred by the police.<sup>199</sup> However, the number of child victims among the identified victims from 2009 and 2010 remains unknown. In 2010, forty child trafficking victims were accommodated in another government-funded specialised centre for unaccompanied youth in Vienna.<sup>200</sup> In 2009, the specialized centre for accompanied youth of the City of Vienna “the Drehscheibe” accommodated 121 unaccompanied minors, some of whom were reported to be victims of trafficking;<sup>201</sup> however, the exact number of victims among them has not been reported.

The Youth Welfare Authorities are responsible for all children under the age of 18 who cannot be cared for by other people. Children may also receive assistance from other service providers. For example, children exploited in prostitution are often referred to facilities for drug users or to medical care centres in hospitals. Regrettably, these alternate structures are often not adequate to address the special condition of CSEC victims.<sup>202</sup>

The “Drehscheibe,” administered by the Viennese Youth Welfare authority, is the only specialised shelter for victims of child trafficking in the Federal Länder of Vienna. Although cases of children who are suspected of being trafficking victims are referred to this centre (mostly by the police), the shelter provides support services to unaccompanied minors in general rather than trafficked children in particular. Furthermore, the centre’s resources and ability to respond to the needs of child victims of trafficking are very limited. During a child’s stay at the “Drehscheibe,” the staff attempt to determine the identity of the child and to learn more about his or her individual story. When the

trafficked children originate from countries where systematic return is possible (through bilateral agreements or because they are EU Member States) and adequate care institutions exist, they are sent back to their countries of origin as soon as possible. It has been argued that this is not appropriate in the light of a Best Interest of the Child Determination (BID), which provides that systematic return needs to be done on an individual rather than general policy basis. Another specialised shelter for adult women run by LEFÖ-IBF also takes care of girls under the age of 18 in exceptional cases but, again, this is considered insufficient to respond to the particular protection and assistance needs of trafficking victims.<sup>203</sup>

Apart from this, there are still no other shelters. This has already led to problems in responding to cases within some federal states where the youth welfare authorities did not assume their responsibilities, in part due to a lack of facilities but also due to a lack of training. Without a national referral mechanism, child trafficking victims are often not provided with adequate shelter and services, especially in the federal states.<sup>204</sup> The major obstacle for an adequate national support for child trafficking victims is the allocation of resources and the lack of funding. As youth welfare is the responsibility of the federal states, new shelters would need collaborative action and funding by all federal states. Furthermore, the general budget of youth welfare has been cut in recent years and child trafficking victims do not attract enough (public and political) attention in order to encourage funding and measures to be implemented. With the lack of specialised centres in the Länder, unaccompanied and potentially trafficked children were placed on a case-by-case basis in different locations such as emergency shelters, women’s shelters, child protection centres, even hospitals or church institutions.<sup>205</sup> These institutions mostly lack the necessary training to deal with possible victims of trafficking in terms of needs-based

services and security aspects.

Although the Youth Welfare authority is responsible for children at the country level (and has developed some expertise in taking care of child victims of trafficking in Tyrol within their general care system), there needs to be a specialised system and competent authority to handle such cases. The Task

Force Working Group on Child Trafficking is currently still evaluating whether such a mechanism will be in the form of a national shelter or will be developed on a regional (county) level. An additional option would be to establish a national and/or regional competency centre, where cases can be documented and followed up and expertise offered to all relevant stakeholders.<sup>206</sup>

## The residence permit for victims of human trafficking

In 2008, an internal decree issued by the Minister of the Interior specified that victims of human trafficking, including children, are to be granted a period of 30 days to recover and reflect. Once the status of a victim of human trafficking has been determined, a residence permit for humanitarian reasons can be issued for a period of at least six months and can be renewed if needed. However, child trafficking victims have no legal entitlement to apply for such a permit and the decision to grant the permit to child trafficking victims is left to the discretion of the Minister of the Interior. The Austrian Parliament's discussion on an amendment of the legislation regulating the granting of stay for humanitarian reasons has not yet begun.<sup>207</sup>

Any victim of human trafficking is entitled to a reflection period of 30 days. However, only if the trafficked person becomes part of the Austrian "victim-trafficking-assistance regime" will the residence permit based on the reflection period be granted for the 30 days. Participation in the victim-trafficking assistance regime does not depend on police cooperation. However, after the 30 days, a residence permit on the basis of "Special protection need", § 69a NAG National Residence and Settlement Act, targeting citizens from non-EU countries)<sup>208</sup> can only be granted if the victim is cooperating with police. However, as for unaccompanied children below the age of 18, cooperation with the police is not a condition. The only condition is that the appropriate youth welfare authority takes over legal guardianship of the child.<sup>209</sup>

Persons who are granted a humanitarian residence permit usually receive basic welfare support, including health care. Unaccompanied foreign minors are entitled to special age-appropriate treatment, which includes psychosocial care. For victims who do not receive this basic welfare support, emergency treatment should at least be provided.<sup>210</sup>

In practice however, effective access to medical support is not always guaranteed. The sensitivity of the treatment given to sexual exploitation victims often depends on the individual doctor/medical staff. Due to the lack of a national referral mechanism, the physical and psychological needs of

victims are not always met. Concerning the age adequate treatment of unaccompanied minors, the controversial methods of age assessment still lead to problems in accessing specialised services.<sup>211</sup> It is to be hoped that the implementation of the Third National Action Plan against Human Trafficking will bring improvements in this respect as the development of a national referral mechanism is addressed in the Third National Action Plan Against Human Trafficking.

Upon request, trafficking victims are also entitled to psychosocial and legal assistance in criminal proceedings, if and to the extent it is necessary to exercise their procedural

rights. This right is not limited to cases of sexual exploitation, but can rather be applied to all trafficking cases. Nevertheless, due to the limited number of institutions dealing specifically with trafficked children, difficulties in securing this right may be encountered. There is no special mechanism to ensure the access of child trafficking victims to a comprehensive set of specialised psychological, psychosocial, social and legal services or a specialised institution/shelter providing these services to minor victims (as it is the case for adult female victims).<sup>212</sup>

Victims of child trafficking also have the right to attend school regardless of residence status and nationality. However, access to vocational training is granted only if a work

permit for an apprenticeship contract is obtained.<sup>213</sup>

There is no specific helpline in Austria for child victims of trafficking and sexual exploitation. A general helpline advertised by the public broadcaster ORF on TV and radio offers confidential, 24-hour, professional help over telephone and the Internet through the “Rat auf Draht” campaign. However, this service is not specialized, is focused on German-speaking children, and does not have the capacity to provide particular assistance to child victims of trafficking. Further, it is only partially subsidised by the state, covering about 40% of personnel costs. The continuance and amount of these subsidies are reviewed annually.<sup>214</sup>

## Training law enforcement personnel

In order to raise awareness among law enforcement, the topic of trafficking in human beings (including some treatment of child trafficking) was included in the mandatory basic education for all police officers. In line with the NPA-TH, capacity-building a seminar on human trafficking for judges and prosecutors was also held. However, specialised training on investigating child trafficking crimes needs to be enhanced, particularly to ensure early identification of victims and child-sensitive investigations.

The Second State Report on the implementation of the OPSC does not mention any capacity-building activities to enhance investigation and prosecution of child pornography related offences; it is unclear whether such initiatives exist.

The Federal Security Academy organises in-service training seminars to raise and promote awareness of law enforcement officers using the manual *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking* (which it prepared jointly with the IOM) as the basic training material. The issue of human trafficking has additionally been included as a subject in the basic training syllabus of all Austrian police training centres.<sup>215</sup>

A number of capacity-building activities have been implemented by NGOs, sometimes with financial support from the government. Specifically on the issue of child trafficking,

ECPAT Austria has developed training programs and a trainer manual on the topic in the framework of a joint European project coordinated by the ECPAT Europe Law Enforcement Group. As part of this initiative, two Multi-Stakeholder Trainings took place in Austria in January and December 2008. These trainings were attended by law enforcement staff, employees at youth welfare organisations, women's shelters, refugee organisations, and similar bodies.<sup>216</sup> In the framework of the ECPAT-The Body Shop-campaign against child trafficking ECPAT Austria conducted one training-the-trainer seminar for multi-stakeholder training in 2010 and four multi-stakeholder trainings on

child trafficking in five Länder in 2010 and 2011. Trainings in the remaining four Länder are planned.

Furthermore, in late 2010 ECPAT Austria was mandated to carry out eight police trainings on child trafficking. This can be seen as progress in terms of enhancing investigating child trafficking crimes.<sup>217</sup> The trainings for the police, conducted by ECPAT in cooperation with an expert from Youth Welfare Authority were continued in 2011 and are ongoing in 2012. Nonetheless, special training for police officers on child trafficking needs to be expanded nationwide and institutionalised as part of the basic and ongoing training for police in Austria. Special police units dealing with child trafficking still do not exist. A possible solution is to train the units that have been established to deal with child sexual exploitation cases since these police officers are likely to come into contact with child trafficking victims who have been sexually exploited.<sup>218</sup>

Government-funded training on trafficking in human beings also takes place in cooperation with the LEFÖ- Intervention centre for trafficked women. These courses are taught once a year as part of special police training but are not focused on child trafficking.<sup>219</sup> In 2007 and 2008, as part of the “Trafficking in Persons: Protection of Victims’ Rights in Criminal Proceedings and Beyond” (a project financed by the AGIS programme and carried out jointly by the Ludwig Boltzmann Institute of

Human Rights in cooperation with partners in Germany and Romania), a number of training seminars to sensitise judges, prosecutors and police officers dealing with organised crime in Romania were held. A handbook on trafficking was also developed, which gives an overview of the information presented in the training seminars and contains information about the identification process, the rights of victims in criminal proceedings, and interrogation of victims. Regrettably, it does not address specifically the issue of child trafficking.<sup>220</sup>

Trainings for judges and prosecutors on the topic of human trafficking are not mandatory. Only one training on the issue of human trafficking (not specifically on child trafficking) took place in 2011. So far there is no specific training offered for public prosecutors and judges concerning the topic of human trafficking/child trafficking or concerning other OPSC topics. However, in light of current judicial practice (hardly any charges or convictions based on Art 104a) awareness raising and training of judges and public prosecutors is essential. The lack of sensitisation in the work with children who are victims of sexual exploitation during the course of court proceedings very clearly shows a need for action. As noted above, there is a tendency for the government and authorities generally to equate training on the topic child abuse with the topics of the OPSC, but this seems to fall too short because the aspect of exploitation and the commercial aspect are excluded.<sup>221</sup>

## CHILD AND YOUTH PARTICIPATION

There is hardly any evidence of direct participation of children in the development or implementation of awareness-raising efforts and other activities against child trafficking and CSEC in Austria. Most government initiatives in this regard are focused on child rights in general and not children's participation.<sup>222</sup> The only exception is the Youth Advisory Committee of ECPAT Austria (Committee for Youth Action) which has implemented a number of projects and activities specifically addressing CSEC.

There has not been any initiative on youth participation in fighting CSEC from the Austrian government in recent years. But the National Coalition on Child Rights (ECPAT is a member) made a youth report for the Committee of the CRC-reporting which was partly funded by the Ministry for Youth. Parts of this youth report also dealt with CSEC, (these specific input came from the ECPAT youth committee).<sup>223</sup>

The Youth Advisory Committee of ECPAT Austria was actively involved in the development of the Alternative Report on the implementation of the OPSC, and in the organisation of the National Preparatory Conference for the Third World Congress. Furthermore, the youth group developed and implemented peer-to-peer workshops on the "Safe use of new technologies and the dangers of child pornography" for students from the ages of 14-18 years and is participating and contributing to the ECPAT-TBS campaign "Stop Sex Trafficking of Children" (see the section on Prevention of Child Trafficking), conducting several awareness raising activities throughout the campaign period as well as a training-of-trainer seminar for young people in order to enable them to conduct peer-workshops of CSEC-topics.<sup>224</sup>

On October 15th-18th 2009, the Youth Advisory Committee organised and held an international training course in Vienna entitled, "Youth Combating Sexual Exploitation of Children." The conference brought together 20 young people from

six European ECPAT and affiliated youth groups fighting against sexual exploitation and for the promotion of children's rights. The training provided an opportunity for sharing best practices and expertise on methods in youth work. The main outcome of this capacity-building activity was the manual, "Dare to be Aware - Activities and Methods for working with young people on the topic of commercial sexual exploitation of children." The book was designed by young people for young people and contains methods for peer-to-peer education on commercial sexual exploitation of children.<sup>225</sup>

In 2010 and 2011, the youth committee was also involved in the development of the children's and youth report "Feedback" of the National Coalition for the Implementation of the UN Convention on the Rights of the Child in Austria which was presented by ECPAT Austria to the UN Committee on the Rights of the Child in February 2012. The ECPAT youth had organised a research seminar on child trafficking in 2010. Based on the results of this seminar, the youth participants conducted empirical social research in two selected institutions that care for unaccompanied minors and victims of child trafficking in Vienna in order to contribute to the understanding of the special needs of the victims of trafficking. The outcome of the research was part of the "Feedback" children's and youth report and the main findings were also included into the Alternative Report on the implementation of the Convention of the Rights of the Child.<sup>226</sup>



## STOP Sex Trafficking of Children & Young People Campaign

An important advocacy component of The Body Shop and ECPAT 'Stop Sex Trafficking of Children and Young People Campaign' is the country progress card system, which ECPAT and The Body Shop created to assess the progress of state action on specific commitments and promises to uphold the rights of the child to protection from sex trafficking and all forms of commercial sexual exploitation. In line with the 2008 *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children* from the World Congress III against Sexual Exploitation of Children and Adolescents, this innovative tool provides readers with information on states' action to combat child trafficking, specifically towards the three goals of the campaign:

1. Community-based prevention programmes to stop child trafficking are reaching at-risk populations;
2. International legal standards for protecting children from trafficking have been incorporated into the national legal framework; and
3. Specialised government services for child victims of trafficking are integrated into national policies.

Austria: Summary of Progress Card <sup>II</sup>			
Goal 1: community-based prevention programmes			
Prevention	Collaboration	Awareness raising	Teacher training
		★	★
Goal 2: legal framework			
Optional Protocol	Trafficking Protocol	National legislation	Special police units
Goal 3: specialised services for child victims			
Helpline	Shelters	Medical services	Psychological counselling
			★

Green = significant action taken by state; Yellow = partial action taken by state;  
Red = inadequate level of state action; Star = work undertaken by NGOs

From the global assessment of the Progress Cards, Austria is among the 53% of territories reviewed which have made some progress to stop sex trafficking of children and young people. Progress has been made by strengthening the national legal framework and policies for combating child trafficking. Improvements can be made if the government worked on ensuring adequate implementation of commitments, coordination, and specialised support for child victims of trafficking in the country.

<sup>II</sup>The Austria Progress Card is available at [www.ecpat.net](http://www.ecpat.net)



## PRIORITY ACTIONS REQUIRED

### National plan of action

- Austria should update the “Young Rights Action Plan” and, in this framework, include measures to address CSEC manifestations, especially child pornography, child prostitution, and child sex tourism which have been partially disregarded in the last few years;
- The Austrian Government should allocate sufficient resources for the implementation of the Third National Plan of Action against Human Trafficking 2012-2014 and should also consider involving children and young people in the development and implementation of measures under the plan specifically addressing child trafficking;

### Coordination and Cooperation

- Information exchange between government agencies and civil society organisations working on child trafficking and CSEC issues should be strengthened and the active involvement of key actors for child rights issues from the Länder needs to be further enhanced;
- Austria needs to establish a mechanism to effectively coordinate existing institutions dealing with CSEC issues, including at the provincial and national levels;
- Even though The Child and Youth Advocate Offices (Kijas) are mandated to receive complaints from, or on behalf of, children on violations of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), more attention should be devoted to CSEC issues by these institutions;
- A comprehensive data collection system should be established to ensure that data, disaggregated by age, sex, minority group, socio-economic background, and geographical area are systematically collected and analysed. Data should also include information on the number of prosecutions and convictions for such offences, disaggregated by the nature of the offence, including the form of exploitation in cases of child trafficking.
- Austria should further enhance international cooperation by multilateral, regional, and bilateral arrangements for the prevention, detection, investigation, prosecution, and punishment of acts involving the trafficking of children, child prostitution, child pornography, and child sex tourism.
- Austria should continue to allocate financial resources to international cooperation projects, addressing CSEC in the countries of origin of child trafficking victims and in the destination countries of Austrian child sex tourists.



## Prevention

- Comprehensive research on the different forms of CSEC, with a particular emphasis on prostitution involving boys, the "loverboy" phenomenon, prostitution in return for goods, child pornography, child sex tourism, as well as juvenile offenders in the area of sexual exploitation and abuse is urgently required;
- The Austrian Government must take urgent action to implement prevention and awareness programmes, which will address the vulnerability to trafficking of at-risk children (i.e. from ethnic minorities), to ensure that all children receive the same rights. In particular, the school environment and inclusion of child trafficking topics in the school curricula, combined with the active participation of the community, children, and young people will serve this purpose;
- Programs also need to be conducted to reduce demand for sex services from children through clear preventive measures and awareness-raising to encourage greater public mobilisation and stricter law enforcement. The State should also continue to fund and conduct nation-wide public awareness campaigns about child trafficking and train professionals working with and for children as well as the general public to combat and prevent trafficking in children;
- Specific sensitisation activities to reach out to children vulnerable to exploitation in prostitution and online sexual exploitation should be developed;

## Protection

- The national trafficking law needs to allow for more severe punishment for child trafficking as well as more flexibility to punish new forms of exploitation of children in trafficking;
- The possession of child pornography involving adolescents between 14 and 18 years old should be criminalised regardless of the child's consent. Similarly, the manufacture or possession of virtual pornography involving adolescents over the age of 14 should be criminalised more uniformly;
- Austria should develop appropriate measures to ensure that child victims of trafficking and commercial sexual exploitation are not penalised;
- In order to increase the effective investigation and the successful prosecution of child trafficking and CSEC-related cases and improve victim identification and victim protection, the Austrian government needs to provide more resources to enhance the capacity and training (specifically on the topics of child trafficking and CSEC) of law enforcement officials, prosecutors, judges and other stakeholders;
- More resources should be allocated to the specialised police units dealing with violence against children, including CSEC, to ensure that all cases of sexual violence can be properly investigated;
- Austria should consider requiring Internet service providers to block access to sites that feature child abuse images;
- The Austrian government needs to harmonise and implement the provisions of the EU Directive 2011/36/EU into its own domestic law.

## Recovery and Reintegration

- Capacity-building of relevant professionals providing care to child victims of trafficking and sexual exploitation is urgently needed as a protective measure to ensure appropriate recovery and reintegration;
- The government should provide financial and logistical support to current NGO efforts to establish a shelter home for child victims of forced marriage.
- Austria should ensure that repatriation of child trafficking victims is not carried out automatically but only when it is in the best interest of the child;
- Child victims of trafficking need to have a legal right to ask for and obtain a residence permit. A holistic approach as to the needs (physical, psychological, etc.) of child trafficking victims needs to be adopted and adequate services provided as well as access to these services ensured;
- Austria should establish a specific helpline for child victims of trafficking and sexual exploitation. In the meantime, adequate funding of the ORF helpline, “Rat auf Draht,” should be ensured. Furthermore, the discussions and plans for a national referral mechanism, including regional or national shelters and competence centres, needs to be completed and the implementation process needs to begin. These care services for child victims of trafficking need to be designed and differentiated from the services provided to adult victims and non-trafficked Austrian children in crisis.

## Child and Youth Participation

- Take steps to ensure effective participation of children in the implementation, monitoring and evaluation of existing NPAs related to CSEC as well as in the development of new programmes addressing these issues.
- Build a culture of respect for children’s participation through strengthening legal frameworks to institutionalise the entitlement to participation and to raise awareness and sensitise professionals and parents to the benefits of children’s participation rights.
- Support child participation initiatives, including child-led organisations, within all stages of prevention and protection programmes.

# ANNEX

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

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

### C. Call for Action

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

#### I - International and Regional Instruments

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

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

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

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

*Child pornography/child abuse images*

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

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

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

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

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

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

#### *Sexual exploitation of children and adolescents in prostitution*

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

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

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

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

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

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

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

*Trafficking and the sexual exploitation of children and adolescents*

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

(25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.

(26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF

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

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

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

(28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.

(29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.

(30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.

(31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.

(32) Establish special gender sensitive units/ children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.

(33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.

(34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions

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

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

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

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

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

#### *Prevention*

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



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

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

#### *Protection of the child*

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

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

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

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

## V – International Cooperation

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

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

## **VI – Social Responsibility Initiatives**

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

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

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

## **VII – Monitoring**

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

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

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

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

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

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

We urge the Human Rights Council to:

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

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

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

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

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

through the sexualization of children in advertising.

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

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

We call on religious communities to:

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

## C. Call for Action

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

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

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

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