



Global Monitoring

status of action against commercial
sexual exploitation of children

POLAND



2nd EDITION

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GLOSSARY OF TERMS AND ACRONYMS

- **CBSS** – Council of the Baltic Sea States
- **The Code** - The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism
- **CRC** – Committee on the Rights of the Child
- **CSEC** - Commercial sexual exploitation of children. CSEC 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. CSEC comprises sexual abuse by the adult and remuneration in cash or in kind to the child or third person of persons.
- **ECPAT** - End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes
- **EGCC** - Expert Group for Cooperation on Children at Risk
- **EU** -European Union
- **Grooming** -Preparing a child for sexual abuse or exploitation
- **ICMPD** - International Centre for Migration Policy Development
- **ICT** - Information and Communications Technologies
- **INHOPE** - International Association of Internet Hotlines
- **INSAFE** -European Network of Awareness Centres
- **ISP** -Internet Service Provider
- **KCIK** - The National Consulting and Intervention Centre for the Victims of Trafficking
- **MLSP** – Ministry of Labour and Social Policy
- **MoI** – Ministry of Interior
- **MoJ** – Ministry of Justice
- **NCF** – Nobody’s Children Foundation
- **NGO** -non-governmental organisation
- **NPA** -National Plan of Action
- **SIC** -Safer Internet Centre
- **TF-THB** - Joint Task Force on Trafficking in Human Beings

FOREWORD

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

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

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

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

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

have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations for their invaluable inputs to this report. ECPAT International would also like to

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

METHODOLOGY

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

Preparatory work for this 2nd 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 2nd 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 2nd 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 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.

POLAND



INTRODUCTION

Poland is a parliamentary republic with a population of approximately 38.5 million.¹ The country is divided into 16 administrative provinces ('voivodships'), which are further divided into 'powiats' (counties) and 'gminas' (communes or municipalities).² Beginning in the early 1990s, Poland began to pursue democratic reform and a market economy and is now touted as an example of a successful transition economy.³ Poland joined NATO in 1999 and the European Union (EU) in 2004.

Poland was the only country in the EU to avoid a recession during the 2008-2009 economic downturn⁴ and with a Human Development Index of 0.813 Poland is ranked 39th out of 187 countries with comparable data, placing it above the regional average.⁵ However, the country's Gross Domestic Product (GDP) per capita remains significantly below the EU average and the unemployment rate, at approximately 12.4%, is 2% higher than the EU average. Poland also continues to face critical social issues, including the commercial sexual exploitation of children (CSEC). Furthermore, commercial sexual exploitation of children in

prostitution seems to be the most identified form of exploitation of children in Poland.⁶

Following the 1996 Stockholm and the 2001 Yokohama global forums on CSEC, Poland reaffirmed its commitments at the World Congress III against Sexual Exploitation of Children and Adolescents, in November 2008 in Brazil. The World Congress III renewed global commitment and galvanized international resolve to combat sexual exploitation of children and adolescents. In total, more than 3,000 people took part in the three-day gathering, including representatives from government, the private sector and civil society as well as 300 children and adolescents from around the world.

While Poland has made some progress in efforts to combat CSEC in recent years, primarily with regards to trafficking in children for sexual purposes, significant gaps remain, most notably with regards to child prostitution and child sex tourism. Poland needs to implement a centralised and systematic response to CSEC to facilitate comprehensive prevention and protection

Trafficking in children for sexual purposes

The US Department of State annually releases a *Trafficking in Persons Report* which categorises countries into different "tiers" based on the extent of government action to combat human trafficking. Countries that have the highest level of compliance with the *Trafficking Victims Protection Act's* minimum standards for the elimination of trafficking are placed in **Tier 1**. Those that have made "significant efforts" to meet the standards are placed in **Tier 2** and countries that are not making significant efforts to combat human trafficking are placed in **Tier 3**.

In the 2012 report, Poland was placed in **Tier 1**.⁷

Given the scope of trafficking in human beings in Poland, it has received significant government and NGO attention and efforts to combat this phenomenon have been augmented in recent years, bringing Poland largely in line with international standards. Poland has established a variety of institutional mechanisms for combating trafficking and has implemented a number of positive anti-trafficking programmes and policies. The Ministry of Justice coordinates the network of 16 centres where support for trafficked victims is given (e.g. legal, psychological recovery etc.). However, there is a general lack of targeted measures specifically against trafficking in children for sexual purposes and there is no comprehensive support system for ensuring specialised and effective measures are in place to facilitate the recovery and reintegration of child victims.

Poland's accession to the EU in 2004 and membership in the Schengen zone have facilitated easier cross-border travel,⁸ which has shaped the landscape of human trafficking in the country and contributed to Poland's ranking as one of the top 7 countries with the highest number of trafficking in human being cases.⁹ While Poland has been a source country for victims of trafficking since the early 1990s, it has also become a notable transit and destination country over the last decade.¹⁰ Women and children from Poland are trafficked domestically and to European countries such as Germany, Austria, the Netherlands, Italy and Finland.¹¹ Victims that are trafficked to Poland for sexual exploitation are predominantly from Ukraine, Belarus, Bulgaria and Romania;¹² though there has also been an emerging trend of women from African countries (including Djibouti, Democratic Republic of the Congo and Cameroon) being trafficked to Poland for forced prostitution.¹³

There were 323 trafficking victims identified in 2010, a marked decrease from the 611 identified victims in 2009.¹⁴ Polish citizens have long comprised the majority of identified trafficking victims, illustrating

the high prevalence of domestic trafficking in human beings. From 1995–2008, 3170 victims were identified, 79.7% of whom were Polish citizens (the remaining 20.3% were primarily from the Ukraine and Belarus).¹⁵ In 2010, 77.3% of the identified trafficking victims were Polish citizens and 22.7% were foreigners.¹⁶ The majority of trafficking offenders are also Polish citizens (over 80% of offenders in the period of 2001–2008).¹⁷ These statistics reveal the concerning extent of trafficking in Poland, the rising trend of this phenomenon and the tendency for it to be a crime committed by Polish citizens against Polish citizens.

While the Polish government has identified trafficking in children for sexual exploitation in particular as a significant problem,¹⁸ the extent and scope of the issue is unknown. The Bureau of Organized Crime and Corruption of the Prosecutor General's Office recorded 66 child victims (under 18 years) of trafficking in 2009, 32 such victims in 2010 and 17 victims in 2011.¹⁹ However, it is unlikely that available statistics accurately reflect the actual extent of child trafficking in Poland as there are problems with comparing data from the Ministry of Justice, Police and from Prosecutor General's Office as each of these institutions gather the statistics in a different way (e.g. some statistics are recorded at different stages of the proceedings). The additional problem is that the provision in Polish Criminal Code that concerns trafficking in human beings in general (art. 189a) does not include a separate regulation concerning trafficking in children so child victims are not always appropriately detected. Poland has not institutionalised a system for facilitating the identification of victims among all relevant actors. Furthermore, it is reported that children often arrive at borders unaccompanied, without the necessary documents and sometimes with signs of being intimidated.²⁰ Therefore, the group of potential trafficking victims is quite large and difficult to thoroughly screen/investigate (border guards are now receiving cascade trainings, see Training of law enforcement

section below). Further preventing the identification of child victims is that some unaccompanied foreign child victims evade detection by applying for refugee status, under the instruction of their traffickers, to gain temporary accommodation in refugee shelters where they can then escape from the shelters back into the control of their traffickers.²¹

Children in Poland who are reportedly most at risk of being trafficked are unaccompanied foreign children, street children and children in residential care institutions.²²

Other factors that have been identified as contributing to a heightened vulnerability to trafficking are unemployment and a lack of education.²³ Furthermore, women and girls from dysfunctional families or who have experienced domestic violence are more vulnerable to becoming victims of trafficking for sexual purposes.²⁴ Other recent trafficking trends are the increasing tendency for victims to be recruited on the Internet²⁵ and the practice of women being recruited by men that they already know (such as their fathers, brothers or friends).²⁶

Child prostitution

While a comprehensive understanding of child prostitution in most countries is a challenge, available information suggests it is a persistent threat to children in Poland. Yet, Poland's legislative framework against child prostitution is inadequate and preventative efforts are minimal. It is critical that Poland conduct research into child prostitution to better assess the nature and scope of the threat and use this information to institute an effective framework to combat this manifestation of CSEC and support child victims.

Prostitution itself, both using as well as offering sexual services, is not illegal in Poland; however, certain conduct in relation to prostitution is prohibited, as is the exploitation of children. Statistics suggest that while prostitution is relatively high in the country, the number of child victims is relatively low. In 2008, 751 people were identified as being engaged in roadside prostitution, 10 of whom were under the age of 18 years. Of the 2,520 people identified as being engaged in prostitution in escort agencies in 2008, 24 were under the age of 18.²⁷ The number of child victim forced into prostitution or pimping in 2009 was 125, in 2010 the number was 34, and in 2011 the figure was 126 (as per the definition of par. 203 and 204 § 3 of Criminal Code).²⁸ However, given that child prostitution is

only always illegal if the child is under 15 years of age (between 15 and 18 it depends upon whether the child is perceived as having 'initiated' the sexual contact, it is likely that some child victims are not appropriately identified. One research study revealed that 1/3 of the child victims of prostitution had been exploited in prostitution when they were younger than 15 years of age.^{29,30} In 2011, 25 persons were convicted of pimping with the involvement of a minor.³¹ It was also stated that 24% of 15-18 year olds who were interviewed in a recent research study had known at least one person who had engaged in sexual relations for remuneration over the last year.³² This disjointed data highlights the critical need for Poland to initiate in-depth research studies on child prostitution that engage all relevant actors and create a comprehensive and unified system of collecting and presenting statistical information.

The children in Poland who have been identified as most vulnerable to becoming victims of prostitution are unaccompanied foreign minors and children living in residential care institutions.³³ While there is no data on child prostitution disaggregated by sex, it is reported that both boys and girls are at risk of being exploited in prostitution in Poland.³⁴ However, given that boys who are victims of prostitution may be more reluctant

to disclose their experiences due to complex cultural factors, the extent of their exploitation may be more difficult to discern.³⁵ Poverty and previous experiences of commercial sexual

exploitation or other forms of abuse have also been identified as contributing to a child's vulnerability.^{36,37}

Child pornography/child abuse images

An assessment of the prevalence and nature of child pornography in Poland is also challenging given the lack of comprehensive data. However, the scale of attention given to child pornography in recent years likely suggests it is a pressing and growing concern, which is supported by the limited available statistics. While many efforts to combat child pornography have been augmented, there are significant gaps in relevant legal provisions that must be addressed in order to comply with international standards and commitments. Poland must also gain a better understanding of child pornography in the country through research studies and enhanced multi-stakeholder collaboration to inform the implementation of effective prevention and protection measures.

Statistics from the Polish hotline, *dyzurnet.pl*, offers some insight into the presence of child pornography in Poland and suggests

a dramatic increase in recent years. In 2005, when *dyzurnet.pl* was launched, there were less than 1000 reports to the hotline, whereas in 2011 there were 5444 reports.³⁸ Child pornography has constituted the majority of reports to the hotline over the years and has thus followed this same increasing trend. In 2009, there were approximately 3250 child pornography reports, 19 reports of child grooming activities and 13 reports of child erotica/inappropriate child-related images. In 2011, 61% of the reports were classified as child pornography (constituting 3310 reports).³⁹ However, it is important to note that this rise could be attributed to a number of factors, such as the expansion of the Internet in Poland or increased awareness of the hotline. Regardless, given the rapid growth in Internet use and the popularity of file-hosting services in Poland,⁴⁰ it is likely that there is a growing risk of child pornography in Poland.

Child sex tourism

There is no data on child sex tourism in Poland. It is, however, reported that a 'cross-border sex industry' has developed along Poland's border regions with Germany and its eastern neighbours.⁴¹ This phenomenon must be closely examined to determine if children are being exploited in this new 'industry' and measures must be implemented to take a proactive approach in protecting children against this risk.

The existing potential for children to be exploited with increased tourism is illustrated with the implementation of the "Don't Lose!" campaign, which sought to prevent the

exploitation of children with the influx of tourists and soccer fans during EURO 2012 (see Prevention section for more information). Continued prevention measures such as this campaign are particularly important given the rising trend of tourism in Poland. In 2010 there were 12.5 million foreign tourist arrivals in Poland (a 5% increase from 2009). This growth continued in 2011 with more than 6 million foreign tourist arrivals in the first half of the year (an 8% increase from the same period in 2010). The Polish government forecasts tourism numbers to increase to 14.3 million by 2015.⁴² In 2012, the Nobody's Children Foundation became a Local

Code Representative of The Tourism Child Protection Code and the first companies will sign the code in October 2012 in Poland. This

international instrument will be a valuable way to ensure private sector standards in preventing child sex tourism.⁴³

NATIONAL PLAN OF ACTION

Poland does not have a National Plan of Action (NPA) that covers all manifestations of CSEC. There are two NPAs that contribute to the protection of children from CSEC: 1) *National Action Plan for Children 2004-2012 "Poland for Children"* and 2) *National Action Plan against Trafficking in Human Beings*. However, these policies do not provide comprehensive coverage, most notably in that they lack measures that specifically target child prostitution, child sex tourism and child pornography. Trafficking in children for sexual purposes is included in the *National Action Plan against Trafficking in Human Beings*; however, it lacks a comprehensive focus on child victims specifically.

In consultation and cooperation with all relevant stakeholders, including children and youth, Poland should develop and implement a separate NPA that protects children from all forms of CSEC in order to establish a comprehensive framework for intervention in the 5 key areas: coordination and cooperation, prevention, protection, recovery and reintegration, and child participation.

National Action Plan for Children 2004-2012 "Poland for Children"

The *National Action Plan for Children 2004-2012 "Poland for Children"*⁴⁴ (*NPA for Children*) was adopted in 2004 in partial fulfilment of Poland's commitments under the UN document "A World Fit for Children".⁴⁵ The four priority areas identified in the NPA for children are: 1) promoting a healthy lifestyle; 2) ensuring appropriate quality of education; 3) help and support for the family; and 4) protection from molestation, abuse and violence.⁴⁶ The *NPA for Children* is a critical policy document for helping to combat CSEC in Poland as it addresses factors that contribute to the vulnerability of children to CSEC. Furthermore, it specifically targets the reduction of violence and sexual abuse against children.

However, there are no substantive measures in the *NPA for Children* that are devoted specifically to CSEC. Poland should consider remedying this gap with the adoption of a separate NPA dedicated solely to CSEC.

If this recommendation is not realised, Poland should alternatively ensure that comprehensive coverage of all CSEC manifestations is included in any future strategy for children, given that the current *NPA for Children* will expire in 2012.

National Action Plan against Trafficking in Human Beings

The *National Action Plan against Trafficking in Human Beings* (*"Trafficking NPA"*)⁴⁷ is adopted every two or three years and monitored annually, in continuation of the *National Programmes for Combating and Preventing Trafficking in Human Beings*, which was first implemented in 2003.⁴⁸ The *Trafficking NPA* for 2011-2012 identified three priority objectives: 1) initiating prevention activities and research; 2) improving the effectiveness of existing measures; and 3) supporting and protecting victims. The *Trafficking NPA* for 2011-2012 is laudable in that it provides a fairly comprehensive response to trafficking

in human beings, by and large covering the five key areas listed above. However, it would be strengthened by including more activities with a particular focus on children and even more specifically on their trafficking for sexual purposes. Furthermore, the 2011-2012 *Trafficking NPA* does not contain any strategies for promoting sustained and meaningful participation of children and youth in the fight against trafficking.

The activities in Section 1 of the 2011-2012 *Trafficking NPA*, pertaining to prevention and research/data collection, are extensive and include provisions that focus on children and youth. Activity 7 seeks to enhance data collection on a wide range of aspects relating to the trafficking of children and youth.⁴⁹ Prevention activities that target children and youth are included under Activity 8, which calls for the implementation of awareness raising campaigns within Polish schools.⁵⁰ However, one critical drawback of the prevention section is the absence of any strategies for reducing the demand for child victims of trafficking. Future *Trafficking NPAs* should include prevention activities aimed at the exploiters of children who are trafficked for sexual purposes.

Section 2 identifies important amendments to legal provisions that must be made, as well as activities to enhance coordination, cooperation and training related to trafficking in human beings. There is commendable attention given to augmenting the training of relevant professionals and officials to strengthen the response to child trafficking. However, there is no specific consideration given to children in many of the other activities outlined in Section 2. The same is true for Section 3; however, Activity 3 should be highlighted as a positive example since it seeks to implement a support system for child victims in Poland. Yet, the limited child-specific policies illustrate the need for an NPA dedicated specifically to child trafficking, or CSEC more generally, to ensure that complete coverage is afforded to

children in all relevant policy areas.

The Committee for Combating and Preventing Trafficking in Human Beings (“Trafficking Committee”) was established in 2004 (under Ordinance No. 23). The Trafficking Committee is involved in the creation of the *Trafficking NPAs* and is comprised of representatives from a wide range of relevant government agencies, NGOs and other institutions.^{51,52} This importantly enables a broad spectrum of key stakeholders to participate in the development of the *Trafficking NPAs*. However, there is no evidence of child and youth participation in the creation of the Trafficking NPAs, as required by the Rio Declaration and Call for Action. Poland should ensure that children and youth are afforded meaningful opportunities to participate in the development of all CSEC-related policies, including future *Trafficking NPAs*.

The implementation of the *Trafficking NPA* is not attributed to a coordinating mechanism but is instead assumed by a number of different actors, as identified in the *Trafficking NPA* for each activity (along with an implementation deadline). The coordination of these activities is, however, facilitated by the numerous trafficking bodies, as outlined in the Cooperation and coordination Section below. The actor(s) responsible for implementing activities in the *Trafficking NPA* are also responsible for financing their implementation.⁵³ However, there is the option of receiving financial support from the European Union funds or the Norwegian Financial Mechanism.⁵⁴

The main government institutions responsible for implementing the Trafficking NPA, the MoI and the MLSP, have allocated significant resources for undertaking their assigned activities (or financing or co-financing tasks assigned to other institutions). In 2011, the MoI allocated PLN 856,000 (approx. \$260,000 USD) and the MSLP allocated PLN 140,000 (approx. \$43,000

USD) for trafficking training programmes.⁵⁵ Importantly, a significant portion of the MoI funds is specifically designated for financing or co-financing tasks that are assigned to NGOs (PLN 750,000).⁵⁶ In 2012, the MoI increased the allocated budget for the *Trafficking NPA* to PLN 908,000 (approx. \$277,000 USD) – PLN 778,000 of which is for financing or co-financing tasks assigned to other institutions/NGOs – and the MLSP maintained its funding allocation. It, therefore, appears that the Polish government has backed up the *Trafficking NPA* with adequate funding, which they are encouraged to maintain.

While Poland does not have an independent National Rapporteur on Trafficking to monitor and evaluate the implementation of the *Trafficking NPA*, the Trafficking Committee acts as a comparable instrument given that it is made up of a wide variety of governmental and non-governmental actors, helping to maintain the legitimacy of the evaluation as an unbiased tool for accountability. The Trafficking Committee is responsible for submitting a report on the implementation of the *Trafficking NPA* to the Prime Minister by January 31st of each year.⁵⁷ Furthermore, since the Trafficking

Committee only meets twice a year, a Working Group of experts was established to monitor the implementation of the *Trafficking NPA* on an ongoing basis (see Cooperation and coordination section below for more information). Whilst the last report is felt to be fairly comprehensive, it is also very descriptive making it quite difficult to assess to what extent the plan has been realized as there are no clear indicators. It also mentions that several tasks had not been implemented due to prolonged legislative work or changes in funds distribution (the same problem was noted in previous reports). Moreover, they do not explain how certain actions taken contributed to the implementation of the overall anti-trafficking strategy. It is therefore important to introduce mechanisms allowing the monitoring of activities and to measure long term effectiveness of actions implemented within the plan and whether they contributed to reaching concrete aims. In order to achieve that, language used in describing elements of the plan should be more precise and detailed. The lack of child and youth participation is another key missing component of the monitoring and evaluation system.⁵⁸

COORDINATION AND COOPERATION

Local and national levels

Coordination and cooperation are crucial for an efficient and effective fight against CSEC. In accordance with the Stockholm Declaration, close interaction and cooperation between government and non-government sectors is necessary to effectively plan, implement and evaluate measures to combat CSEC.

There is no responsible body in Poland comprised of relevant stakeholders, such as public authorities and NGOs, which coordinates the elimination of all forms of CSEC. It is likely that this is due to the absence of a CSEC-specific NPA but also because in Poland there is no public institution that covers child protection in general (although there is an institution of Children's Ombudsman, but due to financial and other limitations this institution does not cover all of these cases). While there

is an extensive framework for inter-sectoral cooperation at the local/national level for trafficking in human beings, there are no comparable mechanisms/agencies to facilitate a coordinated approach to other manifestations of CSEC. This gap requires urgent attention to ensure that a systematic, comprehensive and coordinated approach to CSEC is being pursued.

Institutionalised coordination of activities against child prostitution, child pornography and child sex tourism are weak as there is no centralised coordinating instrument. One existing mechanism is the Central Team for Combating Trafficking in Human Beings, Human Organs, Child Pornography and Paedophilia at the Criminal Bureau of the National Police Headquarters which was established in 2006 to: coordinate and supervise the activities of the various anti-trafficking units and initiatives, conduct prevention activities and provide training to enhance the fight against trafficking, paedophilia and child pornography (as of 2011, the Central Team has been transferred to the Central Investigation Bureau of National Police Headquarters).⁵⁹ This is a positive development towards a more coordinated approach to CSEC and a similar unit should be created to coordinate *all* activities related to CSEC, not just those conducted by the police.

Coordination of anti-trafficking efforts specifically, on the other hand, is well established in Poland. Within the last 5-10 years there have been a number of bodies created to facilitate coordinated anti-trafficking efforts, marking a laudable development in Poland's anti-trafficking framework. The Trafficking Committee (see NPA section above for more information) is tasked with, *inter alia*, monitoring the implementation of the *Trafficking NPA* and cooperating with governmental and non-governmental agencies in the fight against trafficking.⁶⁰ Therefore, the Trafficking Committee functions as a central coordinating mechanism for efforts to combat human trafficking. Furthermore, given that it is made up of representatives from the

relevant government departments, institutions and NGOs, the Trafficking Committee provides a platform for multi-stakeholder cooperation.

Since the Trafficking Committee only meets twice a year, a Working Group was created for ongoing monitoring and coordination. The Working Group is comprised of experts from the range of departments and institutions that participate in the Trafficking Committee. To better address certain aspects of human trafficking, four specialised expert groups were established within the Working Group: the group for trafficking in children (since 2007); the group for the collection of statistical data (since 2009); the group for preventive measures (2010); and, the group for support of trafficking in human beings (since 2010).⁶¹ The sub-group on trafficking in children is a valuable addition to the anti-trafficking framework since it allows for enhanced cooperation specifically related to combating the trafficking in children. However, the efficacy of this group is difficult to assess given that there is no sufficient information available on their initiatives/efforts.

In addition to a central coordinating mechanism, there are also a number of specialised units within certain government agencies to facilitate the coordination of internal trafficking efforts. For example, within the Central Bureau of Investigation a Central Anti-Trafficking Unit has been established to facilitate the coordination and supervision of trafficking cases in all 17 anti-trafficking units of the regional police.⁶² In addition, following Decision No. 139 of the Border Guard Commander (18 June 2008) a multi-disciplinary unit⁶³ was established within the General Headquarters

of the Border Guard that is charged with coordinating anti-trafficking efforts within the department, facilitating cooperation between the Border Guard and other relevant stakeholders, monitoring cases of human trafficking and initiating training and awareness raising activities.^{64,65,66}

Further strengthening the framework for trafficking coordination, the 2010 amendments to the *Act on Social Assistance* appointed Voivodeships (provinces) as the coordinating unit for implementing the social assistance system for trafficking victims, anti-trafficking prevention efforts and support services for victims.⁶⁷ The first pilot Voivodeship team against trafficking in human beings was established in Masovia and included representatives from Social Policy Departments of Voivodship Offices, the Labour Inspectorate, the Police, the Border Guard and NGOs.⁶⁸ This provides an additional cooperation framework against combating trafficking, helping to ensure that efforts at the provincial/voivodeship level are effectively coordinated and implemented. The 2011-2012 *Trafficking NPA* plans for the implementation of 3 more Voivodship trafficking teams in Zachodniopomorskie, Malopolskie and Lubuskie.⁶⁹

There are also indications of relatively strong NGO-government cooperation in the area of trafficking in human beings. Perhaps the most notable example of this is the involvement of NGOs on the Trafficking Committee. The KCIK (see Support services for more information) is a commendable example of government-NGO cooperation in the provision of specialised support services to assist with the recovery and reintegration of victims of trafficking and should be replicated for all manifestations of CSEC. The KCIK is a government initiative that is implemented by NGO La Strada Foundation and in collaboration with other relevant government and non-government actors.⁷⁰

It is also reported that law enforcement

officials and NGOs are cooperating in the identification of trafficking victims,⁷¹ despite there being no formalised agreements for doing so. This cooperation will likely be strengthened by the La Strada Foundation's ODESSA project, which seeks to strengthen cooperation between NGOs and Border Guards in Poland to enhance the identification of trafficking victims.⁷² However, formalised agreements, such as Memorandums of Understandings, between law enforcement authorities and NGOs are also recommended to ensure institutionalised and consistent cooperation among these critical front-line actors.^{73,74}

For other manifestations of CSEC, there are only limited examples of government-NGO cooperation. The advisory committee to the Safer Internet Centre is made up of representatives from a wide range of stakeholders, providing a valuable platform for coordination between government departments, NGOs and the private sector in the fight against child pornography.⁷⁵ The "Don't Lose" campaign that was implemented in anticipation of EURO 2012 is a commendable example of government-NGO cooperation to implement a widespread awareness raising campaign against CSEC (see Awareness raising section below for more information).⁷⁶ It is also worth noting the Polish Coalition against Commercial Sexual Exploitation of Children, which is coordinated by NCF and comprised of 10 NGOs working in the field of children's rights, with a particular focus on the fight against CSEC.⁷⁷ This coalition allows for enhanced coordination and cooperation amongst NGO actors in Poland and remains very active; for example, members of the Coalition were involved in the "Don't Lose!" campaign and prepared a common NGO report to UPR (which was presented through ECPAT International).⁷⁸

Despite these noteworthy examples of cooperation for other manifestations of CSEC, examples of multi-stakeholder

cooperation with regards to child prostitution, child pornography and child sex tourism are severely lacking in Poland. Furthermore, the CRC has highlighted the lack of cooperation between the government and civil society in areas of policy development relating to CSEC issues.⁷⁹ For example, no NGOs or

representatives of civil society were invited to take part in the preparation of Poland's report to the OPSC.⁸⁰ Poland should ensure that the government cooperates with civil society, including children and youth, and NGOs in all aspects of CSEC policy development and implementation.

Data collection

Poland does not have a centralised mechanism for collecting data on all manifestations of CSEC. This gap has been highlighted by the CRC, with particular attention drawn to the absence of data on child sex tourism.⁸¹ To comply with the Rio Declaration and Call for Action, Poland must collect data on all forms of CSEC that is disaggregated by sex, age and ethnic or social origin and ensure that these statistics are analysed and used as a tool for developing effective CSEC policies and activities. To facilitate this goal, Poland should create a centralised data system that collects data from all relevant actors, including NGOs and the private sector.

Due to the lack of a centralised data collection system and weak information sharing among relevant institutions, there are discrepancies in the data on human trafficking.⁸² It is likely that the 2010 amendment of the *Penal Code* that introduced a definition for human trafficking will aid in the development of a more consistent data collection system, allowing for enhanced analysis of relevant data both within the country and between other relevant states.⁸³ However, increased efforts are required to improve Poland's trafficking data, which the Polish government has recognized and is pursuing.

A wide range of actors, including Ministries, NGOs, law enforcement agencies, border control agencies, the Prosecutor's Office and labour inspectors, collect data on human trafficking in Poland.⁸⁴ Statistics presented by NGOs are significantly higher than those reported by government authorities. NGOs primarily base their data on the number of human trafficking victims they are in contact with, whereas the state primarily

basis its numbers on crime data.⁸⁵ Data on trafficking victims is also collected and analysed by NGOs, such as the Nobody's Children Foundation (NCF); La Strada Foundation and Itaka Foundation provide data concerning the victims that they provide support to.^{86,87} The MoI and the Central Unit for Combating Trafficking collects and analyses data from the national police, border guard, Prosecutor's Office and the Ministry of Justice.⁸⁸ The Prosecutor's Office collects data on identified victims of trafficking, perpetrators and human trafficking cases and refers this data to the MoI.⁸⁹ This widely sourced data is not centrally collected, making for a disjointed and incomplete understanding of the issue in Poland. Furthermore, there is no publicly available data disaggregated by the type of trafficking or by gender.⁹⁰ While the data on victims of trafficking that is collected by the La Strada Foundation is disaggregated by a number of factors including age, gender, nationality, recruitment method, type of exploitation, etc., none of this data is publicly available to protect the privacy and identity of the victim.⁹¹

The “Trafficking in Human Beings: Data Collection and Harmonized Information Management Systems” (DCIM-EU) project of the ICMPD was implemented from 2008-2009 in the Czech Republic, Portugal, Slovak Republic and Poland⁹² and included the production of a handbook on “Anti-Trafficking Data Collection and Information Management in the EU”.⁹³ The project sought to develop common criteria for collecting data and information on victims of human trafficking and data related to alleged or convicted traffickers and the criminal justice process. With Poland’s participation in this project, their data collection system is undergoing a reform process and has already seen some improvement. Under the framework of this project, Poland established a victim centred database that is operated by the KCIK.⁹⁴ The range of information on human trafficking victims has also been broadened based on the ICMPD indicators.⁹⁵ Reportedly, the data collection system used by the Ministry of Justice (MoJ) for collecting information on trafficking offenders and crime statistics will also be modified in line with the ICMPD framework starting in 2012.⁹⁶

The Polish government has continued to recognize the need for an improved data collection system on human trafficking, as evidenced in the 2011-2012 *Trafficking NPA*, which includes a number of provisions related to augmenting the data collection system, increasing research studies and implementing a systematic analysis of trafficking data. For example, Activity 5 in Section 1 plans for using the results of the ICMPD project to develop a methodology for collecting trafficking data about victims and perpetrators.⁹⁷ To further inform this new methodology, annual studies of justice system statistics will also be conducted and data

will be collected from various organizations on Polish trafficking victims abroad as well as trafficking victims in Poland (Activities 5.2-5.4 of the 2011-2012 *Trafficking NPA*).⁹⁸ The 2011-2012 *Trafficking NPA* also calls for annual qualitative analyses on crime data and the effectiveness of trafficking prosecution, taking into account data from NGOs.⁹⁹

Furthermore, to help collect more comprehensive data, the 2011-2012 *Trafficking NPA* allocates organisational and financial support for research on human trafficking into four main areas: 1) analysis of criminal cases concerning minor victims of trafficking; 2) situation of unaccompanied children of foreigners, potential victims of trafficking – legal, factual conditions, public awareness, risk groups; 3) analysis of Polish courts’ judicature in cases of trafficking in human beings in terms of safeguarding rights of victims and 4) study on risk of human trafficking among youth in Lubuskie Voivodeship. The study in Lubuskie is set to include a poll of youth in the voivodeship to gain a better understanding of trafficking awareness among youth in the region, thereby informing the design of awareness campaigns that target children and youth at risk of labour trafficking and trafficking for forced prostitution.¹⁰⁰ In 2012, the Nobody’s Children Foundation has conducted an analysis of court files concerning the cases of child exploitation in prostitution and child trafficking.¹⁰¹

If these targets are realised, Poland will have a strong data collection system on trafficking in human beings. The Polish government should ensure that these plans are operationalised and should also initiate a similar strategy for establishing a data collection system for child prostitution, child pornography and child sex tourism.

Regional and international

At an international level, effective cooperation is required between countries and international organisations, including regional organisations, to ensure a concerted and coordinated approach is taken in eliminating CSEC. Poland's regional and international cooperation in the fight against trafficking in human beings and child pornography appear well established. Poland has also exhibited excellent cooperation and coordination with law enforcement agencies and organisations, internationally and within the region, to

combat CSEC offences. Regional and international cooperation is, however, lacking specifically for child sex tourism and child prostitution. Poland is encouraged to maintain their presence in the international arena with regards to trafficking and CSEC law enforcement, while also seeking out regional and international cooperation opportunities related to all other manifestations of CSEC to share best practices and effectively counter these trans-national phenomena.

Polish EU Presidency

During the Polish Presidency of the EU, Poland supported a number of initiatives to enhance an internationally and regionally coordinated approach to combat trafficking in human beings. An expert's seminar on "Management Models within the field of combating and preventing trafficking in human beings present in EU countries and countries of Eastern Partnership: Possibilities of cooperation development", was held in Warsaw from 30 November - 1 December 2011. The seminar was organised by the Mol in partnership with the International Organization for Migration (IOM), ICMPD and the Office for Democratic Institutions and Human Rights of the Organization of Security and Cooperation in Europe. Representatives from EU and Eastern European Partnership countries participated in the seminar, as did various international institutions and NGOs. Challenges and possible solutions relating to identifying trafficking victims, organizing their safe return and providing effective reintegration were discussed, and the event marked an important step forward for a collaborative approach to trafficking between EU and EEP countries, the need for which was re-iterated at a follow-up meeting on 2 December 2011 between Poland and EEP country representatives.¹⁰²

The Polish presidency also hosted an EU Anti-Trafficking Day conference in Warsaw, which sought to augment the coordination of anti-trafficking efforts amongst EU agencies, including Frontex, Europol, Eurojust, CEPOL, FRA, and the European Institute for Gender Equality. Additionally, the Presidency provided the patronage for Police liaison officers-conference regarding human trafficking at the General Police Headquarters in Kiev September, 2011.¹⁰³

Poland has demonstrated a strong commitment to regional and international cooperation among law enforcement organisations to combat CSEC offences. Polish police effectively use and platforms such as INTERPOL and Europol and have contributed to a number of noteworthy operations. In 2011, Poland participated in Operation INFRA SA (International Fugitive

Round-Up and Arrest – South America); a global operation targeting 207 fugitives of serious crimes, including child sex abuse. Investigators from the 34 participating countries worked together to gather and exchange information on their respective suspects, culminating in several arrests.¹⁰⁴ From 2010-2012 Polish law enforcement also cooperated with officials from France,

Bulgaria and Belgium, with support from Eurojust and Europol, in a successful operation against a criminal network conducting trafficking in human beings from Bulgaria to other European countries for sexual exploitation.¹⁰⁵

Operation 'Rescue' is another example of Poland's cooperation with regional law enforcement. This operation was run by Europol and included the participation of over 30 countries to target an online paedophile forum with a specific interest in male children or young boys; leading to the identification of 670 suspects around the world, 184 arrests, and the protection of 230 children.¹⁰⁶ Since 2008, Poland has also been participating in Europol's Analytical Working File 'Phoenix', facilitating the sharing of information on human trafficking amongst European police forces.¹⁰⁷ The Polish police are also participating in the COPSAT project (Joint cooperation between Police and Social Service against Trafficking) executed by the metropolitan police of Stockholm to facilitate cooperation between law enforcement, government authorities and non-governmental organizations from Sweden, Estonia, Romania and Poland.¹⁰⁸

Poland has also pursued a number of bilateral agreements to facilitate cross-border police cooperation. Such agreements are in place with Belarus, Bulgaria, France, Germany, Italy, Netherlands, Spain, Sweden, the Ukraine and the UK.¹⁰⁹ For example, Poland has a bilateral agreement with the Ukraine, which allows for direct contact between police officers, without the involvement of the MoJ.¹¹⁰ Reportedly, cooperation regarding legal assistance is very strong between Poland and Germany.¹¹¹ In addition, since 2006, Poland has been a member of the Group of Six, along with France, Germany, Italy, Spain and the UK, providing for cooperation relating to organized crime and border control.¹¹² In 2010, Poland participated in bilateral task forces with Italy, Belgium and Germany to collaborate on investigations relating to

human trafficking.¹¹³ In 2011, the Szczecin provincial police hosted a training workshop for police officers from Poland, Belarus and the Ukraine to enhance cooperation amongst the three countries in combating human trafficking and support victims of trafficking in human beings.¹¹⁴

Regional trafficking cooperation is also facilitated by Poland's membership on the Council of the Baltic Sea States (CBSS), which serves as a forum for inter-governmental cooperation on trafficking in human beings within the Baltic Sea region.¹¹⁵ The CBSS has established a Joint Task Force on Trafficking in Human Beings (TF-THB), which implemented the project "Preparatory Regional Project on Fostering Non-Governmental Organisation (NGO) – Law Enforcement Cooperation in Preventing and Combating Human Trafficking in and from and to the Baltic Sea Region" in cooperation with the UNODC.¹¹⁶ This project seeks to augment collaboration among member states and civil society organisation to improve trafficking victim assistance and protection.¹¹⁷ The CBSS also established a network of National Contact Points for Unaccompanied and Trafficked Children-Victims of Trafficking in Human Beings (NCP). The NCP is tasked with gathering and sharing information on trafficking with the NCP network, of which Poland is a member.¹¹⁸ Currently, a specialist within the International Cooperation Department of the Ministry of National Education is acting as the NCP in Poland.¹¹⁹

Poland is also a member of the Expert Group for Cooperation on Children at Risk (EGCC) and the European Network of Ombudsman for Children (ENOC), both of which facilitate cooperation to protect children. The EGCC includes representatives from Ministries responsible for children's issues in the BCSS member states, facilitating multi-stakeholder cooperation with regards to children at risk. The EGCC has identified priority areas that shape programmes

and activities in member states, which for the period up until July 2013 include the protection of children from all forms of sexual exploitation and sexual abuse and ensuring the rights to protection of children in migration and the protection of children that are trafficked.¹²⁰ ENOC provides a platform for cooperation among Child Ombudsman institutions to promote children's fundamental rights in the respective countries.¹²¹

NGOs are also actively engaged in augmenting international and regional cooperation for protecting children from CSEC. Child Abuse and Neglect in Eastern Europe (CANEE) is a collaborative forum/website for those working in child protection. Canee.net, the main website which was

inaugurated in 2001 and is operated by NCF, provides an interactive platform to circulate information, share research and experience, promote best practices, encourage and construct networks and collaboration and recognize the efforts of both organizations and individuals.¹²² The Polish Internet hotline, dyzurnet.pl (see Prevention section below for more information) is a member of the INHOPE network, which facilitates international cooperation in combating child pornography. Since the majority of materials reported to the hotline are hosted on servers outside the country, the primary mode of intervention is based on cooperation between dyzurnet.pl and hotline operators and law enforcement agencies in INHOPE member countries.¹²³

The **Mario project** (2009-2012) was a joint initiative to improve the protection of migrant children in Europe through enhanced national and regional cooperation. "It focused on children coming from Central and South Eastern Europe who are at risk or are victims of abuse, exploitation and/or trafficking".¹²⁴ Initiated with funding from the OAK Foundation, the project covered an expansive geographic range, including Albania, Kosovo, Bulgaria and Poland at the national level; and the Netherlands, Spain, Italy, Greece, Macedonia, Belarus and Ukraine at the transnational level. Nobody's Children Foundation, the ECPAT group in Poland, was the implementing partner in Poland. There are a number of regional cooperation efforts that have been spawned under the framework of the Mario project. In May 2011, Nobody's Children Foundation partnered with other national and regional partners in the organization of a conference entitled "European Migrant Children: What Protection?" which sought to draw attention to the challenges facing migrant children in Europe and discuss strategies for positive change.¹²⁵ A number of important research studies and publications on topics relating to CSEC have also been completed as part of the project.¹²⁶

PREVENTION

The effective prevention of CSEC requires multi-faceted strategies and policies that simultaneously address the different elements of the problem. These strategies should target both vulnerable children and those who engage in sexual activities with children while also addressing the root causes of CSEC such as poverty and lack of education.

Long-term prevention strategies include improving the status of children who are most vulnerable to CSEC by implementing policies to reduce poverty and social inequality and

improving access to education, health and social services. Effective short to medium term strategies include awareness raising campaigns and education and training initiatives for the general public, vulnerable groups and government officials.

The resources, expertise and influence of the private sector, particularly the tourism and IT industries, should also be engaged in prevention measures, in particular in awareness raising activities.

Furthermore, information, education and outreach programmes should be directed at those engaging in the commercial sexual exploitation of children (eg users of children

forced into prostitution) to promote changes in social norms and behaviour and reduce the demand for child victims of CSEC.

The international community has noted that Poland's CSEC prevention efforts have been insufficient, particularly with regards to child prostitution and child pornography.¹²⁷ Poland must expand their awareness raising efforts for child pornography and trafficking in children, while also introducing campaigns to raise awareness about child prostitution and child sex tourism. Furthermore, Poland should consider incorporating all manifestations of CSEC in the school curricula and ensure that all relevant professionals receive adequate training around identifying child victims of CSEC and responding accordingly. The Polish government should also encourage increased private sector involvement, especially to help combat child sex tourism.

Awareness raising

There have been a number of good awareness raising campaigns on the issues of trafficking in children and child pornography/safe online behaviour. These campaigns are primarily implemented by NGOs; though the Polish government appears to be an active partner in supporting these initiatives. However, despite some commendable campaigns about trafficking in Poland, the Special Rapporteur on Human Trafficking found that awareness among the general public remained low and recommended that awareness raising efforts be increased and augmented.¹²⁸ A recent research study also found that the general public is unaware of CSEC-related laws,¹²⁹ highlighting another area for focusing attention in future awareness raising campaigns. Another significant gap is the lack of efforts that specifically target the exploiters of child victims of CSEC.^{130,131} The "Don't Lose!" campaign (see text box below) is one

exception to this; however, further campaigns that focus on reducing the demand for commercial sex acts are required.

The Polish NGO NCF has been particularly active in raising awareness about CSEC. In June 2011, NCF organized the 5th International Conference "Keeping Children and Young People Safe Online", which was attended by 550 Polish and foreign experts and includes the latest advances in combating illegal content online.¹³² "Child in the Web" is another Internet awareness raising initiative by NCF including sieciki.pl, web portal for children aged 6-12 years and the production of "NumaNuma" (a magazine for teenagers on staying safe online), the dissemination of over 27,000 educational materials among schools and the development of an e-learning course that was used by over 43,000 children.¹³³

EURO 2012

The “Don’t Lose!” campaign was a large awareness raising campaign that was implemented in Poland and the Ukraine before and during the hosting of EURO 2012 in these two countries. It is a commendable example of a comprehensive awareness raising campaign in that it engaged relevant stakeholders, targeted key audiences and addressed all forms of CSEC. This campaign should therefore serve as an example for future CSEC awareness raising efforts in Poland.

“Don’t Lose!” was initiated by NCF in Poland and the Child Well-being Fund and La Strada in the Ukraine, in cooperation with government institutions, to prevent the sexual exploitation of children during this large sporting event. The campaign was unique in Poland in that it addressed all forms of CSEC and targeted both youth and potential exploiters of child victims that may fuel the demand for CSEC.¹³⁴

The campaign included the production and dissemination of educational materials for using in classrooms throughout the school year and training for relevant professionals that work with children.^{135,136} Children and youth were also informed of available support services for potential victims of CSEC, including raising awareness about the national help line 116 111. Also as part of this campaign, posters, brochures and leaflets that informed football fans, tourists and other travellers about Poland’s or the Ukraine’s CSEC-related laws were published in Polish, English, Russian and Ukrainian and widely disseminated throughout the countries, with the assistance of private sector partners (including hotels, airports, etc.). To further engage the private sector, the campaign was used as a platform to implement and promote the Code (see Private Sector involvement for more information).¹³⁷

The Polish NGO La Strada Foundation has been active in raising awareness about trafficking among children and youth in Poland. La Strada Foundation, with financial support from the MoI, produced several awareness-raising publications, including the “You Are Not for Sale” comic book, 30,000 trafficking leaflets in Russian, Ukrainian, and Vietnamese for Polish foreign consulate offices. Approximately 2,000 brochures entitled “The issue of Trafficking in Poland and Abroad”, with a particular focus on child trafficking was published by NCF in the framework of Mario project in cooperation with the MoI.¹³⁸ Information leaflets on the issue of trafficking in children were also disseminated in Krakow and surrounding cities in 2010 under initiative from the Halina Niec Legal Aid Centre, in partnership with the Polish police.¹³⁹

Foundation Kidprotect.pl¹⁴⁰ is also active in raising awareness related to CSEC issues. Their program, “Stop Paedophilia” implements public campaigns against the

sexual exploitation of children.¹⁴¹ They have also initiated in-school programmes that seek to raise awareness about staying safe online, such as the “Click of the Head” project, which has reached over 28,000 young Internet users.¹⁴² Kidprotect.pl’s awareness raising efforts also importantly target parents and other guardians on the topic of keeping children safe online.¹⁴³

The Polish Safer Internet Centre (SIC)¹⁴⁴ is another valuable initiative to help combat and raise awareness about child pornography. Poland’s SIC was established in 2005 within the European Commission’s “Safer Internet” programmes and is run by NCF and NASK (Research and Academic Computer Network). The SIC implements three projects: www.saferinternet.pl, www.dyzurnet.pl and www.helpline.org.pl. Saferinternet.pl is the awareness raising centre, while the other two projects are a reporting hotline and a helpline (see Hotlines and helpline section below for more information). NCF and NASK, in partnership with Orange Foundation, operate

the awareness raising centre, saferinternet.pl, which seeks to promote safe Internet use among children and youth. Under the framework of this project, media campaigns to raise awareness about online threats to children and youth and fostering safe Internet

usage have been launched. Since 2005 the SIC has implemented the “Child on the Web” campaign, under which a number of educational resources for children, parents and professionals have been developed and distributed.¹⁴⁵

Training and education

There appear to be a number of initiatives aimed at enhancing training and education relating to trafficking in children and child pornography. Trainings for professionals within the “Don’t lose!” campaign resulted in over 500 professionals participating in conferences and trainings. NCF has also initiated trainings for employees of the tourism sector on the issue of child sex tourism in March 2012. Further trainings will be organized by NCF, as it has the role of Local Code Representative of The Code of Conduct.¹⁴⁶ Poland should nevertheless ensure existing training and education measures are consistently implemented as well as evaluated to assess their efficacy. The government should also implement or support programmes that address all forms of CSEC.

Internet safety topics have been included in school curricula since 2009¹⁴⁷ and human trafficking is a mandated component of the school curricula for all school levels.¹⁴⁸ The Ministry of Interior in partnership with NGOs, has provided workshops for teachers on delivering anti-trafficking lessons in the classroom and over 493 teachers from 5 different regions across the country have benefited from this training.¹⁴⁹ Kidprotect.pl has also initiated a number of training programmes for teachers that are related to CSEC and are available on a fee for service basis.¹⁵⁰ However, despite these positive examples, it has been reported that these topics are not being consistently implemented or fully integrated into the training curriculum for teachers.¹⁵¹ Furthermore, child

prostitution appears to have been left out of such programmes in recent years.¹⁵² Poland should consider mandating education on all forms of CSEC in school curricula and ensure that teachers are adequately prepared to effectively deliver such materials.

The NCF has also implemented some training and education initiatives on preventing CSEC and working with child victims of CSEC. In 2011, 310 professionals participated in trainings on working with child witnesses in legal procedures, 332 professionals took part in child trafficking training and 2,600 professionals attended courses and conferences on children’s safety online.¹⁵³ Also in 2011, NCF, in cooperation with the Polish government, organized the 8th International Conference “Helping children-victims of crime”, which included sessions on CSEC, including the situation of exploitation of children in prostitution in Poland.¹⁵⁴

Programmes for support service professionals in Poland have been organised and delivered by the MLSP. In 2011, the MLSP organized and financed 4 training sessions for 116 social workers on the issue of trafficking in human beings, trafficking legislation, victim identification and effective support services.¹⁵⁵ According to the 2011-2012 *Trafficking NPA*, the MLSP will allocate PLN 140,000 in both 2011 and 2012 for training social assistance staff on supporting victims of human trafficking.¹⁵⁶

Private sector involvement

There are some positive examples of private sector involvement in CSEC prevention activities in Poland; however, there remains much room for improvement in engaging these key stakeholders.

The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism¹⁵⁷ (“The Code”) is an increasingly important global tool for involving the tourism sector in the prevention and monitoring of child sex tourism. The first official private sector company signature of The Code is scheduled on October 9th 2012 in Warsaw and is an effect of NCF awareness raising activities and involvement as the Local Code Representative of the Code of Conduct since 2012.¹⁵⁸ The NCF, other NGOs and the Polish government should continue encouraging the relevant private sector actors in Poland to sign on to the Code and implement it fully, such as through the introduction of government incentives for joining the Code. This will help to advance the private sector’s role in preventing and combating child sex tourism.

Private sector involvement in efforts to combat child pornography appears relatively well established. The NCF, in cooperation with Microsoft and Krzysztof Hołowczyc’s “Safe Driver Foundation”, launched the project “3...2...1...Internet” to promote safe Internet use among school children aged 12-14 years. As part of the project, educational materials were distributed to

teachers in Poland for the delivery of a 1.5 hour interactive lesson on safer Internet use. Already more than 19,000 students have participated in these lessons.¹⁵⁹ The private sector is also involved in the SIC programmes. NASK is one of the leading tele-IT operators in Poland and is responsible for operating the Polish Internet reporting hotline, dyzurnet.pl.¹⁶⁰ Internet Service Providers (ISPs) are an integral component of the hotline since over 654 reports were forwarded to ISP or content owners in 2011.¹⁶¹ The advisory committee to the SIC is another avenue for engaging the private sector in the fight against child pornography. The committee is made up of representatives from a wide range of stakeholders, including government agencies, law enforcement bodies, academic institutions, business entities and NGOs.¹⁶² The Polish Chamber of Information Technology and Telecommunications and the Manufacturers Association of Audio-Video represent the private sector on the committee.¹⁶³

The “Stop Sex Trafficking of Children and Young People” campaign is an example of a global campaign implemented in partnership with the private sector to combat the trafficking of children. ECPAT and The Body Shop launched the campaign in 2009 in countries around the world, including Poland. The country ‘progress’ report was produced as part of this campaign and evaluates actions taken in each country against the trafficking of children.



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 has 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.

Summary of 2009 Base-line Progress Card*			
Goal 1: Community-based Prevention Programmes			
Prevention	Collaboration	Awareness raising	Teacher training
		★	
Goal 2: legal framework			
<i>Optional Protocol</i>	<i>Trafficking Protocol</i>	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, Poland was among the 53% of countries reviewed which have made some progress to stop sex trafficking of children and young people. Poland has taken important steps in combating the trafficking in human beings in general: especially in terms of policy development, law enforcement and capacity building. However, the limited number of officially reported cases of child trafficking for sexual and other purposes has resulted in insufficient preventive measures to specifically address children's vulnerabilities as well as in the absence of specialized support services for trafficked and sexually exploited children.

* The 2009 and 2012 Poland Progress Cards are available at www.ecpat.net

PROTECTION

Comprehensive and effective legislation is essential to protect children from CSEC. Specific laws must be developed, implemented and/or strengthened to combat the various manifestations of CSEC. These laws must be reviewed and updated regularly to incorporate evolving forms of CSEC, such as grooming or viewing and accessing child pornography online, and changes in the international legal framework. As well as enacting legislation that is compliant with international standards and obligations, national laws must be effectively enforced. Policies and procedures to protect child victims and/or witnesses are also essential.

Poland has ratified all of the relevant international instruments; however, they have not yet been fully implemented. Furthermore,

Poland has signed but not ratified two critical regional instruments related to CSEC: the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse CETS No.: 201* ("Lanzarote Convention") and the *Council of Europe Convention on Cyber Crime CETS No.: 185* ("Budapest Convention"). Given that these agreements, especially the *Lanzarote Convention*, are particularly important for fighting CSEC, Poland should prioritize their ratification and take steps to harmonize national legislation with the standards encompassed in both Conventions. More priority is also needed in implementing two EU directives – on sexual exploitation (2011/92/UE) and on trafficking in human beings (2011/36/UE).

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	<p>Reviewed in the 1st session in 2008.</p> <p>Reviewed in the 13th session in March 2012 Key recommendations related to CSEC:¹⁶⁴</p> <ul style="list-style-type: none"> • Bring national legislation relating to the protection of children's rights, especially in CSEC-related cases, in line with the CRC; • Adopt immediate measures to eradicate sexual exploitation of children and the recruitment of adolescents into prostitution; • Provide adequate legal protection for child victims of human trafficking.
Special Rapporteur on the sale of children, child prostitution and child pornography	No country visit so far and no visit has been scheduled or requested.

Special Rapporteur on Trafficking in Persons, Especially Women and Children	<p>Visit to Poland conducted 18-29 May 2009¹⁶⁵</p> <p>Key Recommendations:</p> <ul style="list-style-type: none"> • Amend legislation to include a provision that prohibits the prosecution, detention and punishment of trafficked persons for activities they were involved in as a direct consequence of their situation as trafficked persons; • Increase and augment trafficking awareness raising activities and training programmes; • Establish adequate and coordinated protection mechanisms for child victims of trafficking; • Increase funding for support services in both cities and rural areas; • Establish a compensation fund for victims of trafficking; • Develop a comprehensive and centralized data collection mechanisms; • Establish an independent national trafficking rapporteur.
Treaty-based bodies	
Committee on the Rights of the Child - CRC	Reviewed in the 31st session, 2002.
Committee on the Rights of the Child – OPSC	<p>Reviewed in the 52nd session, 2009.</p> <p>Key recommendations:¹⁶⁶</p> <ul style="list-style-type: none"> • Develop and implement a comprehensive and systematic mechanism for improved CSEC data collection, including child sex tourism; • Develop a NPA that comprehensively addresses all aspects of the issues covered by the OPSC; • Undertake research studies on the extent, scope and root causes of CSEC manifestations; • Amend Penal Code to include a definition of child prostitution and to ensure that children between the ages of 15-18 years old are protected from child prostitution and child pornography; • Ensure CSEC legislation is effectively and efficiently implemented; • Introduce provisions that enable legal persons to be held criminally liable; • Augment facilities and methods for ensuring protection of child victims; • Enhance efforts for effective rehabilitation and reintegration of child victims.

CSEC Children's rights instruments	Date of ratification	Date of submitted reports
Convention on the rights of the child (CRC)– 1989	1991	1999: 2nd Periodic report 1994: Initial Report
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	2005	2007: Initial report
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	2002	N/A
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	2001	N/A
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	2003	N/A
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	Has not signed or ratified	
Regional Instruments		Date of ratification
Council of Europe Convention on Action against Trafficking in Human Beings CETS No.:197	2008	N/A
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse CETS No.: 201	Only signed: 2007	N/A
Council of Europe Convention on Cyber Crime CETS No.: 185	Only signed: 2001	N/A
Council of Europe Convention on the exercise of Children's Rights CETS No.: 160	1999	N/A

Legislation

The Polish *Penal Code* contains laws that address aspects of trafficking in children for sexual purposes, child pornography, child prostitution and child sex tourism. While Poland is commended for the significant improvements to CSEC legislation in recent years, most notably with regards to trafficking in persons, critical gaps in Poland's CSEC legal framework remain that require urgent attention. Neither the *OPSC* nor the *Trafficking Convention*, both of which Poland has ratified, have been fully implemented;¹⁶⁷ therefore, Poland's domestic

legislation requires amending to bring it in line with international standards. This call for Poland to augment CSEC legislation has been reiterated within the international community.^{168,169,170} Five key critical gaps in Poland's CSEC legislation are: (1) inconsistent protection afforded to children between the ages of 15-18 years against child pornography and child prostitution; (2) inadequate implementation and enforcement of all CSEC laws; (3) lack of comprehensive protection against all activities related to CSEC offences; (4) absence of provisions

that specifically address child sex tourism; and (5) failure to define child prostitution, child pornography and child sex tourism.

Reportedly, minors who have committed an offence or demonstrated symptoms of demoralisation may face educational or corrective measures based on the best interests of the child; however, penal measures will not be applied.¹⁷¹ The age of criminal responsibility in Poland is in general 17 years of age (although in some very serious cases it can be 15 years of age).¹⁷² Poland should ensure that measures are not imposed on child victims of CSEC offences, instead guaranteeing such victims receive the specialised support and care they require for their recovery and reintegration. Fortunately, it does appear that this philosophy is being implemented in Poland. The European Union Agency for Fundamental Rights reported that underlying all of Poland's CSEC laws is a policy of non-criminalisation of child victims; instead viewing CSEC victims as in need of protection and support.¹⁷³ Due to partial regulation, Poland does not have legislation that fully prohibits the criminalisation of all CSEC-victims and should therefore enact such legislative guarantees that ensures full protection.

The Committee on the Rights of the Child has urged Poland to include provisions that provide for the liability of corporate entities, or 'legal persons' in relation to all CSEC offences, as required by Article 3(4) of the OPSC.¹⁷⁴ Article 3.4 of the *Act on the responsibility of collective entities for penalised offences* establishes liability for legal persons whereby the corporation benefits or potentially benefits from the criminal action of an individual(s) whereby the individual is acting on behalf of a legal person, or within the interest of a legal person or as part of an

internal policy or activity.¹⁷⁵ As such, liability is possible in cases of: human trafficking, some cases of sexual abuse (for instance: sexual contact with a minor under 15 years of age, child pornography), and crimes connected with prostitution, for instance: forcing/inducing somebody to prostitute.

Poland does also have some provisions that help to ensure parents are held liable for failing to protect their children sexual exploitation. If a parent or guardian involves a child in a criminal offence then according to Article 51 of the *Penal Code* the criminal court is obliged to report the parent/guardian to the family and guardianship court, with a view of depriving or restricting the parent/guardian of their parental rights.¹⁷⁶ Furthermore, any person (including police officers, social service authorities and court personnel) who has knowledge of a parent/guardian that should be examined is obliged to report this to the family and guardianship court (although this unfortunately does not always happen).^{177,178}

There have been some other positive developments to Poland's legislation worth noting that enhance the protection of children. In 2008, Article 101 Para. 4 of the *Penal Code* was amended to extend the statute of limitations for sex offences committed against children to 5 years beyond the child victim attaining 18 years of age.¹⁷⁹ This is a laudable extension; however, the Committee on the Rights of the Child has recommended that the statute of limitations be further extended.¹⁸⁰ In 2010, the Polish government enhanced punitive measures for child sex offenders, providing mandatory placement of some sentenced offenders (only in cases of rapes against minors under 15 and incest rape) in a centre that runs pharmacological therapy or psychotherapy.¹⁸¹

According to Article 3(a) of the *Trafficking Protocol*, which Poland has ratified in 2003, trafficking in persons is “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.¹⁸² Article 3(b) defines exploitation as including, at a minimum, “the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.¹⁸³ The amendments to the *Penal Code* that entered into force on 8 September 2010 brought Poland’s trafficking legislation largely in line with international standards. The *Penal Code* now provides a definition of trafficking that complies with international standards and specifically criminalises the trafficking of children for sexual purposes. Furthermore, with sentences for trafficking offences ranging from 3-15 years, the punishments have been deemed sufficiently stringent.¹⁸⁴ The main gaps in Poland’s trafficking legislation are: the absence of provisions to explicitly protect all child victims of trafficking from being prosecuted and inadequate enforcement.

In 2010 Poland’s trafficking legislation was significantly augmented with the addition of Article 115 Section 22 of the *Penal Code*, which provides a definition for human trafficking that is in accordance with international standards.¹⁸⁵ The Polish definition of human trafficking covers the spectrum of activities contained in the *Trafficking Protocol*: recruitment, transportation, transfer, harbouring and receipt. According to Polish law, if any of these activities are conducted by coercive, deceitful or fraudulent means (as listed in the *Trafficking Protocol* definition above) and for the purpose of exploitation (including

sexual exploitation) then it qualifies as human trafficking, regardless of consent.¹⁸⁶ For cases involving minors, the means/methods used to obtain consent is irrelevant; it will constitute the crime of human trafficking so long as the ultimate objective is the exploitation of the child, as required by international law.¹⁸⁷ The trafficking definition in Polish law as it pertains to children constitutes a comprehensive and internationally recognized definition.

Trafficking in persons, including trafficking in children for sexual purposes, is criminalised in the *Penal Code* under Section 1 of Article 189a,¹⁸⁸ which emphasizes the irrelevance of consent and provides for a penalty of at least 3 years.¹⁸⁹ Notably, Polish law also criminalises the preparation to commit a trafficking in human beings offence, with a penalty of 3 months to 5 years imprisonment.¹⁹⁰

One gap in Poland’s trafficking legislation is the absence of a provision that explicitly protects all child victims of trafficking from prosecution. The Polish *Penal Code* does not expressly prohibit the prosecution of victims of trafficking for offences committed as a result of their being trafficked. Poland’s “Methodological guidelines for prosecutor’s conducting or supervising preparatory proceedings in cases concerning trafficking” only recommends the waiver of such prosecutions. In 2011, one case was reported in which the government prosecuted an identified trafficking victim.¹⁹¹ It has also been reported that foreign minors have been detained for being asylum seekers or not having documentation.¹⁹² This concern and recommendation has been reiterated by UN Human Rights monitoring bodies.^{193,194}

Fortunately, the Polish government has recognised the importance of not penalising trafficking victims and has taken steps to enhance victim protection. According to the 2011-2012 Trafficking NPA, the Ministry of Justice and Ministry of Interior will conduct

an analysis of current trafficking legislation, with a particular focus on evaluating whether the current laws and guidelines adequately safeguard victims of trafficking from prosecution/penalisation or whether amendments to the *Penal Code* are required.¹⁹⁵

While Poland's trafficking legislation is largely commendable, it appears that enforcement of the trafficking provisions remains insufficient, despite some indications of improvement. In 2011, 37 new trafficking investigations were conducted, involving 471 trafficking offences; marking a substantial increase from the 48 investigations and 95 trafficking offences in 2010.¹⁹⁶ The Polish government reported that there were 487 completed trafficking cases from 1995-2008, 338 of which resulted in an indictment. Enforcement appears to have strengthened given that there were 226 completed cases in 2009-2010 alone, 79 of which have resulted in indictments.¹⁹⁷ However, despite the positive trend implicit in these statistics, it is reported that a significant portion of the trafficking offenders who were convicted in

2011 were not sentenced to time in prison.¹⁹⁸ It has also been reported that authorities are reluctant to apply trafficking provisions, instead prosecuting crimes with obvious features of human trafficking as prostitution-related crimes.¹⁹⁹ Poland should ensure that trafficking offences are rigorously and consistently prosecuted and that sentencing reflects the gravity of these crimes and the government's commitment to combat trafficking.

Positively, child victims of trafficking are eligible for social welfare services under the *Law of 16 February 2007 amending the Law on Social Assistance*.²⁰⁰ These services are available to both foreign and Polish children who are identified as victims of trafficking the scope of assistance is determined by social workers on a case by case basis according to the guidelines developed in 2008 by the MLSP on providing support to victims of trafficking.²⁰¹ (For more information on available support services for victims of trafficking see the 'Support services' section below).

PROSTITUTION OF CHILDREN

Child prostitution, as defined in Section 2(b) of the OPSC, is the use of a child in sexual activities for remuneration or any other form of consideration.²⁰² Under Section 3(1)(b) of the OPSC, child prostitution covers all elements of "offering, obtaining, procuring or providing a child for child prostitution".²⁰³ Child prostitution itself is not a criminal offence in Poland; however, certain conduct in relation to prostitution is criminalised and the exploitation of children in prostitution is illegal. While Poland does have a legal framework to protect child victims of prostitution, it is not wholly in compliance with international standards. The three most notable gaps are: (1) the absence of a definition for child prostitution in the *Penal Code*; (2) the lack of comprehensive protection against all acts related to child prostitution, as contemplated by the *OPSC* and (3) incomplete protection for children

between the ages of 15-18.

There are a number of provisions that pertain to child prostitution; however, all of these laws are weakened by the lack of a definition for 'child prostitution' or 'prostitution'. Without a definition, the scope of the acts covered under Poland's child prostitution law is unclear as it lacks full protection for children between the ages of 15 and 18 years. Poland should, therefore prioritise the introduction of a definition to strengthen the legal framework for protecting children from being exploited in prostitution. Positively, however, none of the child prostitution laws differentiate based on the sex of the victim or the perpetrator. It is also commendable that Poland reportedly treats minors who are exploited in prostitution in Poland as victims in need of support services, rather than taking a punitive approach.^{204,205} However, Poland

should enact legislative provisions that explicitly prohibit the prosecution of child victims of prostitution to guarantee their consistent treatment as victims within the legal system.

The act of offering a child for prostitution is not explicitly covered in Polish legislation. Article 200(b) of the *Penal Code* criminalises anyone who publicly propagates or approves behavior of a pedophilic character, with a punishment of up to two years imprisonment.²⁰⁶

The prohibition on obtaining a child for prostitution importantly targets the client of children exploited in prostitution. Article 199 Section 3 of the *Penal Code* establishes criminal liability for inducing sexual services from a minor by abusing a trust or in return for a received or promised material or personal benefit, with a penalty of 3 months to 5 years imprisonment.²⁰⁷ In effect, this provision prohibits ‘obtaining’ a child who is exploited in prostitution and protects all children under the age of 18. An additional strength of this provision is that it covers any form of consideration (not just monetary), including promises of remuneration.

Furthermore, by including both sexual intercourse and sexual act in the provision, the offence potentially covers a wide range of sexual activities, such as masturbation, sexual touching and even non-contact sexual acts. A concern with this provision is the phrase ‘induces sexual services from a minor or to perform such an act’, implying that it is only an offence if a child (aged 15-18 years) has not initiated the contact. This implication was confirmed in a worrying 2010 court decision that found the offering of benefits had to be the sole cause of the minor’s consent to the sexual contact with the perpetrator.²⁰⁸ Since consent should be irrelevant with regards to protecting children from exploitation in prostitution, the language in Section 3 of Article 199 should be amended to specifically exclude any consideration of consent. NCF has recommended that the wording be amended to include “even if the minor has

offered sexual services”.²⁰⁹

A further critical implication of the consent requirement for Section 3 of Article 199 is that it potentially leaves children between the ages of 15 and 18 years without any protection against exploitation in prostitution. Children under the age of 15 who have ‘consented’ or ‘offered’ their sexual services and therefore fall outside the ambit of Article 199 would still be afforded protection against their exploitation in prostitution by Article 200, which prohibits any sexual intercourse of sexual acts with a minor under the age of 15, regardless of remuneration or consent.²¹⁰ However, since this provision does not apply to children between the ages of 15-18, these victims are left without any protection if they offered their sexual services without being forced by the perpetrator.²¹¹ This illustrates the critical importance of amending Article 199 Section 3 to disregard any explicit or implicit consideration of consent.

Procuring is commonly referred to as ‘pimping’ and covers the act of arranging or facilitating the availability of a child victim for prostitution. Article 204 Section 1 of the *Penal Code* addresses procuring by criminalising anyone who induces another to practice prostitution or facilitates prostitution in order to derive a material benefit, with a penalty of up to 3 years imprisonment.²¹² Where a child is concerned, this offence is punishable with up to 10 years’ imprisonment.²¹³ The condition that there be an expectation to receive a material benefit may have a limiting effect on the scope of this provision, therefore, Poland should consider removing this requirement. Also of concern was a Supreme Court decision in 2009 ruling that systematic and permanent actions were required to constitute a crime under this provision; a single incident would not be sufficient.²¹⁴ Poland should consider overruling this decision by amending legislation so that any act of facilitating prostitution carries criminal liability. Article 203 also covers procuring by criminalizing anyone who compels another to work in prostitution by way of force, threat or deceit,

abusing a relationship of dependence or taking advantage of the vulnerable situation of the victim, with a penalty of 1-10 years' imprisonment.²¹⁵ The involvement of a minor victim in this offence should be considered an aggravating circumstance and be addressed in a separate provision.

The act of providing constitutes making a child available for prostitution and appears to be covered by Section 2 of Article 204 in the *Penal Code* which prohibits deriving material benefit from the prostitution of another person, with a more severe penalty when a minor is involved.²¹⁶ It is reported that this provision importantly extends to those who provide the premises for another person's prostitution.²¹⁷ To be convicted under this offence it must be proven that the perpetrator actually gained a material profit on multiple occasions, as a onetime gain would be insufficient.²¹⁸ This requirement may restrict full protection for children who are exploited in prostitution and should therefore be removed.

A grooming provision (for children under 15 years of age) was introduced into the *Penal Code* in 2009;²¹⁹ however, it does not appear to cover the act of grooming for the purpose of recruiting a child into prostitution. It is instead limited to the act of 'grooming' whereby the purpose of establishing

connection with a minor is to commit rape, sexual abuse or pornographic offences. The grooming provision should be expanded to explicitly include the act of grooming a child for the purpose of prostitution and should protect all children up until the age of 18.

The enforcement of child prostitution legislation is difficult to discern given the lack of available data. The Criminal Courts convicted eight persons under Article 204(3) in 2008 and there were 23 such convictions in 2009.²²⁰ This illustrates an increase from the previous year; though further data would be required to assess the overall trend of child prostitution convictions in more recent years compared to the number of child prostitution cases. There are indications that enforcement of child prostitution provisions is inadequate. The CRC has expressed concern about the weak implementation of CSEC offences in Poland.²²¹ It has also been reported that the Polish police turn a blind eye to the extensive operation of illegal brothels in the country.²²² This is particularly concerning since it can be much more challenging for organisations to reach women in brothels than those who work on the street, making it possible for underage girls to be kept invisible from authorities and other organisations.²²³ This highlights the critical need for Poland to ensure child prostitution offences are being rigorously enforced.

CHILD PORNOGRAPHY

According to Article 2(c) of the OPSC child pornography is defined as "any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes". Article 3(1)(c) of the OPSC requires the criminalisation of the following activities in relation to child pornography: production, offering, distribution and dissemination, and possessing. While there have been some improvements to Poland's child pornography legislation in recent years, it is still not in compliance with international

CHILD ABUSE IMAGES

law. The three most critical gaps are: (1) the lack of a definition for child pornography or pornographic material; (2) the failure to protect *all* children up until the age of 18 under existing pornography offences and (3) the absence of an offence that explicitly covers offering and accession (intentional viewing) of child pornography. Polish law also does not appear to impose any specific reporting requirements on the part of Internet Service Providers or financial companies (beyond the general so-called 'social obligation on reporting' of any crime; Art. 304 Criminal Procedure Code).

The absence of a definition for child pornography or pornographic material detracts from the clarity and strength of all child pornography laws. Since there is no definition delineating the scope of the terms ‘child pornography’ or ‘pornographic material’ it is unclear whether ‘any representation of the sexual part of a child for primarily sexual purposes’ is covered under current Polish law, as required by the OPSC. It is evidently critical that Poland amend legislation to include a definition of child pornography that is reflective of international standards and explicitly includes a wide range of materials and depictions within the definition, in line with the OPSC requirements.

Producing child pornography refers to its creation or making by whatever means and should be prohibited. Sections 3 and 4 of Article 202 pertain to the production of child pornography; however, taken together they do not adequately protect all children under the age of 18 from exploitation in pornography. Section 3 criminalises the production of pornographic materials with children under the age of 18 for the purposes of dissemination, distribution or circulation, with a punishment of 6 months to 8 years imprisonment.²²⁴ Section 4 criminalises the production of pornographic materials with children under the age of 15, regardless of the purpose.²²⁵ Therefore, children between the ages of 15–18 are only granted protection if the production is accompanied with one of the aforementioned purposes. Section 4 should be expanded to encompass 15–18 year olds so that all children are afforded equal and comprehensive protection. Furthermore, these provisions would be augmented if specifically stated that production by any means was illegal, to ensure an expansive and inclusive interpretation of production.

Distribution and dissemination of child pornography is covered under Section 4a of Article 202, which provides for 3 months to 5 years imprisonment for storing, possessing or distributing pornographic materials with

children under 15.²²⁶ Positively, it appears that this provision covers mere possession of child pornography (possession of child pornography without any intent to distribute such material) intent, exceeding the OPSC requirements. However, it is imperative that Poland expand this provision to include all children under the age of 18. Furthermore, the provision should be amended to explicitly prohibit both accessing and viewing child pornography, including viewing through the use of ICT (eg. live streaming sites enabling real-time viewing of child pornography or streaming through mobile devices).

Laudably, in 2008 Poland introduced Section 4b to Article 202 that criminalises virtual child pornography (cartoons, anime, videogames, drawing, sculptures, etc.), as required by Article 20.3 of the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse* (which Poland has not yet ratified). The provision criminalises “producing, distributing, storing, possessing or presenting pornography that involves a computer-generated or processed image of a child under 18”, punishable with a fine, restriction of liberty or up to 2 years imprisonment.²²⁷ This is a welcomed addition to Poland’s child pornography laws.

Poland’s child pornography legislation was also augmented with the addition of Article 200a in 2009, which criminalises the act of ‘grooming’ a child for the purpose of child pornography.²²⁸ This provision is consistent with Article 23 of the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*.

Grooming refers to the act of preparing a child for sexual abuse or exploitation. Making contact with a child under 15 years of age by information system or telecommunication network for the purpose of grooming him/her to participate in child pornography is punishable with up to 3 years imprisonment if deceit or threats are used and up to 2 years

imprisonment if there is an intention to follow through with the anticipated acts.^{229,230} This important provision must be expanded to protect all children under 18 years.

An effective and thorough evaluation of the enforcement of child pornography laws in Poland is limited by a lack of comprehensive data. However, according to the Committee on the Rights of the Child the implementation of child pornography legislation in Poland is inadequate.²³¹ There has, however, been some notable operations related to child pornography in recent years that suggest increased enforcement efforts. There were 2 major nationwide operations against child pornography and paedophilia in 2011 that resulted in 251 arrests and the seizure of computers and pornographic materials. Though, these operations reportedly resulted in limited convictions due to barriers in satisfying legal evidentiary standards.²³² (See text box below for more examples of recent cases.) The government has also reported that 91 persons were convicted under Section 202(3) of the *Penal Code* in 2008 followed by 87 such convictions in 2009.²³³ The number of convictions under Article

202(4) is reported at 19 in 2008 and 21 in 2009.²³⁴ Section 5 of Article 202 in the *Penal Code* is an important provision for facilitating effective enforcement of child pornography crimes since it allows courts to order “the forfeiture of any equipment or materials used or designed to be used for presenting, distributing, producing, recording, ordering, storing or possessing child pornography”.²³⁵ Poland needs to ensure that it effectively uses such legal ‘tools’ and is implementing a systematic, consistent and rigorous response to child pornography offences.

It is important to note that Poland is part of the CIRCAMP (COSPOL Internet Related Child Abuse Material Project) initiative – a law enforcement only project that was setup in 2004 to detect, disrupt and dismantle networks, organizations or structures used for the production and/or distribution of child abusive files and to detect offenders, identify children and stop abuse. The project also has the aim of reducing harm to society by attacking the distribution of child abuse material on a European level, and disrupting the methods used by organized crime groups responsible for the illegal pay per view sites.²³⁶

Recent child pornography cases

In September 2010 Polish Police seized 133 computers, laptops and hard disks, along with 3,500 CDs and DVDs – leading to the arrest of 102 individuals around the country for the possession and distribution of child pornography on the Internet.²³⁷ These arrests were preceded by similar police crackdowns in January, April, and July 2010 which led to the search and seizure of hundreds of computers, hard drives, CDs and DVDs and the arrest of over 111 individuals suspected of collecting and distributing child pornography online.^{238,239} Operations carried out throughout 2009 and also resulted in an estimated 473 arrests.²⁴⁰

A 2011 case instigated a controversial debate over artistic expression and child abuse images. An artist from the city of Łódź attempted to address the issue of paedophilia in the Catholic Church in a number of his paintings, including the depiction of the genitals of children, which were then named after the city in which the abuse had taken place. These pieces were then displayed on his website and on an Internet auction site.²⁴¹ Police searched and seized the individual’s paintings and computer in October 2010. The artist was then arrested and charged with ‘the propagation and endorsement of paedophilic content, the public display of pornography content and the production, distribution, display, storing and possession of pornographic content containing created or process images of minors engaged in sexual acts’.²⁴² It has not yet been determined whether these paintings constitute child pornography. As of July 2011 the case has been returned to the prosecutor to remedy errors from the pre-trial investigations.²⁴³

Child sex tourism is not defined or specifically criminalised in Polish legislation. Poland should prioritize the adoption of child sex tourism offences that include the following elements: engaging in sexual conduct with a child abroad, travelling with the intent of engaging in sexual activities with a child abroad, advertising or promoting child sex tours, organising/making of travel arrangements for a person for the purpose of engaging in sexual activity with a child at destination, and transporting a person for any of these purposes. Criminal liability for these offences should extend to both individuals and legal persons, acknowledging the corporate liability of the tourism sector. Article 200b of the *Penal Code* could conceivably cover some of the aforementioned elements and provide some protection against child sex tourism. This provision criminalises anyone who publicly propagates or approves of pedophilic behaviour.²⁴⁴ However, the scope of this provision is unclear and it does not appear to apply to corporations.

Extensive territorial and extra-territorial jurisdiction is also essential for a comprehensive legal framework to combat child sex tourism. While there are some strong avenues available to Poland to ensure the prosecution of CSEC offenders both within Poland and abroad, critical gaps remain that must be addressed. The most notable weakness is the application of the double criminality rule. Poland should also ensure that CSEC offences are always considered extraditable.

Article 113 of the *Penal Code* establishes territorial jurisdiction, as required by the OPSC, by allowing for the prosecution in Polish courts of any crimes committed in Poland irrespective of the offender's and/or victim's nationality, unless an international agreement states otherwise.²⁴⁵ Given the benefits of prosecuting CSEC offences in

the country in which they occurred (eg. availability of evidence, easing the process on the victim etc.) Poland should ensure that they do not enter any international agreements that limit or remove their territorial jurisdiction with regards to CSEC offences. This will help ensure effective prosecution of foreign child sex offenders that exploit children in Poland.

Polish law also grants Poland with extra-territorial jurisdiction based on the passive personality principle (the nationality of the victim). Article 110 of the *Penal Code* enables crimes committed against Polish nationals abroad to be prosecuted in Polish courts.²⁴⁶ This provision importantly broadens the scope of Poland's jurisdiction, helping to maximize grounds for prosecution against CSEC offences. Poland also exercises extra-territorial jurisdiction based on the nationality principle, allowing Poland to prosecute Polish citizens and residents for criminal offences committed abroad.²⁴⁷ This satisfies the extra-territorial requirements of both the OPSC and the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*. However, the scope of this jurisdiction is limited by the double criminality rule, which requires the act in question to constitute an offence in the jurisdiction in which it was committed, unless Poland has agreed to pursue under an international agreement.²⁴⁸ Poland should eliminate the double criminality requirement in relation to all child sex tourism offences.

Extradition back to the country where the offence was committed is usually the best option, provided the country possesses the resources and legal system to effectively prosecute. The Polish government accepts requests for extradition on the basis of bilateral international treaties and multilateral agreements and if such agreements are lacking then requests are dealt with according

to the *Code of Criminal Procedure*.²⁴⁹ However, Article 155 of the Polish *Constitution* generally prohibits the extradition of Polish citizens, unless otherwise provided in a bilateral international agreement and the act in question amounts to, *inter alia*, an offence in Polish law.²⁵⁰ This presents a potentially critical gap in Poland's extra-territorial jurisdiction. If a Polish national committed a CSEC offence abroad that does not amount to an offence under Polish law and is now present on Polish territory and is not extradited to the requesting jurisdiction then there would be no method of prosecuting this offender.²⁵¹ Given that Poland's CSEC legislation is not comprehensive, certain CSEC offenders in this scenario would go unpunished. For example, if a Polish citizen produced a pornographic material abroad that involved a child between the ages of 15-18, without the purpose of dissemination etc., then their act would not constitute a crime in Poland and without an extradition agreement

this individual would not be prosecuted. This problematic loophole can be avoided by ensuring Poland's CSEC legislation is comprehensive and by considering CSEC offences as a basis for extradition, without a double criminality requirement. Poland should prioritise both of these remedies to ensure all CSEC offenders are prosecuted for their crimes. Poland should also ensure that CSEC offences are included in all existing extradition treaties and that national laws are as supportive of extradition as possible.

Polish enforcement of and responses to child sex tourism offences cannot be evaluated since there is no relevant data available. Poland should ensure that extra-territorial jurisdiction is being exercised, that extradition for CSEC-offences is provided for, and that there is systematic data collection on these offences to facilitate improved policy development and enhancement of law enforcement.

Child protection units

The Central Unit for Combating Trafficking in Human Beings, Human Organs, Child Pornography and Paedophilia was established in 2006 within the national police headquarters,²⁵² marking a laudable development in Poland's CSEC law enforcement regime. There are also a number of specialised agencies working on the trafficking in human beings. A central anti-trafficking unit was established within the Central Bureau of Investigation and there are 16 anti-trafficking units within the regional police.^{253,254} There is also an anti-trafficking team within the Border Guard, including 13 anti-trafficking coordinators, 12 deputy coordinators²⁵⁵, and 6 anti-trafficking consultants in the General Prosecutor's

Office.²⁵⁶ (See Cooperation and coordination section above for more information on anti-trafficking teams). Further strengthening the capacity of law enforcement when it comes to protecting children, in some districts in Poland prosecutors have been trained specifically to handle cases that involve children.²⁵⁷

To ensure a comprehensive law enforcement response to CSEC, maximising the use of existing specialised agencies, Poland should undertake research on the extent and causes of continuing enforcement gaps and formulate targeted measures to ensure a consistent and comprehensive law enforcement response.

Support services

Strategies for the recovery and reintegration of victims of CSEC should contain immediate and long-term policies. Immediate assistance can include medical and psychological care, provision of adequate shelter and legal assistance; whereas, longer-term assistance could include reintegration into school, return to the family or community when possible, and sound plans for social and economic rehabilitation and reintegration. In relation to child victims who have been trafficked into Poland from other countries, it is also important to have in place specific support mechanisms for children without Polish identity.

Both the Polish government and the Committee on the Rights of the Child have recognised that support services for children victims of CSEC in the country are currently inadequate.^{258,259} Increased resources are needed to ensure that support services and facilities are sufficiently equipped to deliver immediate, medium and long-term support programmes that are specifically tailored for children. There also needs to be increased attention devoted to the unique needs and vulnerabilities of CSEC victims. While there is a more developed system for providing effective support services to victims of trafficking, there is inadequate attention given to child victims specifically. Meanwhile, there is virtually no infrastructure for providing support services to victims of other manifestations of CSEC, such as child prostitution (although there is support for children with so called 'behavioral problems', including involvement in prostitution where they can be placed in specialized centres called Youth Sociotherapy Centres).

There are a number of good programmes for facilitating the recovery and reintegration of trafficking victims; in 2011 the Polish government maintained funding of victim protection mechanisms throughout the country and identified significantly more victims of trafficking in human beings compared to 2010.²⁶⁰ However, there continues to be a large gap between trafficking victims in need of assistance and those who actually benefit from government-assisted programmes.²⁶¹ The Polish government has themselves acknowledged that there are insufficient facilities for providing support services and that the standards of those that do exist need to be improved.²⁶² The Committee on the Rights of the Child also highlighted Poland's lack of facilities, noting that due to inadequate shelter options victims are often placed in temporary arrangements.²⁶³ Rural areas have been identified as particularly in need of improved and expanded support services, most notably with regard to shelter, systems

for victim identification and education.²⁶⁴

There is currently no separate support system in place for child victims of human trafficking in Poland. Children who are identified as victims of trafficking are placed in child care institutions with qualified staff. Following a pilot project implemented in 2011 in cooperation with the MoI, selected child care institutions have undergone trainings preparing their staff to take care of child victims of trafficking. Reportedly, a comprehensive model for the support and protection of minor victims is being developed, the Programme for Support and Protection of Minor Victims, and pilot projects have been implemented in two voivodships since 2009.²⁶⁵ The Polish government should prioritize the completion and widespread implementation of this programme so that children receive adequate and effective support services that are tailored to their specific needs.

VICTIM IDENTIFICATION

A strong system for victim identification is integral to a robust support system, since victims cannot be provided with support until they have been identified. Furthermore, an effective victim identification system includes an institutionalised framework for referring victims to the services they require. In 2009 the MoI initiated a Pilot Programme for child victims/witnesses of trafficking in human beings in 4 voivodships, with the aim of: establishing safe shelters network for children, providing training for shelter personnel, and preparing a formula with indicators that would support identification of child trafficking victims. Law enforcement/police officers now use the “Algorithm of conduct in cases of human trafficking”.²⁶⁶

Empowering the Border Guard to independently investigate cases of human trafficking may further strengthen victim identification; currently the police are the only body that is authorized to conduct such investigations.²⁶⁷ Positively, legislative amendments have reportedly been prepared, but not yet passed on to Parliament, that would give the Border Guard this jurisdiction.^{268,269} NGOs can only identify Polish victims; they do not have the authority to assess the status of potential foreign victims of trafficking that are residing in Poland illegally.²⁷⁰ The Polish

government should pursue the adoption of this amendment and augment the training of relevant NGOs in identifying child victims of trafficking, expanding the network of actors able to identify trafficking victims. Despite these gaps, the number of identified trafficking victims has increased in recent years. In 2011, Polish police identified 204 victims of trafficking, a significant increase from the 85 identified victims in 2010.²⁷¹ This could be due to an increase in the number of trafficking victims or it could be indicative of enhanced capacity within the police to identify trafficking victims.

While all relevant authorities (law enforcement personnel, labour inspectors, social workers, consular personnel etc.) are encouraged to contact the National Consulting and Intervention Centre for Victims of Trafficking (KCIK) with any relevant information regarding suspected victims of trafficking, there are no written instructions or Memorandums of Understanding that explicitly layout the steps for doing so and/or the roles of institutions in victim identification or referral.²⁷² This highlights the need for an institutionalised framework on victim identification and referral that facilitates coordination and the effective handling of victims.

HOTLINES AND HELPLINES

In Poland there are a number of hotlines and helplines available for CSEC victims or to aid in the protection of potential CSEC victims. Extensive CSEC training should be provided to the staff of existing helplines to ensure that CSEC victims are receiving the necessary specialised support. Poland should also ensure that there are sustained efforts to promote the existence of available helplines and hotlines so that they are widely used and accessible. As part of the SIC, there is both a helpline and a hotline for online sexual exploitation of children. The helpline.org.pl²⁷³ provides support to young Internet users, parents and

professionals who encounter online threats to children and youth. The helpline is a member of INSAFE, the European Network of Awareness Centres and is implemented by NCF and Orange Foundation.²⁷⁴ The toll-free telephone helpline (800-100-100) is available from 11am to 5pm on weekdays and online chat and email is also available for receiving support services from the helpline staff. In 2011, the helpline staff handled 2,607 reports from children, parents and professionals.²⁷⁵ Dyzurnet.pl is a hotline that is also associated with the Polish SIC and is a member of the INHOPE (International Association of

Internet Hotlines) network.²⁷⁶ The hotline, which is operated by ICT Company NASK, provides a reporting facility for anyone who spots harmful or illegal content or conduct online.²⁷⁷

Another resource for assisting in the protection of children and youth online is The Telephone Consultation on Children, operated by Kidprotect.pl. Unlike the SIC services, this helpline is not for children but is instead available for adults, guardians and other professionals that work with children, including police officers and prosecutors (801 123 400).²⁷⁸ The helpline provides consultation and assistance with regard to the safety of children online, cyber-bullying, violence against children, sexual offences against children and risky sexual behaviour of children and youth.²⁷⁹ It is in operation from Monday-Friday 10am-4pm and the nominal cost of calling is not dependent on the length of the call.²⁸⁰

The 116 111 helplines have been created across Europe following the European

Commission Decision 2007/689/EC; Poland was the 5th country in Europe to inaugurate it.²⁸¹ The NCF operates the helpline in Poland to provide information, counselling and help to children and youth facing a wide spectrum of problems. The Children's Ombudsman in Poland also operates a helpline (800 12 12 12), which receives calls from children facing a number of different problems as well as from adults calling to report children in need of support.²⁸²

There are two additional helplines that are not specifically for children; however, are relevant to CSEC. La Strada Foundation operates a helpline (22 628 99 99) for victims of trafficking, prostitution and other forms of abuse and exploitation.²⁸³ The National Consulting and Intervention Centre for Victims of Trafficking (KCIK) also operates a helpline for trafficking victims that are in need of emergency assistance. It is available 24-hours a day and reportedly receives approximately 6,000 calls per year.²⁸⁴

CENTRES AND PROGRAMMES

In 2011, the Polish government continued its practice of allocating approximately \$250,000 USD for trafficking victim assistance.²⁸⁵ The Programme for Support and Protection of Victims/Witnesses of Human Trafficking and the National Consulting and Intervention Centre for Victims of Trafficking are the two main support service frameworks/structures for victims of human trafficking, both of which have been established and funded by the government and implemented by an NGO. The government has also provided funding for 19 crisis centres that provide shelter for up to 123 trafficking victims across the country.²⁸⁶ However, there is no comprehensive support system in place specifically tailored towards child victims of trafficking.

The Programme for Support and Protection of Victims/Witnesses of Human Trafficking ("Trafficking Programme") has been in

operation since 2006 to provide foreign victims of trafficking with shelter, food, medical care, psychological support, legal consultation, interpretive services and other practice assistance.²⁸⁷ To be eligible to be covered by the Trafficking Programme, victims must make contact with law enforcement officials; there must be a reasonable belief that the individual is a victim of human trafficking (as decided by the relevant government authorities); and all contact with the perpetrators must be stopped. The Trafficking Programme is complete upon conclusion of the legal proceedings, if it is possible for a safe return to the victim's country of origin.²⁸⁸ Since 2010, La Strada Foundation has operated the Trafficking Programme within the framework of the KCIK.

After entering the Trafficking Programme, foreign victims are given a 3 month reflection

period to decide whether to cooperate with law enforcement. Those who chose not to cooperate are guaranteed a safe return to their country of origin.²⁸⁹ In 2011, 25 victims were enrolled in the Trafficking Programme, 20 of whom cooperated with law enforcement (there were 34 victims enrolled in 2010, all of whom cooperated with law enforcement).²⁹⁰ A representative from the La Strada Foundation immediately contacts victims that do participate in the Trafficking Programme to assess the victim's situation and provide the necessary support services.²⁹¹

The KCIK was established in 2009²⁹² and is implemented by the La Strada Foundation, under the auspices of the Ministry of Interior and in cooperation with the Border Guard and the Team for Combating Trafficking in Human Beings.²⁹³ Since 2010, the KCIK has been in charge of the above-mentioned Trafficking Programme.²⁹⁴ The KCIK provides assistance to both Polish nationals and foreigners who are victims of human trafficking, or at risk of becoming victims of human trafficking regardless of whether they have contacted or cooperated with law enforcement.²⁹⁵ KCIK collaborates with other organizations to identify victims of trafficking and provide them with protection and assistance, including legal consultation.²⁹⁶ KCIK operates an anti-trafficking hotline, provides information and resources to victims and offers shelter for adult female victims of trafficking.²⁹⁷ In 2011, the KICK provided

assistance to 133 victims of trafficking, a decrease from the 253 that received assistance from the centre in 2010.²⁹⁸ Both Polish nationals and foreign victims do not require formal identification as victims of trafficking to benefit from KCIK services; however, foreigners without formal identification are not authorized to extend their stay in Poland or receive social assistance.²⁹⁹

Poland lacks centres with the capacity to effectively support foreign child victims of trafficking. Unaccompanied minors who are suspected of being victims of human trafficking have predominantly been referred to emergency care centers. However, emergency centre staff was reportedly unable to effectively receive, support and protect these children.³⁰⁰ Therefore, the government, in cooperation with the La Strada Foundation, has since equipped 2 educational-care centres with the capacity and skills to provide assistance and protection to foreign minor victims of trafficking.³⁰¹ Poland should prioritize the expansion of such specialised centres across the country to ensure that child victims of trafficking are receiving the unique support they require. The staff in other educational-care centres should also receive training on identifying child victims of trafficking to help ensure that these children are re-directed to facilities that are specifically equipped to care for child trafficking victims.

FOREIGN VICTIMS

Article 53a, Section 2 of the *Aliens Act* provides a 3 month reflection period for foreign victims of trafficking to decide whether to cooperate with law enforcement.³⁰² Two foreign victims of trafficking used the reflection period in 2011 (up from zero in 2010); however, both decided not to participate in the criminal proceedings.³⁰³ The new *Act on Foreigners* will seek to implement solutions for overcoming existing barriers to foreign trafficking victims utilizing their right to stay on Polish

territory.³⁰⁴ Article 53 Section 1 of the *Aliens Act* provides for the possibility of a 6 month residence permit for victims of human trafficking that cooperate with authorities.³⁰⁵ Article 53a, Section 2, Para. 4 of the *Aliens Act* provides individuals who are illegally residing in Poland with a residence permit for a specified period of time if a competent authority (border guard, police and/or national prosecutor's office) states that there is a probable likelihood that the individual is a victim of trafficking in human beings.³⁰⁶ To

receive the residence permit the victim must also be on the territory of Poland, cooperate with the relevant authorities and terminate contact with the alleged perpetrator.³⁰⁷

The *Act of 12 March 2004 on Social Assistance* provides social assistance to suspected foreign victims of human trafficking who have been granted a fixed period visa/residence permit. In 2006, the Trafficking Programme (see above) was established to provide comprehensive support services to foreign victims of trafficking, granting foreign victims of trafficking access to the same support services as Polish citizens. These services include crisis intervention assistance, shelter, food, clothing and safe return to country of origin. From 2000-2008, only 4 foreign minors received support from the Trafficking Programme.³⁰⁸ In 2011, the Polish government signed an agreement with the IOM to guarantee support services for foreign victims of trafficking regardless of their cooperation with law enforcement (including an assessment on whether their return to their origin country will be safe).³⁰⁹ However, international organizations continue to express concern that foreign victims who do not participate with law enforcement are not identified as victims of trafficking or provided with the required reflection period and support services.³¹⁰

The deportation of foreign minors is separately regulated by the *Law on Foreigners*. Article 94 states that a minor will only be deported to their country of origin, or another country, if they have ensured and appropriate guardianship.³¹¹ Reportedly, there have been few mandatory returns of unaccompanied children, as most are granted a permit to stay in the country.³¹² Furthermore, Article 97 of the *Law on Foreigners* states that a child cannot be removed from Poland if doing so would violate any of their rights enshrined in the CRC.³¹³ If a foreign minor is deported it is mandatory that it take place under the care of a legal representative or other respective body.³¹⁴ A 2007 amendment to the *Law on*

Social Assistance enabled foreign children who are particularly at risk of being trafficked to lawfully remain in Poland.³¹⁵ Unaccompanied children who are seeking refugee status are accommodated in the Children's Home No.9 in Warsaw; other unaccompanied children are placed in different institutions where they are allowed to stay until their return.³¹⁶ The disappearance of unaccompanied children from such institutions has been recognized as a concern in Poland.³¹⁷ This is particularly concerning given that these children become very vulnerable to being trafficked. Poland needs to implement procedures and safeguards to prevent the escape of these children and ensure they are protected from a greater risk of CSEC.

Pursuant to an agreement between the Ministry of Interior and the IOM, and in cooperation with the Border Guard and Office of Foreigners, a voluntary return program for victims of trafficking has been in operation since 2005. The assistance provided by the IOM includes: advisory services, assistance in obtaining travel documents, medical tests, organisation of the return journey and reintegration assistance (including financial assistance), with special attention paid to the needs of unaccompanied minors and victims of human trafficking.³¹⁸ La Strada Foundation also supports victims who chose to return to their country of origin by attempting to contact a partner organisation in that country to facilitate a safe return and follow up.³¹⁹ The 2011-2012 Trafficking NPA states that a series of training courses will be provided to Border Guard and Office of Foreigners staff on the voluntary return programme, including training on how to deal with unaccompanied child victims of trafficking.³²⁰ It also envisages extending the list of eligible beneficiaries for the voluntary return programme. Currently the voluntary return programme covers irregular migrants, but does not explicitly mention victims of trafficking as beneficiaries of the programme.³²¹

COMPENSATION

Poland does not have a separate compensation fund for victims of human trafficking. However, victims of human trafficking may be able to claim compensation from the perpetrator by making a claim during criminal proceedings (pursuant to Article 455 of the *Civil Code*),³²² and/or can seek compensation from the state as a victim of a crime under the *Act on State Compensation for Victims of Certain Intentional Offences*.³²³ Victims of human trafficking may also be eligible for compensation under a special Act that grants compensation to victims who have suffered serious physical or psychological harm as a result of a crime. However, so far no victims of trafficking have received compensation under this Act.³²⁴ Reportedly,

as of 2010, no victims of trafficking had asked for compensation.³²⁵

A compensation fund for victims of trafficking should be established.³²⁶ “COMP.ACT – European Action for Compensation of Trafficked Persons” project is a 3 year project coordinated by La Strada International and implemented in 14 European countries. Under the framework of this project a number of activities are planned in Poland, including, *inter alia*: the development of recommendations on the possibility of providing compensation to trafficking victims and the creation of guidelines for victims applying for compensation.³²⁷

CHILD FRIENDLY

There are inadequate measures in place to support children and protect their best interests during legal proceedings. Articles 185a and 185b of the *Code of Criminal Procedure* requires that children younger than 15 years of age who are victims of sexual abuse or domestic abuse are questioned in the presence of a psychologist and are only examined once, unless new information requires further interrogation at a later date. These provisions should be amended so that they explicitly apply to CSEC victims to ensure they are always adequately protected. Furthermore, Articles 185a and 185b should be extended to apply to all victims under the age of 18.

Articles 185a and 185b have also been criticised for not encompassing enough protective measures. For example, they do not require the hearing to be held in a child-friendly facility and there is the potential for the hearing to be repeated if requested by the defendant under certain circumstances.³²⁸ Reportedly a large number of children are interviewed more than once throughout the course of proceedings.³²⁹ In one study, an underage victim of prostitution was interviewed 8 times.³³⁰ While the law does

LEGAL PROCEDURES

not require the use of child-friendly rooms, there are 300 such facilities in existence across the country.³³¹ However, Poland continues to lack properly equipped child-friendly interview facilities and trained personnel to carry out child-friendly interviews.^{332,333} It is also reported that child-friendly interview rooms are not consistently used.³³⁴ This highlights the need for Poland to amend legislation so that best practices for child victims of CSEC are mandated throughout the course of legal proceedings. There is reportedly a project of law amendments which would widen the protection of children during the interview, which will soon be taken before the Polish parliament. This project however doesn't guarantee fully child-friendly interviews.³³⁵

There are a number of NGOs in Poland which provide legal assistance, among other services, to child victims of violence and abuse. The NCF runs the Mazowiecka Child Advocacy Centre and the Alina Margolis-Edelman Praga Child and Family Centre, which provides legal assistance, as well as psychological and psychiatric help, for children who have been abused.³³⁶ “The Child Advocacy Centre (“Mazowiecka”), established

by NCF and operated in cooperation with the Ministry of Justice and the Ministry of Internal Affairs and Administration, offers children and their family members legal and psychological assistance free of charge.”³³⁷ NCF also implements the “Protecting children in legal procedures programme”, which seeks to enhance protection measures for children participating in legal procedures. This is achieved through the training of

relevant law enforcement personnel and pedagogic counsellors and psychologists, publishing educational materials and through certifying child friendly interview rooms.³³⁸ In 2011, NCF conducted over 180 child friendly interviews in legal proceedings.³³⁹ The Legal Aid Centre, HalinaNiec, in Krakow also provides free legal assistance and information to both national and foreign victims of trafficking.

Training of law enforcement

There are some examples of programmes to provide general training on working with child victims of crimes; however, training initiatives have largely focused on trafficking in human beings, while training with regards to other manifestations of CSEC appear sparse.

The “methodological guidelines for prosecutors carrying out or supervising criminal procedures dealing with trafficking in human beings” and the “algorithm of conduct of law enforcement officers in investigating potential cases of trafficking in human beings” are two frameworks that guide law enforcement who encounter anti-trafficking cases.³⁴⁰ The Algorithm lays out the procedure for law enforcement officials to follow in identifying and supporting victims of human trafficking, including child victims of trafficking. However, despite these frameworks and the numerous examples of positive trafficking training programmes for law enforcement, the Special Rapporteur on Human Trafficking highlighted the need for expanded and improved training around victim identification.³⁴¹ This finding was supported in a recent research study, which surveyed police officers and Border Guards. The majority of the respondents reported never having encountered a situation of suspected child trafficking, yet almost 70% of respondents had encountered situations where unaccompanied foreign children did not have identification documents and exhibited signs of neglect or intimidation (significant indicators that suggest potential trafficking victim).³⁴² More trainings are being organised

in Poland for law enforcement personnel. This is also envisaged in the National Action Plan.³⁴³

The Ministry of Justice and NCF launched the campaign “The Child: A Vulnerable Witness” in 2004 to sensitise judges, prosecutors, law enforcement officers and psychologists to the special situation of children in the criminal justice system.³⁴⁴ In particular, the campaign seeks to enhance the capacity of law enforcement (including prosecutors, judges and police officers) as well as other relevant professionals (psychologists and child pedagogues) to conduct child-friendly interview procedures.³⁴⁵ In 2011, the NCF also cooperated with the Ministry of Internal Affairs to provide training for law enforcement personnel on identifying and supporting child victims of trafficking.³⁴⁶ Trainings were also provided by NCF within the framework of the “Don’t Lose!” campaign. As part of this campaign 605 professionals attended trainings on child trafficking and commercial child sexual exploitation; 2,000 brochures entitled “Child Trafficking in Poland and Abroad”, 900 brochures entitled “Commercial Sexual Exploitation of Children: FAQs” and 2,500 posters entitled “You have no price” were distributed.³⁴⁷

In 2010, the Child Exploitation and Online Protection Centre of the UK national police agency ran a 4 day event in Warsaw aimed at raising awareness about the sexual exploitation of children and enhancing the capacity of Polish law enforcement and child protection specialists to combat it. The event

included a 3 day workshop that provided training to police officers and prosecutors on Covert Internet Investigations and a conference for both UK and Polish child protection professionals entitled “A Changing World: Young People and Risk in the Online Environment”.³⁴⁸ Kidprotect.pl offers training for law enforcement personnel on CSEC issues³⁴⁹ and has completed training courses for the Police Training Centre in Legionowo; Juvenile Provincial Headquarters in Wrocław, Krakow, Szczecin, Białystok and Kielce; and for the police and prosecutors.³⁵⁰

Since 2008 anti-trafficking coordinators within the police and the Border Guard take part in annual training programmes that are slated to continue under the current Trafficking NPA.³⁵¹ Border Guards and police receive training on the Algorithm and human trafficking³⁵² is also incorporated into training for prosecutors.³⁵³ In 2011, the government provided training on investigating and prosecuting trafficking cases for judges, labour inspectors, Border Guards and police. For example, the National School for Judges and Prosecutors organized a series of trafficking training sessions for 550 judges and prosecutors in a number of cities. The government has also continued to administer a 4 level training programme on human trafficking for Border Guards, 5,000 of who completed the basic level 3 hour training in 2011 (comprising 1/3 of all

border guard staff). The national police also implement an extensive training programme on human trafficking, providing 40-hours of comprehensive anti-trafficking training to police academies throughout the country. A total of 229 federal, provincial and municipal police officers attended this training between 2009 and 2011.³⁵⁴ The Border Guard also organizes trafficking in human beings trainings and workshops for Border Guard officers, police officers and prosecutors. Additionally, lecturers from the Border Guard’s Training Centre have provided trafficking training to other institutions, such as the Common Courts of Law and Prosecutors Training Centre, the National Labour Inspectorate, and the MLSP.³⁵⁵

The *Trafficking NPA* for 2011-2012 plans for a number of trafficking training programmes for law enforcement authorities, including a few of which specifically provide training on child trafficking and child victims of trafficking. Child trafficking training is set to take place in cities that are seats of appellate courts, reaching a total of 500 people in 2011-2012.³⁵⁶ Employees of the Office for Foreigners and the Border Guard are also slated to receive training on trafficking, including how to deal with uncared-for children and the IOM handbook on providing support services to trafficking victims is to be translated into Polish and made available for downloading.³⁵⁷

CHILD AND YOUTH PARTICIPATION

Child and youth participation appears inadequate in Poland. The CRC enforced this position, expressing concern that children and youth were not being granted meaningful opportunities to participate in matters that affected them, including the creation of programmes and policies.³⁵⁸ One example of child and youth participation relating to CSEC is implemented by the SIC, which consults children and young people on a regular basis so that they can contribute to the design of effective educational tools and campaign materials.³⁵⁹ Campaign materials

and educational scenarios prepared by NCF for the purpose of the campaign “Don’t Lose!” were shared with youth (focus groups and interviews) and adapted accordingly to the youth needs.³⁶⁰ This sort of child and youth participation should be replicated in other initiatives related to CSEC so that this key stakeholder group is participating in the fight against CSEC. The Polish government should also ensure that future policies pertaining to CSEC and children more generally include measures that promote sustained child and youth participation.



PRIORITY ACTIONS REQUIRED

National plan of action

- Poland should prioritize the development of a comprehensive NPA that thoroughly addresses all manifestations of CSEC, with measures for intervention in the 5 key areas: coordination and cooperation, prevention, protection, recovery and reintegration, and child participation.
- In accordance with the Rio Declaration and Call for Action, children and youth should be afforded meaningful participation in the development, monitoring and evaluation of a new CSEC NPA and any other policies that affect them.
- Substantive measures relating to the trafficking in children for sexual purposes should be explicitly delineated in the *National Action Plan against Trafficking in Human Beings*.
- Future *Trafficking NPAs* should also include substantive measures that seek to reduce the demand for child trafficking.

Cooperation and coordination

- Poland should establish a body that is responsible for coordinating all CSEC-related activities by state actors, NGOs and the private sector.
- Poland should ensure that all plans to augment the data collection on trafficking in human beings are operationalized and backed up with the necessary financial and organisational support.
- To comply with the Rio Declaration Call for Action, Poland must strengthen systems for data collection in relation to all forms of CSEC, not only for trafficking, disaggregated by sex, age and ethnic or social origin, and ensure that these statistics are analysed and used as a tool for developing effective CSEC policies and activities.
- Poland should maintain their cooperation with regional and international law enforcement agencies to combat CSEC offences and continue pursuing cooperation opportunities that strengthen a regional and international approach to all manifestations of CSEC, including child sex tourism and child prostitution.

Prevention

- CSEC education should be a mandatory component of all school curricula and teachers should receive adequate training to effectively deliver the relevant materials.
- The Polish government should increase private sector involvement in the fight against CSEC, including the promotion and implementation of the Code.
- Awareness raising campaigns for all manifestations of CSEC should be expanded, learning from some of the best practices identified in the “Don’t Lose!” campaign. Campaigns should focus on increasing awareness about CSEC laws and among potential exploiters of child victims.
- Increased training and education programmes are required for child prostitution and child sex tourism.

Protection

- Ratify the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse CETS No.201* and the *Council of Europe Convention on Cybercrime CETS No.185* and ensure that all CSEC-related international and regional instruments are fully implemented.

- The Polish government should enhance enforcement for all CSEC-related offences and ensure that offenders are rigorously and consistently prosecuted and that the sentencing adequately reflects the gravity of the crimes.
- Poland must amend CSEC legislation to provide effective, consistent and complete protection for all children under the age of 18.
- Legislation concerning trafficking in human beings should be amended to introduce provisions that specifically prohibit the prosecution/penalisation of trafficking victims for acts committed as a result of their being trafficked. The definition of trafficking in human beings should also be expanded to explicitly criminalise both domestic and international trafficking.
- A definition for child prostitution must be added to the *Penal Code*, Article 199 Section 3 should be amended to remove any consideration of consent, all acts outlined in the OPSC related to child prostitution should be explicitly and comprehensively criminalised and a provision that guarantees the treatment of children exploited in prostitution as victims should be implemented.
- Child pornography laws must be augmented to provide a definition of child pornography, criminalise the acts of offering and accessing and impose reporting obligations on ISP's and financial companies that become aware of child pornography.
- Poland should abolish the double criminality requirement for exercising extra-territorial jurisdiction and should ensure that all CSEC offences are extraditable.
- Poland should undertake research on the extent and causes of continuing enforcement gaps and formulate targeted measures to ensure a consistent and comprehensive law enforcement response.

Recovery and integration

- Poland should prioritise the implementation of the Programme for Support and Protection of Minor Victims and ensure it is backed up with sufficient funding to effectively operationalise.
- Increased shelter services and other support service facilities are required, especially in rural areas.
- A comprehensive national referral mechanism should be introduced that specifically accommodates child victims.
- Poland should develop a programme that provides compensation to trafficking victims and create guidelines for applying to this fund to ensure that it is accessible.
- Legislation must be amended to improve the protection of all children (including those aged 15-18 years) throughout the legal proceedings. Child-friendly facilities should be mandatory and there must be properly trained professionals to conduct the interviews.
- The interviewing of CSEC victims should be restricted to one time and enshrined in law, to prevent the repeat victimisation of child victims.

Child and youth participation

- More meaningful and sustained participation of children and youth is required to comply with the Rio Declaration and Call for Action.
- Poland should place emphasis on child and youth participation in the development of future NPAs and in the approval of new laws.

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

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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- 1) force or unlawful threat,
- 2) abduction
- 3) deception,
- 4) misleading, or by taking advantage of a mistake or inability to adequately understand the action undertaken,
- 5) abusing a relationship of dependence, by taking advantage of a critical situation or vulnerability,
- 6) giving or accepting personal or material benefit or demands such benefit to a person who shall take care of supervise of other person

- with the purpose of taking advantage even with his or her consent, particularly in prostitution, pornography or other forms of sexual exploitation, as a forced labour or services, beggary, slavery or other forms of usage resulting humiliation or human dignity or with the purpose to seize human cells, tissues or organs despite provisions of law. If the behavior of the perpetrator regards minor, it shall be treated as trafficking in persons as well, even if the methods or devices stipulated in points 1-6 have not been used.” (See <http://legislationline.org/topics/country/10/topic/14>)

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