



IRELAND

ECPAT

COUNTRY OVERVIEW

*A report on the scale, scope and context of
the sexual exploitation of children*

November, 2018



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Acronyms

AHTT	Anti-Human Trafficking Team
AHTU	Anti-Human Trafficking Unit
CASS	Child Accompaniment Service Support
CEFM	Child, early and forced marriage
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CSAM/CSEM	Child sexual abuse / exploitation material
DCYA	Department of Children and Youth Affairs
DJE	Department of Justice and Equality
EU	European Union
GRETA	Group of Experts on Action against Trafficking in Human Beings
HSE	Health Service Executive
HTICU	Human Trafficking Investigation and Coordination Unit
ICT	Information and Communications Technology
ILO	International Labour Organization
INHOPE	International Association of Internet Hotlines
INTERPOL	International Criminal Police Organization
ISP	Internet Service Provider
OCSE	Online child sexual exploitation
OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
SDGs	Sustainable Development Goals
SEC	Sexual exploitation of children
SECTT	Sexual exploitation of children in travel and tourism



Preface

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT Country Overviews on SEC provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the SDGs to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of SEC in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC.

ECPAT Country Overview also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

At a Glance

The Republic of Ireland has an estimated population of 4.72 million inhabitants, out of which 1.19 million are children. The country was hit hard by the 2007-2008 financial crisis and the ensuing austerity measures, which worsened the national levels of poverty and homelessness. Although a developed country, Ireland still suffers from **social inequality and income disparity, which are risk factors for the sexual exploitation of children (SEC)**.

Data on the **exploitation of children in prostitution** is limited in Ireland, but the presence of children in brothels has been reported with victims being predominantly Irish or EU citizens. The country has a high rate of mobile phone and Internet usage, which can increase the risk of **online child sexual exploitation (OCSE)**, such as **online grooming**. Ireland continues to be a destination country and is increasingly becoming a source country for **child victims of trafficking for sexual purposes**. The **sexual exploitation of children in travel and tourism (SECTT)** is also an issue with offenders taking advantage of cheap airfares and developed transport networks to commit crimes abroad. Furthermore, children have been involved in recent years in cross-border crimes, which include **trafficking for the purpose of sham and forced marriages**.

The country has ratified some of **the most relevant legal instruments in the fight against SEC**, including the Convention on the Rights of the Child (CRC) and the ILO Convention on the Worst Forms of Child Labour; but it has yet to ratify the CRC's Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), and the Council of Europe's Lanzarote and Budapest Conventions. The country also established partnerships with international agencies to combat SEC.

Recent years has seen **progress in terms of legislation** to protect children from SEC, notably with the enactment of a **Criminal Law (Sexual Offences) Act 2017**, which criminalises new

offences relating to SEC. However, a victim-centred approach is still missing in the Irish legislation.

The Department of Children and Youth Affairs and the Department of Justice and Equality both play pivotal roles in putting together **policies to protect children**. So far, they have implemented a National Policy Framework for Children & Young People, and a National Action Plan to Prevent and Combat Human Trafficking in Ireland, which both address aspects of SEC. However, Ireland's Special Rapporteur on Child Protection has highlighted gaps in the National Action Plan.

In terms of **prevention measures**, the country has launched several **sensitisation campaigns** and it provides therapeutic support for child sex offenders to reduce risks of recidivism. In terms of **children's access to justice**, there is no national complaint mechanism adapted for child victims, which takes into consideration their specific vulnerabilities. They nevertheless have the right to be accompanied by a solicitor and/or another person of their choice when reporting a crime. Furthermore, when all domestic remedies have been tried, children have the possibility to turn to international bodies such as the European Court of Human Rights and/or the CRC Committee to submit a complaint.

Some forms of **child-sensitive measures** are in place, such as accompaniment of the child throughout court proceedings, but the country does not yet have specific recovery and reintegration services for child victims of SEC, and it could benefit from having clearer avenues for victims to seek compensation.

Although mechanisms promoting **children's participation** in Irish governance are recognised and included in a provision by the Department of Children and Youth Affairs, more progress needs to be made to consult and take into consideration the needs and interests of child victims and survivors in particular.

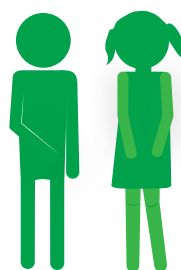
Introduction

COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

The Republic of Ireland (hereafter Ireland) comprises 26 of the 32 counties located on the Irish Island in the North Atlantic. The country has an international overland border crossing, which grants access to Northern Ireland, and is separated from Great Britain by sea. English and Irish are the official languages; however, the latter is mostly spoken in areas along Ireland's western coast.¹ The most widely professed religion is Roman Catholicism, followed by Protestantism, Islam, Orthodox Christianity and other forms of Christianity.² Ireland has an estimated population of 4.72 million inhabitants, of which 1.19 are children.³

Aligned with the Convention on the Rights of the Child (hereafter CRC),⁴ the Irish legislation defines a child as a "person under the age of 18 years".⁵ In Ireland, the age of consent for boys and girls is 17;⁶ however, there is a legal exception in instances where a child aged 15 or above consented to a sexual act with a person who was younger or less than 2 years older than the child

IRELAND



CHILD
POPULATION
1.19
MILLION

and was not, at the time of the offence, a person in authority and in a relationship with the child that was intimidating or exploitative.⁷ Troublingly, in proceedings related to sexual acts with children under 17, the Irish legislation concedes defendants the opportunity to claim and prove that they were 'reasonably mistaken' concerning the age of the child.⁸ The minimum marriage age in Ireland is 18

1 US Central Intelligence Agency, "The World Fact Book", accessed 3 January 2018, https://www.cia.gov/Library/publications/the-world-factbook/geos/print_ei.html.

2 Ireland Central Statistics Office, "Census 2016 Summary Results - Part 1", 72, accessed 10 January 2018, <http://www.cso.ie/en/media/csoie/newsevents/documents/census2016summaryresultspart1/Census2016SummaryPart1.pdf>.

3 UNICEF, "The State of the World's Children: Children in a Digital World", 175, accessed 10 January 2018, https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf.

4 UN Convention on the Rights of the Child (1989), Article 1.

5 Government of Ireland (1991), "Child Care Act 1991", Law 17/1991, Article 2(1).

6 Government of Ireland (2017), "Criminal Law (Sexual Offences) Act 2017", Law 2/2017 Section 17.

7 *Ibid.*

8 *Ibid.*

years.⁹ As regards the minimum age of work, it is set at 16; however, it might vary according to the age of the child and the job.¹⁰

Children in Ireland live in a relatively safe environment. However, like elsewhere in the world, poverty and social inequality may expose them to sexual exploitation.¹¹ The financial crisis of 2007–2008 had a great impact on the country,¹² and led to fiscal austerity and undermined social spending.¹³ Concerns over the adverse impact that the austerity measures had on the entire population and their ability to exercise their rights were raised by the Committee on Economic, Social and Cultural Rights (hereafter CESCR).¹⁴ Children were strongly affected by the crisis, particularly those coming from disadvantaged and marginalised groups.¹⁵ This is illustrated by the data released by the End Child Poverty Coalition, which demonstrated that 1 in every 6 children in Ireland was at risk of poverty in 2009.¹⁶

The country is gradually recovering from the recession. In 2016, the GDP per capita in Ireland amounted to around US\$63,861.9 compared to US\$52,104.36 in 2009, following the stock

market crash.¹⁷ Furthermore, Ireland ranked 4 out of 189 countries in the latest statistical update of the Human Development Index (released in 2018) and based on estimates for the year 2017, which makes it a global leader in terms of human development.¹⁸ However, many children still live in consistent poverty or are at risk of poverty, as stressed by the CESCR Committee.¹⁹ Data released in 2016 by the Irish Central Statistics Office on Income and Living Conditions confirmed that 11.1% of the child population was living in consistent poverty.²⁰ Latest figures (August 2018) from the Department of Housing show that at least 3,693 children are homeless in Ireland.²¹

The Committee on the Rights of the Child (hereafter CRC Committee) has underlined that people from the Traveller community, Roma, immigrant and refugee children in Ireland are disproportionately affected by poverty.²² Children from these groups are often the targets of discrimination, which was highlighted by many UN human rights bodies in their reports,²³ and by the Ireland Special Rapporteur on Child Protection.²⁴ Until recently, people from the Traveller community were not recognised as an ethnic

9 Government of Ireland (1995), "Family Law Act, 1995", Law 26/1995, Article 31.

10 Government of Ireland (1996), "Protection of Young Persons (Employment) Act, 1996", Law 16/1996, Article 3.

11 ECPAT International, "Power, Impunity and Anonymity: Understanding the Forces Driving the Demand for Sexual Exploitation of Children", 43, accessed 21 February 2018, <http://www.ecpat.org/wp-content/uploads/2016/05/PowerImpunityandAnonymity.pdf>.

12 Also known as the global financial crisis and the 2008 financial crisis.

13 United Nations Department of Economic and Social Affairs, "The Global Social Crisis Report on the World Social Situation 2011", accessed 10 January 2018, <http://www.un.org/esa/socdev/rwss/docs/2011/rwss2011.pdf>.

14 Committee on Economic, Social and Cultural Rights, "Concluding observations on the third periodic report of Ireland", UN Doc. E/C.12/IRL/CO/3, 8 July 2015, para 11.

15 ChildONEurope Secretariat, "The impact of the economic crisis on children: lessons from the past experiences and future policies", 48-50, accessed 10 January 2018, http://www.childoneurope.org/issues/publications/COE%204_Impact.pdf.

16 End Child Poverty Coalition, "Child Poverty: Ireland in Recession", 3, accessed 10 January 2018, http://www.childrensrights.ie/sites/default/files/submissions_reports/files/ECPC-ChildPovertyIrelandinRecession0411_0.pdf.

17 The World Bank, "GDP per capita (current US\$)", accessed 3 January 2018, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD>.

18 United Nations Development Programme (2018), "Human Development Indices and Indicators. 2018 Statistical Update.", accessed 2 November 2018, http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf.

19 Committee on Economic, Social and Cultural Rights, "Concluding observations on the third periodic report of Ireland", UN Doc. E/C.12/IRL/CO/3, 8 July 2015, para 24.

20 Ireland Central Statistics Office, "SIA13: Income and Poverty Rates by Age Group, Year and Statistic", accessed 29 February 2018, <http://www.cso.ie/px/pxeirestat/Statire/SelectVarVal/saveselections.asp>. See also: Barnardos, "Child Poverty", accessed 10 January 2018, <https://www.barnardos.ie/what-we-do/campaign-and-lobby/the-issues/child-poverty.html>.

21 The official government report uses the term 'dependant' to refer to a person under 18. Ireland Department of Housing, Planning & Local Government, "Homelessness Report August 2018", accessed 5 November 2018, https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_august_2018.pdf

22 Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of Ireland", UN Doc. CRC/C/IRL/CO/3-4, 1 March 2016, para 59.

23 Human Rights Committee, "Concluding observations on the fourth periodic report of Ireland", UN Doc. CCPR/C/IRL/CO/4, 19 August 2014, 23; See also, Human Rights Council, "Report of the Working Group on the Universal Periodic Review", UN Doc. A/HRC/33/17, 18 July 2016; See also, Committee on the Elimination of Discrimination against Women, "Concluding observations on the combined sixth and seventh periodic reports of Ireland", UN Doc. CEDAW/C/IRL/CO/6-7, 9 March 2017, 50; See also, Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of Ireland", 27; See also, Committee on Economic, Social and Cultural Rights, "Concluding observations on the third periodic report of Ireland", 31.

24 Ireland Special Rapporteur on Child Protection, Geoffrey Shannon, "Tenth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas", 34, accessed 8 January 2018, https://www.dcy.gov.ie/documents/2017120710thReportSpecialRappChild_Protection.pdf.

group, which thereby affected efforts in tackling structural discrimination against children from these communities.²⁵ In March 2017 however, Ireland officially recognised people belonging to this community as an ethnic group.²⁶

Further measures need to be taken to address the increasing disparities faced by children from the Traveller community, including in terms of access to education.²⁷ The Irish compulsory ages for schooling are between 6 and 16 years or until students have completed 3 years of second-level education.²⁸ The 2016 Census revealed that, among girls of the Traveller community, just 13.3% were educated to upper secondary level or above, compared with nearly 69.1% of the general population. Among boys from the Traveller

community, 57.2% were educated to primary level at most, as opposed to 13.6% for the rest of the population. Those statistics clearly show that access to education for children of the Traveller community in Ireland continues to lag behind that of other children.²⁹

Although its national economy is growing, income inequality in the country remains high. Children from vulnerable and marginalised groups are often denied fundamental human rights such as access to housing, which exposes them to higher vulnerability and to different forms of violence, including sexual exploitation in all its different manifestations. The social marginalisation and low living standards experienced by these children are a risk factor that might push them into sexual exploitation.³⁰



25 Committee on the Rights of the Child, “Concluding observations on the combined third and fourth periodic reports of Ireland”, 69.

26 European Social Policy Network, “Ireland grants ethnic minority recognition for Irish Travellers”, accessed 11 January 2018, <http://ec.europa.eu/social/BlobServlet?docId=17845&langId=en>.

27 Committee on Economic, Social and Cultural Rights, “Concluding observations on the third periodic report of Ireland”, 31.

28 Ireland Department of Education & Skills, “Irish Education System”, accessed 11 January 2018, <https://www.education.ie/en/The-Education-System/>.

29 Ireland Central Statistics Office, “Press Statement Census 2016 Results Profile 8 - Irish Travellers, Ethnicity and Religion”, last modified 11 January 2018, accessed 26 April 2018, <http://www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/pressstatementcensus2016resultsprofile8-irishtravellersethnicityandreligion/>.

30 ECPAT International, “Power, Impunity and Anonymity”, 40.

The context of the sexual exploitation of children in Ireland

EXPLOITATION OF CHILDREN IN PROSTITUTION³¹

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines 'child prostitution' as "the use of a child in sexual activities for remuneration or any other form of consideration".³²

An important objective of the 2030 Agenda is to end the exploitation of children in prostitution. Hence, taking immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, including prostitution,³³ and taking steps to eliminate all forms of violence

against girls, including sexual exploitation, are among the targets of the SDGs.³⁴

Official and reliable data on the exploitation of children in prostitution is difficult to find in Ireland. However, Irish news outlets have reported the presence of children in brothels.³⁵ There are also cases, especially among girls, of victims that entered into brokered marriages with non-EU citizens, and who were later forced into prostitution.³⁶ Once in a brothel, child victims have their ID documents confiscated and are forced to move on a regular basis,³⁷ which exacerbates their vulnerability and reduces their chances of being rescued.

In March 2018, the 'worst paedophile ring' ever reported in the country was uncovered in Munster, where nearly 20 children were found to have been allegedly "raped and sexually abused in exchange for cash".³⁸ An investigation by the Gardaí is

- 31 ECPAT prefers the term 'exploitation of children in prostitution' instead of 'child prostitution' in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children (2016), "Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse" (hereinafter Terminology Guidelines) adopted in Luxembourg, 28 January 2016, 30, accessed on 28 May 2017, <http://luxembourgguidelines.org/>
- 32 UN General Assembly (2000), "Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography" (hereinafter OPSC), A/RES/54/263, 25 May 2000, entered into force on 18 January 2002, Article 2(b), accessed 21 February 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>.
- 33 Although not explicit in the text of the target 8.7, the International Labour Organization has stated that the worst forms of child labour comprises "the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances". International Labour Organization (1982), Worst Forms of Child Labour Convention, Article 3(b).
- 34 United Nations, "Sustainable Development Goal 8", accessed on 28 October 2017, <https://sustainabledevelopment.un.org/sdg8>. See also: United Nations, "Sustainable Development Goal 5", accessed on 28 October 2017, <https://sustainabledevelopment.un.org/sdg5>.
- 35 Webdesk "Pick an apartment block in parts of Dublin and you'll find a brothel': The rise of the Irish vice industry", *Thejournal.ie*, 12 March 2017, accessed 30 March 2018, <http://www.thejournal.ie/prostitutes-sex-ruhama-children-3278977-Mar2017/>.
- 36 Mark May, "Sham marriage teen's prostitution hell", *The Irish Sun*, 27 November 2015, accessed 13 March 2018, <https://www.thesun.ie/archives/irish-news/108393/sham-marriage-teens-prostitution-hell/>. See also: Ireland Immigrant Council, "Exploitative Sham Marriages and Human Trafficking in Ireland".
- 37 *Ibid.*
- 38 Foy, Ken and Brady, Tom "Fourteen victims of 'worst paedophile ring in the State' are identified as eleven people arrested", *The Independent*, 06 March 2018, accessed 20 April 2018, <https://www.independent.ie/irish-news/fourteen-victims-of-worst-paedophile-ring-in-the-state-are-identified-as-eleven-people-arrested-36674020.html>.

currently under way and 11 people have been arrested, but the media coverage suggests the current numbers and reports may be “just the tip of the iceberg”.³⁹

No data was available in researching this report on the exploitation of boys in prostitution in Ireland.

ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse material (CSAM/CSEM),⁴⁰ live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).⁴¹ Article 2 (c) of the OPSC defines ‘child pornography’ 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”.⁴²

In Ireland, access to information and communications technology (hereafter ICT) is widespread. Indeed, more than 84% of the total population are Internet users.⁴³ Additionally, in 2016 around 86% of the population owned or had access to a smartphone.⁴⁴

Hotline.ie provides an anonymous facility in Ireland for Internet users to report suspected illegal content, particularly CSAM.⁴⁵ From January to December 2016, Hotline.ie received 7,141 reports, setting a record and marking a 47% increase from the previous highest year on record (4,863 reports in 2014).⁴⁶ From the total of reports received,⁴⁷ 6,084 were considered legal because they were classified as adult pornography, child erotica,⁴⁸ child nudism⁴⁹ and other categories which are not criminalised under Irish law;⁵⁰ and 385 were classified as illegal for containing CSAM and financial scams.⁵¹ Two reports classified as illegal were made available and distributed across the Irish territory.⁵²

Investigations by Europol have shown that child sexual exploiters in Ireland are becoming increasingly “forensic-aware” and use encryption and cryptographic anonymity tools to spread CSAM.⁵³ One such tool is the ‘Tor network’, which allows users from all over the world to “share information over public networks without compromising their privacy”.⁵⁴

- 39 Lally, Conor “Almost 20 child victims of alleged paedophile ring identified”, *The Irish Times*, 06 March 2018, accessed 20 April 2018, <https://www.irishtimes.com/news/crime-and-law/almost-20-child-victims-of-alleged-paedophile-ring-identified-1.3416894>.
- 40 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.
- 41 ECPAT, “Issues we work on”, accessed 21 February 2018, <http://www.ecpat.org/issues-we-work-on/ending-sexual-exploitation-of-children-online/>.
- 42 OPSC, Article 2(c).
- 43 International Communications Union (2017), “Country ICT Data (until 2017). Percentage of individuals using the Internet”, accessed 2 November 2018, <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.
- 44 Deloitte (2016), “Global Mobile Consumer Survey: Ireland 2016”, accessed 20 April 2018, https://www2.deloitte.com/content/dam/Deloitte/ie/Documents/TechnologyMediaCommunications/Global_Mobile_Consumer_Survey2016.pdf.
- 45 Hotline.ie, “Decisive Action. International Reach.”, accessed 12 January 2018, <https://www.hotline.ie/>.
- 46 Hotline.ie, “Annual Report”, 10, accessed 12 January 2018, <https://www.hotline.ie/library/annual-reports/2017/annual-report-jan-to-dec-2016.pdf>.
- 47 Hotline.ie revealed that 672 reports were closed because there were insufficient details or because the content was already removed, which is the reason why only 6,469 reports were processed. Hotline.ie, “Annual Report”, 10, accessed 12 January 2018, <https://www.hotline.ie/library/annual-reports/2017/annual-report-jan-to-dec-2016.pdf>.
- 48 ‘Child erotica’ consists of images with “emphasis on sexualising the child. Sometimes called “posing pictures”, this practice is an issue in several countries, where the laws on child pornography do not cover images of children engaged in non-explicit sexual poses or conducts or where there is no focus on the nude sexual parts of the child.” Terminology Guidelines, 42.
- 49 ‘Child nudism’ refers to images ‘where children may be naked but the photo or video was not produced for pornographic purposes’. Hotline.ie, “Annual Report”, 13, accessed 12 January 2018, <https://www.hotline.ie/library/annual-reports/2017/annual-report-jan-to-dec-2016.pdf>.
- 50 *Ibid.* 12.
- 51 *Ibid.*
- 52 *Ibid.* 15.
- 53 Europol, “Major online child sexual abuse operation leads to 368 arrests in Europe”, 05 May 2017, accessed 18 April 2018, <https://www.europol.europa.eu/newsroom/news/major-online-child-sexual-abuse-operation-leads-to-368-arrests-in-europe>.
- 54 Tor Project, “Tor: Overview”, accessed 17 January 2017, <https://www.torproject.org/about/overview.html.en>.

Tools like Tor were created with the aim to improve privacy and security on the Internet; however, evidence suggests that such tools are a growing threat to children's security. A study from the University of Portsmouth argues that more than 80% of the so-called 'dark net' Internet traffic is access of websites offering CSAM.⁵⁵ In 2016, the An Garda Síochána, Ireland's national police service, identified a man who was distributing CSAM through the Tor Network of a child he claimed to be the father; the investigation culminated with the rescue of the child and the arrest of the exploiters.⁵⁶

An increase in children's use of ICTs in Ireland has the potential to make them more vulnerable to certain forms of sexual exploitation, such as online grooming, particularly as it is difficult for parents to monitor their online activities. A recent study undertaken as part of the EU Child Online Safety Project invited young adults (18-25 years) in Ireland, Italy and the UK to respond to questions regarding their experiences with online communication. More than 40% of the Irish respondents claimed to have been sexually solicited online during their childhood, between the ages of 12 and 16.⁵⁷ Recently, the case of an Irish man who coerced girls, as young as 9 years old, into sending him sexually graphic pictures and videos of themselves, was brought to an Irish court.⁵⁸ The offender used an app called 'Kik', which is a chat platform especially designed for young people.⁵⁹ According to a journalistic investigation conducted by Forbes and Point Report, this app is widely used in different countries by child sexual exploiters to contact children. It contains chat groups like 'kidsnbabies', where users trade CSAM involving images of children aged between 3-12 engaged in sexual acts with adults.⁶⁰

ICTs IN IRELAND

- 81% of the population uses the Internet and around 86% of the population owns or has access to a smartphone
- 40% of respondents to a study conducted by the EU child online safety project claimed to have been sexually solicited online between the ages of 12-16



55 Stuart Dredge, "Study claims more than 80% of 'dark net' traffic is to child abuse sites", accessed 17 January 2017, <https://www.theguardian.com/technology/2014/dec/31/dark-web-traffic-child-abuse-sites>.

56 Ireland An Garda Síochána, "Annual Report 2016", 14, accessed 17 January 2018, <http://www.garda.ie/Documents/User/Annual%20Report%202016.pdf>.

57 EU Child Online Safety Project, "Enhancing Police and Industry Practice in the Prevention of Online Child Sexual Abuse", 50-51, accessed 12 January 2018, http://www.mdx.ac.uk/__data/assets/pdf_file/0017/250163/ISEC-report-FINAL.pdf.

58 Declan Brennan, Aoife Nic Ardghail, "Horan jailed for coercing girls to send sexually graphic pictures", *The Irish Times*, accessed 26 January 2018, <https://www.irishtimes.com/news/crime-and-law/horan-jailed-for-coercing-girls-to-send-sexually-graphic-pictures-1.3369523>.

59 Kik, "Learn our company story", accessed 2 February 2018, <https://www.kik.com/about/>.

60 Thomas Fox-Brewster, "This \$1 Billion App Can't 'Kik' Its Huge Child Exploitation Problem", *Forbes*, 3 August 2017, accessed 30 March 2018, <https://www.forbes.com/sites/thomasbrewster/2017/08/03/kik-has-a-massive-child-abuse-problem/#4db7acb11a14>.

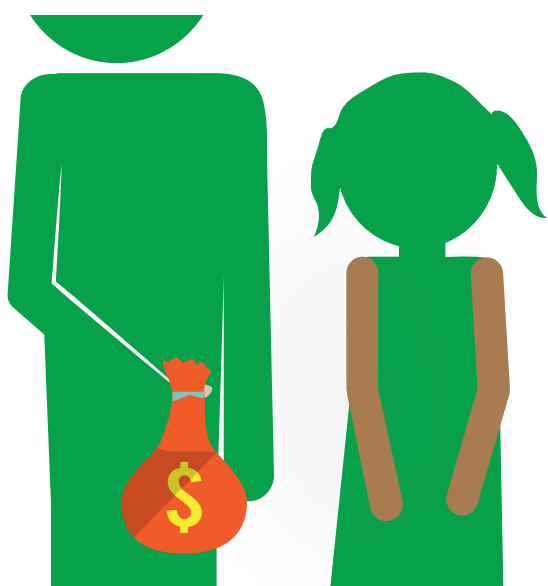
SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or 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. Exploitation shall include, at a minimum, the exploitation of 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”.⁶¹

In case of child victims, Article 3 (c) of the Protocol specifies that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means stipulated in Article 3 (a)”.⁶² In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.⁶³

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.⁶⁴



ENDING
HUMAN TRAFFICKING
IS PART OF
THE 2030 AGENDA
AND ADDRESSED
WITHIN VARIOUS
SDGs
TARGETS

61 UN General Assembly (2000), “United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (hereinafter Palermo Protocol), Res. 55/25 of 15 November 2000, Article 3 (a), accessed 21 February 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

62 Palermo Protocol, Article 3 (c).

63 OPSC, Article 2 (b).

64 Terminology Guidelines, 58.

Ending human trafficking is also part of the 2030 Agenda and addressed within various SDGs targets.⁶⁵ Despite Ireland's continuing efforts, the exploitation of children through trafficking remains an important challenge. The Council of Europe recently stressed that Ireland continues to be a destination country and is increasingly becoming a source country as well, for child victims of trafficking for sexual purposes,⁶⁶ a situation which is also confirmed by the US Department of State⁶⁷ and CEDAW.⁶⁸

The Department of Justice and Equality reported that in 2016, the Garda Human Trafficking Investigation and Coordination Unit (hereafter HTICU) received the report of 21 victims of child trafficking.⁶⁹ With one exception, all children were trafficked for sexual purposes.⁷⁰ According to the HTICU, apart from one child from the European Economic Area, the child victims were all born in Ireland.⁷¹

SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any "acts of sexual exploitation embedded in a context of travel, tourism, or both".⁷² The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.⁷³

No comprehensive research or data was available to assess if Ireland is a destination for travelling child sex offenders. However, Irish news outlets have reported the case of the sexual exploitation of a child in travel and tourism in the country, involving a Canadian sex offender who travelled twice to Ireland to have sexual intercourse with a child. The offender was identified and charged in his home country for 'child sex tourism'⁷⁴ due to the collaborative efforts of the Canadian Internet Child Exploitation Unit and the An Garda Síochána.⁷⁵ The investigation culminated with his arrest and he was recently sentenced to imprisonment.⁷⁶

65 Targets 5.2, 8.7 and 16.2. Sustainable Development Knowledge Platform, "Transforming our world: the 2030 Agenda for Sustainable Development", accessed 30 January 2018, <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

66 Council of Europe, "Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland", 7, accessed 17 January 2018, <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>.

67 US Department of State (2017), "Trafficking in persons report", 218, accessed 15 January 2017, <https://www.state.gov/documents/organization/271339.pdf>.

68 Committee on the Elimination of Discrimination against Women, "Concluding observations on the combined sixth and seventh periodic reports of Ireland", UN Doc. CEDAW/C/IRL/CO/6-7, 9 March 2017, para 30.

69 Government of Ireland, Department of Justice and Equality, "Trafficking in Human Beings in Ireland | Annual Report 2016", 15-16, accessed 8 January 2018, http://www.justice.ie/en/JELR/Trafficking_in_Human_Beings_in_Ireland_Annual_Report_2016.pdf/Files/Trafficking_in_Human_Beings_in_Ireland_Annual_Report_2016.pdf.

70 *Ibid*

71 *Ibid*

72 ECPAT International jointly with Defence for Children-ECPAT Netherlands (2016), "Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism" (hereinafter Global study on SECTT), accessed 28 March 2018, <http://globalstudysectt.org/global-report/>.

73 UNWTO (2017), "Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics", Article 5 (3), UN Doc. A/RES/707(XXII), accessed 20 February 2018, <http://cf.cdn.unwto.org/sites/all/files/docpdf/ares707xxiiconventionontourismethics.pdf>.

74 The use of this term should be avoided because it "may inadvertently give the idea that this is a legitimate form of tourism", Terminology Guidelines, 56.

75 Jana G. Pruden, "Fort McMurray man facing charges for sexual assaults on 13-year-old girl in Ireland", *Edmonton Journal*, 10 December 2015, accessed 2 February 2018, <http://edmontonjournal.com/news/crime/fort-mcmurray-man-facing-charges-for-sexual-assaults-on-13-year-old-girl-in-ireland>.

76 Catherine Devine and Laura Larkin, "Canadian man jailed and banned from the internet after having sex with Irish teen (14) he groomed online", *Independent*, 12 April 2017, accessed 30 March 2018, <https://www.independent.ie/irish-news/courts/canadian-man-jailed-and-banned-from-the-internet-after-having-sex-with-irish-teen-14-he-groomed-online-35618172.html>.

CHILD, EARLY AND FORCED MARRIAGE (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".⁷⁷ Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.⁷⁸

Taking immediate and effective measures to eliminate all harmful practices, including CEFM, is target 5.3 of the SDGs.⁷⁹

In recent years, a new form of human trafficking has emerged in Ireland: human trafficking for the purpose of sham and forced marriages.

These 'marriages of convenience' usually involve European women and girls, mostly from Eastern Europe,⁸⁰ and nationals from non-EU countries that seek to obtain legal residence in Europe, including Ireland.⁸¹

Although there is a significant number of studies available regarding the trafficking of women for forced marriages in Ireland, no research primarily focusing on children has been found.

In August 2015, Operation Vantage was set up to investigate cases of sham marriages. The Garda National Immigration Bureau (GNIB) identified a number of women who travelled to Ireland to enter into marriage for financial gain and arrested 63 persons.⁸² In its 2017 report, GRETA did highlight a case concerning a 17-year old girl from Slovakia, who was sold by her brother for €300 in order to be forcefully married to an older man in Ireland.⁸³

The Immigrant Council of Ireland undertook a research on human trafficking and exploitative sham marriages, which involved case studies and interviews with professionals. The Council found that there is a highly organised network operating in Ireland, which targets vulnerable young women and girls.⁸⁴ According to the report, evidence indicates that this sham marriage system operates with the assistance of recruiters in the victims' countries of origin, organisers in Ireland, and prospective third country national husbands.⁸⁵

77 Terminology Guidelines, 63.

78 ECPAT International and Plan International (2015), "Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage", accessed 20 February 2018, http://www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage_ENG.pdf.

79 United Nations, "Sustainable Development Goal 5", accessed on 28 October 2017, <https://sustainabledevelopment.un.org/sdg5>.

80 Baloghova, Lucia *et al.* (n.d.), "Forced Marriages and Sham Marriages in the Slovak Republic", 24 and 28, accessed 17 January 2018, [http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_sk_\(eng\).pdf](http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_sk_(eng).pdf). See also: ECPAT International (2017), "Global Monitoring Status of Action against Commercial Sexual Exploitation of Children: Latvia", Bangkok: ECPAT, 42.

81 US Department of State (2017), "Trafficking in persons report", 218, accessed 15 January 2017, <https://www.state.gov/documents/organization/271339.pdf>.

82 Council of Europe (2017), "Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland", 53, accessed 17 January 2018, <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>.

83 *Ibid.*, 57.

84 Ireland Immigrant Council, "Exploitative Sham Marriages and Human Trafficking in Ireland", 3, accessed 17 January 2018, [http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_ie_\(eng\).pdf](http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_ie_(eng).pdf).

85 Ireland Immigrant Council, "Exploitative Sham Marriages and Human Trafficking in Ireland", 3, accessed 45 January 2018, [http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_ie_\(eng\).pdf](http://www.cilvektirdznieciba.lv/uploads/files/hestia_research_national_report_ie_(eng).pdf).

International, Regional and National Commitments and Legislation on the Sexual Exploitation of Children

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments	Date of ratification/accession
Convention on the Rights of the Child - 1989	28 Sep 1992
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000	Not ratified
Optional Protocol on a communications procedure - 2014	24 Sep 2014
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	20 Dec 1999
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children (supplementing the UN Convention against Transnational Organized Crime) also known as Palermo Protocol – 2000	17 Jun 2010
Regional Instruments	Date of ratification/accession
Council of Europe Convention on Action against Trafficking in Human Beings	13 Sep 2010
Directive No. 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography	*86
Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse	Not ratified
Council of Europe Convention on Cybercrime	Not ratified

86 There is no date of ratification or accession for EU directives since they are not directly applicable in EU countries. After being adopted at EU level, it is up to the Member States to transpose the content of the directive into their internal law for application. European Union, "Regulations, Directives and other acts", accessed 19 February 2018, https://europa.eu/european-union/eu-law/legal-acts_en.

Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	13 Aug 2013	<p>Next report due on 27 Oct 2021</p> <p>Key concluding recommendations related to SEC:</p> <ul style="list-style-type: none"> • Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;⁸⁷ • Amend the Family Law Act, 1995 to remove all exceptions that allow marriage under the age of 18 years.⁸⁸
Human Rights Council – Working Group on the Universal Periodic Review	The Working Group adopted the report on Ireland on the 13 May 2016.	Received 8 recommendations to ratify the OPSC. ⁸⁹

Ireland signed and ratified the CRC and the Optional Protocol on a Communications Procedure (hereafter OPCP) without any reservations.⁹⁰ However, ratified international treaties must be incorporated into domestic law to be

enforceable.⁹¹ To date, the CRC has not been fully incorporated into Ireland's legislation, and the CRC Committee has noted this inaction⁹²

87 Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of Ireland", para 26.

88 *Ibid.*, para 77.

89 Human Rights Committee (2014), "Concluding observations on the fourth periodic report of Ireland".

90 United Nations Treaty Collection, "Depositary", accessed 2 February 2018, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&lang=en. See also: United Nations Treaty Collection, "Depositary", accessed 2 February 2018, https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtmsg_no=IV-11-d&chapter=4&lang=en.

91 Ireland Supreme Court, "The Legal System", accessed 1 February 2018, <http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/pagecurrent/D5F78352A387D74480257315005A419E?opendocument&l=en>.

92 Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of Ireland", para 8.

INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitments	Start date
Sustainable Development Goals (SDGs)	2016
WePROTECT - an international movement dedicated to national and global action to end the sexual exploitation of children online	2012 ⁹³
Regional commitments	
Commitment	Start date
Council of Europe - the European leading human rights organisation	1949 ⁹⁴

Ireland co-facilitated the negotiations towards the final agreement on the new Sustainable Development Goals.⁹⁵ With respect to the national response to the SDGs, the Irish Minister for Communications, Climate Action and Environment oversaw the drafting of a 'National Implementation Plan 2018 - 2020', which was published at the end of April 2018.⁹⁶ Ireland has recently submitted its Voluntary National Review (VNR) on the implementation of the SDGs. The document includes numerous mentions to SEC and related activities especially in relation to targets 5.2, 8.7 and 16.2.⁹⁷

Together with WePROTECT, Ireland has reaffirmed its international commitment to identify and safeguard victims of online child sexual exploitation, apprehend more perpetrators and create an Internet free from this crime.⁹⁸ Additionally, the country committed itself to

coordinating a national response to online child sexual exploitation in compliance with the WePROTECT Model National Response.⁹⁹ Ireland has also established many partnerships with international agencies to combat SEC. Hotline.ie is a member of the International Association of Internet Hotlines (hereafter INHOPE), a global network of Hotlines.¹⁰⁰ Through this network, Hotline.ie works in conjunction with the International Criminal Police Organization (hereafter INTERPOL) and with the European Union Agency for Law Enforcement Cooperation (hereafter EUROPOL).¹⁰¹ Cooperation with the latter was also established to undertake major investigations to combat OCSE, such as Operation Pacifier.¹⁰²

National legislation

In Ireland, there has been good progress towards establishing a strong legislative framework to

93 European Commission, "Declaration on the Launch of the Global Alliance against child sexual abuse online", 5 December 2012, accessed from http://europa.eu/rapid/press-release_MEMO-12-944_en.htm.

94 Council of Europe, "Statute of the Council of Europe", accessed 19 February 2018, <https://rm.coe.int/1680306052>.

95 Sustainable Development Knowledge Platform, "Letter from Co-facilitators", accessed 19 February 2018, <https://sustainabledevelopment.un.org/content/documents/5977Intergovernmental%20Negotiations%20Post-2015%20Dev.Agenda%20-%206%20February%202015.pdf>.

96 Government of Ireland, Department of Communications, Climate Action & Environment (2018), "The Sustainable Development Goals National Implementation Plan 2018-2020", accessed 27 April 2018, <https://www.dccae.gov.ie/documents/DCCAE-National-Implementation-Plan.pdf>.

97 Government of Ireland (2018), "Ireland: Voluntary National Review 2018", accessed 24 September 2018, https://sustainabledevelopment.un.org/content/documents/19382Ireland_Voluntary_National_Review_2018.pdf.

98 European Commission, "Declaration on the Launch of the Global Alliance against child sexual abuse online", 5 December 2012, accessed from http://europa.eu/rapid/press-release_MEMO-12-944_en.htm.

99 WeProtect Global Alliance (2015), "Statement of Action by Governments to Tackle Online CSE: Abu Dhabi WeProtect Summit 16-17 November 2015", accessed 1 February 2017, <https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/582ba1b403596e2e332b225c/1479254513430/WeProtect+2015+-+Country+Statement+of+Action.pdf>.

100 International Association of Internet Hotlines, "Who we are", accessed 19 February 2018, <http://inhope.org/gns/who-we-are/at-a-glance.aspx>.

101 Hotline.ie, "Annual Report", 2-3, accessed 12 January 2018, <https://www.hotline.ie/library/annual-reports/2017/annual-report-jan-to-dec-2016.pdf>.

102 Europol, "Major Online Child Sexual Abuse Operation Leads to 368 Arrests in Europe", last modified 5 May 2017, <https://www.europol.europa.eu/newsroom/news/major-online-child-sexual-abuse-operation-leads-to-368-arrests-in-europe>.

protect children from SEC. Although Ireland has not ratified the OPSC nor the Lanzarote Convention, this section will analyse the compliance of the national legislation with the requirements of these international instruments and the Palermo Protocol, which are central legal frameworks in the fight against SEC.

In order to give effect to the Directive No. 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, the Government of Ireland enacted the Criminal Law (Sexual Offences) Act 2017 (hereafter 2017 Act).¹⁰³ This extensive and comprehensive piece of legislation criminalised new offences relating to SEC; however, most of it consists of amendments to previous legislation. A problematic feature of this legislation is that the definition of a child varies according to the offence.

Under the 2017 Act, anyone that obtains, provides, etc. a child for the ‘purpose of sexual exploitation’ shall be guilty of an offence.¹⁰⁴ The term ‘sexual exploitation’ is used to describe a wide range of acts, which comprise, among others, ‘child prostitution’, ‘child pornography’ and sexual, indecent or obscene acts.¹⁰⁵

The legal framework and other related statutes will be analysed below according to the international standards of each manifestation.

Exploitation of children in prostitution

The exploitation of children in prostitution is illegal in Ireland.¹⁰⁶ The most recent statute regarding ‘child prostitution’ defines a child as a person under the age of 18 years.¹⁰⁷ The acts of inviting, inducing, or coercing a child into prostitution are considered sexual exploitation of children.¹⁰⁸

Hence, the list of offences considered to be sexual exploitation is also applicable to exploitation of children in prostitution.¹⁰⁹

Commendably, the Act 2017 created new offences addressing ‘child prostitution’. Section 11 not only criminalises the organisation of ‘child prostitution’, but also the fact of knowingly gaining from a child’s prostitution.¹¹⁰ The penalties prescribed by the law for these acts vary according to the gravity of the offence, and can range from a fine, to imprisonment for up to 14 years.¹¹¹ The list of offences brought by the 2017 Act and related to the exploitation of children in prostitution complies with the international minimum standards set by the OPSC and the Lanzarote Convention.¹¹²

Online child sexual exploitation (OCSE)

Ireland enacted the Child Trafficking and Pornography Act in 1998, which expressly criminalises CSAM/CSEM.¹¹³ This act was amended by the Act 2017, which brought a more comprehensive definition of CSAM/CSEM, which now includes not only actual sexually explicit activities involving a child (or someone depicted as a child), but also simulated activities.¹¹⁴ Concerning offences that involve CSAM/CSEM, the recent statute defines a child as a person under the age of 18 years.¹¹⁵ The 2017 Act created new offences addressing CSAM/CSEM.¹¹⁶ The penalties prescribed for these crimes vary according to the gravity of the offence and can range from a fine to imprisonment up to 14 years.¹¹⁷

The 2017 Act includes an offence for ‘participation of a child in pornographic performance’.¹¹⁸ It not only criminalises causing, inciting, etc. a child to participate in child pornographic performances, but also knowingly attending such performances,

103 Government of Ireland (2017), “Criminal Law (Sexual Offences) Act 2017”, Law 2/2017, preamble.

104 *Ibid.*, Article 3.

105 *Ibid.*, Article 2.

106 *Ibid.*, Section 3.

107 *Ibid.*, Sections 3(6) and 9.

108 *Ibid.*, Sections 2 and 3.

109 *Ibid.*, Section 3.

110 *Ibid.*, Section 11.

111 *Ibid.*, Sections 3(5) and 11.

112 OPSC, Article 3 and Lanzarote Convention, Article 19.

113 Government of Ireland, “Criminal Law (Human Trafficking) Act 2008”, Law 8/2008, Sections 5 and 6.

114 Ireland, Criminal Law (Sexual Offences) Act 2017, Section 9 and Ireland, Child Trafficking and Pornography Act, 1998, Section 2.

115 Ireland, Criminal Law (Sexual Offences) Act 2017, Section 9.

116 The same comments made about ‘organising etc. child prostitution’ applies to this offence. Ireland, Criminal Law (Sexual Offences) Act 2017, Sections 11 and 12.

117 Ireland, Criminal Law (Sexual Offences) Act 2017, Section 11-12.

118 *Ibid.*, Section 13.

which includes viewing live streaming performances by means of ICT.¹¹⁹ The penalties prescribed for these acts vary according to the gravity of the offence and can range from a fine to imprisonment up to 10 years.¹²⁰

The offence of possessing CSAM/CSEM was also amended in the 2017 Act to add (on top of possessing), the act of “acquiring ‘child pornography’ and accessing it by means of ICT” in the list of condemnable acts.¹²¹ The penalties prescribed for these acts vary according to the gravity of the offence and can range from a fine to imprisonment up to 5 years.¹²²

With regards to CSAM/CSEM, the definitions and offences provided by the Irish legislation comply with the minimum standards set by the OPSC and the Lanzarote Convention.¹²³

Another important advancement of the 2017 Act is the introduction of two new offences which, put together, cover all the elements of the offence of solicitation of children (online grooming), as provided by the Lanzarote Convention.¹²⁴ Section 7 condemns the act of intentionally meeting, travelling or making arrangements¹²⁵ with the intention of meeting a child, having communicated by any means with that child on at least one previous occasion, or doing anything that would constitute sexual exploitation of the child.¹²⁶ This provision does not specify the use of ICT as a means of communication. Instead, it highlights that communication can take place ‘by any means’. The provision could be interpreted as comprising communication by means of ICT and offline contact, which would cover the minimum standards set by the Lanzarote Convention,¹²⁷

On the other hand, section 8 specifically criminalises the use of ICT to facilitate the sexual exploitation of children, and covers a broader array of criminal conducts related to the use of ICTs. It includes communicating with someone, including a child, via ICT, to facilitate the sexual exploitation of a child by the sender or someone else;¹²⁸ and sending sexually explicit material¹²⁹ to a child by means of ICT.¹³⁰ The penalties prescribed in both sections vary according to the gravity of the offence and can range from a fine to imprisonment up to 14 years.¹³¹

In both sections, a child is defined as a person under the age of 17.¹³² Taking into consideration the national age of consent, the age set in both provisions satisfy the requirements of the Lanzarote Convention.¹³³ However, it creates a legal loophole that not only makes children between 17 and 18 years old vulnerable to online grooming, but also leaves perpetrators free from criminal liability.

Sale and trafficking of children for sexual purposes

The Criminal Law (Human Trafficking) Act 2008 (hereafter Act 2008) amended the Act 1998 with regards to the trafficking of children by extending the definition of a child to a person under the age of 18 years.¹³⁴ Moreover, the Act 2008 introduced a list of conducts that are regarded as trafficking of human beings, and specifically children,¹³⁵ which complies with the international standards set by the Palermo Protocol.¹³⁶ Although the provision related to children does not specify that consent is irrelevant in cases of child trafficking,¹³⁷ this can be deduced by the fact that the section related

119 *Ibid.*

120 *Ibid.*

121 *Ibid.*, Section 14.

122 *Ibid.*

123 OPSC, Article 3 and Lanzarote Convention, Article 20.

124 Lanzarote Convention, Article 23,.

125 It includes arranging for a child to travel. Ireland, Criminal Law (Sexual Offences) Act 2017, Section 7(1)(a).

126 Government of Ireland, Criminal Law (Sexual Offences) Act 2017, Section 7.

127 Lanzarote Convention, Article 23.

128 Government of Ireland, Criminal Law (Sexual Offences) Act 2017, Article 8(1).

129 Any indecent or obscene images or words. Ireland, Criminal Law (Sexual Offences) Act 2017, Article 8(4).

130 Government of Ireland, Criminal Law (Sexual Offences) Act 2017, Section 8(2).

131 *Ibid.*, Section 8(1)(2).

132 *Ibid.*, Sections 7(3) and 8(5).

133 Lanzarote Convention, Article 18(2) and 23.

134 Government of Ireland, Criminal Law (Human Trafficking) Act 2008, Section 1.

135 *Ibid.*

136 Palermo Protocol, Article 3.

137 Government of Ireland, Criminal Law (Human Trafficking) Act 2008, Section 2.

to adults mentions, among others, coercion and threat.¹³⁸

The Irish legislation specifically addresses trafficking of a child for the purpose of sexual exploitation.¹³⁹ The list of condemnable conducts includes organising or knowingly facilitating the entry, transit, or exit from Ireland of children for the purpose of sexual exploitation and providing accommodation for a child for the same purpose, while in Ireland. Moreover, taking, organising, or knowingly facilitating the detention or restriction of the personal liberty of children for the purpose of sexual exploitation and using a child for such a purpose is criminalised by the Irish legislation. Sexual exploitation here includes, among other things, exploitation of children in prostitution and for the production of CSAM/CSEM.¹⁴⁰ The penalties prescribed for these crimes vary according to the gravity of the offence and can range from a fine to life imprisonment.¹⁴¹

The sale of a child for the purpose of sexual exploitation is also condemned in the Act 2017 to “on conviction on indictment, a fine or imprisonment for a term not exceeding 10 years”.¹⁴²

Sexual exploitation of children in travel and tourism (SECTT)

The Act 2017 condemns travelling with the intention of meeting a child “having communicated by any means with that child on at least one previous occasion, and [...] does so for the purpose of doing anything that would constitute sexual exploitation of the child”.¹⁴³ The penalties prescribed for these crimes vary according to the gravity of the offence and can range from a fine to 14 years of imprisonment.¹⁴⁴

However, since many travelling sex offenders do not communicate with child victims in advance, the requirement of previous communication with the child restricts the applicability of the provision in the context of SECTT.

Reportedly, a Sex Tourism Bill has been brought forward by a TD (i.e. Member of Parliament), as an amendment to the Sexual Offenders Act 2001, to “require any convicted paedophiles to receive a judge’s permission before they could leave the country”.¹⁴⁵

Child, early and forced marriages (CEFM)

In Ireland, the marriage age is 18 years; the legal exception enabling children to get married with a court’s approval has been repealed by the recently enacted Domestic Violence Bill 2018.¹⁴⁶ According to the country’s Tánaiste and Minister for Justice and Equality, removing provisions that consent to child marriages should help protect children in Ireland from forced marriages, since “requiring both intended spouses to be at least 18 should assist in ensuring that potential spouses have the maturity to withstand parental or other pressure to marry a particular person”.¹⁴⁷

Concerning forced marriages, the aforementioned bill introduced a new offence that, although not specifically pertinent to children, criminalises the act of engaging in a relevant conduct for causing another person to enter into a ceremony of marriage.¹⁴⁸ Relevant conduct is defined here as “violence, threats, undue influence or any form of coercion or duress” and ceremony of marriage as “any religious, civil or secular ceremony of marriage, whether legally binding or not”.¹⁴⁹ The legislation also criminalises the removal of a person from Ireland with the purpose of subjecting

138 *Ibid.*, Section 4.

139 *Ibid.*, Section 3.

140 Government of Ireland, Criminal Law (Human Trafficking) Act 2008, Section 3(5) as amended by the Criminal Law (Sexual Offences) Act 2017, Section 10.

141 *Ibid.*, Section 3.

142 Government of Ireland, Criminal Law (Sexual Offences) Act 2017, Section 3.

143 *Ibid.*, Section 7(1).

144 *Ibid.*, Section 7(2).

145 Lanigan, Michael “Ireland could become the first EU state to prevent child sex offenders from travelling abroad”, Joe, 19 April 2018, accessed 20 April 2018, <https://www.joe.ie/news/ireland-child-sex-offenders-travel-623024>.

146 Government of Ireland (2018), “Domestic Violence Act 2018”, Act no. 6 of 2018, Article 45, accessed 24 September 2018, <http://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/html>.

147 Government of Ireland, Department of Justice and Equality, “Second Stage Domestic Violence Bill 2017”, accessed 29 January 2018, <http://www.justice.ie/en/JELR/Pages/SP17000071>.

148 Government of Ireland, “Domestic Violence Bill 2018”, Article 38(1).

149 *Ibid.*, Article 38(11)

him/her to a forced marriage, and covers cases where a forced marriage takes place outside Ireland.¹⁵⁰

Extraterritorial jurisdiction and extradition law

Ireland has a dedicated legislation to address jurisdiction in cases of sexual offences: the Sexual Offences (Jurisdiction) Act, 1996 (hereafter Act 1996),¹⁵¹ later amended by the Act 2017.¹⁵² The Act 2017 establishes extraterritorial jurisdiction over sexual offences against children, such as organising exploitation of children in prostitution and producing CSAM/CSEM committed by Irish citizens or ordinarily residents outside Ireland.¹⁵³ Additionally, the Act 2008 includes a similar provision for the trafficking of children.¹⁵⁴

The Act 2017 brought significant advancements in terms of extraterritorial jurisdiction; however, a victim-centred approach is still missing in the Irish legislation. There is a legal loophole in the national legislation regarding offences perpetrated by foreign nationals against Irish children or children residing in Ireland.¹⁵⁵ An amendment to the legislation to close this gap would bring Ireland closer to the OPSC and the Lanzarote Convention, which urge States to establish jurisdiction over SEC-related offences committed against a child national or children who have their habitual residence in the country.¹⁵⁶

Concerning extradition, the European Arrest Warrant Framework Decision, that governs extradition between EU member States, was implemented in Ireland by the European Arrest Warrant Act 2003.¹⁵⁷ Until 2004, the dual criminality requirement was applicable to all extraditions; however, it is no longer a requirement for extradition between EU member States with regards to specific offences.¹⁵⁸ According to the regional framework, it includes trafficking in human beings and sexual exploitation of children.¹⁵⁹

In terms of extradition between Ireland and non-EU countries, diplomatic channels can be used to request extradition of a person who is wanted in the country for criminal reasons.¹⁶⁰ Extradition conditions include the fulfilment of the dual criminality requirement.¹⁶¹ Additionally, in case of a charge, offences must be punishable in Ireland and in the other country by imprisonment for at least a year and in case of conviction, the imprisonment sentence imposed must be for at least four months.¹⁶² For cases involving Irish citizens, extradition will not be granted except when “relevant extradition provisions otherwise provide”.¹⁶³ Unfortunately, it is not clear if these exceptions apply to SEC-related offences.

150 *Ibid.*, Article 38(2).

151 Government of Ireland (1996), “Sexual Offences (Jurisdiction) Act, 1996”, Law 38/1996.

152 Government of Ireland, “Criminal Law (Sexual Offences) Act 2017”, Section 42.

153 *Ibid.*

154 Government of Ireland, Criminal Law (Human Trafficking) Act 2008, Section 7.

155 Special Rapporteur on Child Protection, “Tenth Report of the Special Rapporteur on Child Protection”, 171-172.

156 OPSEC, Article 4(3), and Lanzarote Convention, Article 25(2).

157 Government of Ireland, “European Arrest Warrant Act 2003”, Law 45/2003, accessed 30 March 2018, <http://www.irishstatutebook.ie/eli/2003/act/45/enacted/en/html>.

158 *Ibid.*, Section 32.

159 European Union Law (2002), “Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States- Statements made by certain Member States on the adoption of the Framework Decision”, 2002/584/JHA, Article 2(2).

160 Government of Ireland, Department of Justice and Equality, “Extradition”, accessed 30 March 2018, <http://justice.ie/en/JELR/Pages/Extradition>.

161 Government of Ireland, “Extradition Act, 1965”, Law 17/1965, Section 10, accessed 30 March 2018, <http://www.irishstatutebook.ie/eli/1965/act/17/enacted/en/print#sec10>.

162 *Ibid.*

163 *Ibid.*, Section 14.

National Response to the Sexual Exploitation of Children

COORDINATION AND COOPERATION

Effective coordination and cooperation play a central role in the successful implementation of laws and policies addressing SEC. The Department of Children and Youth Affairs (hereafter DCYA) was established in 2011 to bring together policies and provisions for children.¹⁶⁴ In 2014, DCYA published the National Policy Framework for Children & Young People 2014-2020, “Better Outcomes, Brighter Futures”, which is considered by the government as the “first overarching national children’s policy framework”.¹⁶⁵ The policy framework sets five national outcomes for children and young people, including “safe & protected from harm” (Outcome 3).¹⁶⁶ This outcome has a particular aim that is directly connected to the fight against SEC, which seeks to keep children “safe from abuse, neglect and exploitation” (Aim 3.2).¹⁶⁷ Unfortunately, it is not possible to measure progress on the implementation of this aim

since it was not addressed in the previous annual reports for the implementation of the policy framework. The policy framework was set to be implemented in partnership with civil society, something that was praised by the CRC.¹⁶⁸

The DCYA has also issued the “Children First: National Guidance for the Protection and Welfare of Children”, which provides guidance on recognising and reporting child abuse, including sexual exploitation.¹⁶⁹ The guidance was designed for the general public and for professionals working in contact with children, including staff from the Child and Family Agency, also known as Tusla.¹⁷⁰ Included within the DCYA’s remit, Tusla focuses on key children’s services such as child protection.¹⁷¹

The Department of Justice and Equality (hereafter DJE) also plays an important role in child protection and has a dedicated plan for the implementation of the Children First policy.¹⁷² In 2016, the department also published the 2nd

164 Government of Ireland, Department of Children and Youth Affairs, “Introduction to the Department”, accessed 4 January 2018, <https://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FAboutus%2Fintro.htm&mn=abob2z&nID=1>.

165 Government of Ireland, Department of Children and Youth Affairs, “Better Outcomes, Brighter Futures: The National Policy Framework for Children & Young People 2014-2020”, accessed 4 January 2018, https://www.dcy.gov.ie/viewdoc.asp?fn=/documents/cypp_framework/CYPP_Framework2014.htm.

166 *Ibid.*

167 *Ibid.*, 75.

168 Committee on the Rights of the Child, “Concluding observations on the combined third and fourth periodic reports of Ireland”, para 12.

169 Government of Ireland, Department of Children and Youth Affairs, “Children First: National Guidance for the Protection and Welfare of Children”, accessed 4 January 2018, http://www.tusla.ie/uploads/content/Children_First_National_Guidance_2017.pdf.

170 *Ibid.*

171 Tusla, “About Us”, accessed 19 January 2018, <http://www.tusla.ie/about>.

172 Government of Ireland, Department of Justice and Equality, “Children First Justice Sector Implementation Plan & Guidance”, accessed 19 January 2018, <http://www.justice.ie/en/JELR/Justice%20Sector%20Children%20First%20Implementation%20Plan%20&%20Guidance%20-%20Sept.%202015.docx.pdf/Files/Justice%20Sector%20Children%20First%20Implementation%20Plan%20&%20Guidance%20-%20Sept.%202015.docx.pdf>.

National Action Plan to Prevent and Combat Human Trafficking in Ireland.¹⁷³ Although not entirely designed for child protection, the National Plan contains a specific section dedicated to child trafficking, which provides for interagency and multidisciplinary coordination in the provision of services to child victims.¹⁷⁴ The Ireland Special Rapporteur on Child Protection has drawn attention to some key gaps in the aforementioned plan. He argues that the policy is unclear regarding important issues, such as the provision of a legal guardian for child victims, the regularisation of their immigration status and child victims' identification mechanisms.¹⁷⁵

Under the aegis of the DJE, there are bodies that deal particularly with manifestations of SEC. For instance, the Office for Internet Safety combats CSAM/CSEM,¹⁷⁶ and under its guidance, there is the Irish Safer Internet Centre, a partnership of four organisations: Webwise, ChildLine, NPC and ISPAI Hotline.ie. The latter is responsible for receiving reports regarding suspected illegal content, particularly CSAM;¹⁷⁷ forwarding it to the An Garda Síochána;¹⁷⁸ and issuing takedown notices for ISPs to remove the content from their systems.¹⁷⁹

As part of the Garda Síochána, the National Bureau of Criminal Investigation provides expertise on a number of issues such as paedophile investigations.¹⁸⁰ On the other hand, the Garda National Protective Services Bureau provides protection and welfare for victims and assistance

to Gardaí investigations through units with particular expertise.¹⁸¹ This includes the Online Child Sexual Exploitation Unit and the HTICU.¹⁸² The Anti-Human Trafficking Unit (hereafter AHTU) is part of the DJE. The AHTU is accountable for the coordination of the anti-trafficking policies in Ireland, including when it concerns child trafficking.¹⁸³ The AHTU also chairs interdisciplinary working groups, such as the child trafficking group and the sexual exploitation issues group.¹⁸⁴

Although Ireland has a number of bodies and programmes in place to address allegations of SEC, recent annual reports from the Tusla state agency and the Garda Inspectorate have highlighted a "lack of effective interagency collaboration"¹⁸⁵ and have pointed to the fact that resources are not only limited but are also allocated on a "reactive basis" as opposed to a preventive one.¹⁸⁶

PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

The OPSC and the Lanzarote Convention highlight the key role of states in raising awareness among children on the risks of sexual exploitation and educating them on the means to protect themselves.¹⁸⁷ In this regard, Ireland has demonstrated growing efforts in raising awareness and using education as a prevention strategy to fight SEC.

173 Government of Ireland, Department of Justice & Equality, "Second National Action Plan to Prevent and Combat Human Trafficking in Ireland", accessed 4 January 2018, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/second_national_action_plan_to_prevent_and_combat_human_trafficking_in_ireland.pdf.

174 *Ibid.*, 72-79.

175 Geoffrey Shannon (Ireland's Special Rapporteur on Child Protection), "Tenth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas", 48/49, accessed 8 January 2018, https://www.dcy.gov.ie/documents/2017120710thReportSpecialRappChild_Protection.pdf.

176 Office for Internet Safety, "Office for Internet Safety", accessed 19 January 2018, <http://www.internetsafety.ie/>.

177 *Ibid.*

178 The 'An Garda Síochána' is the national police service of Ireland and is part of the Department of Justice and Equality. Ireland An Garda Síochána, "An Garda Síochána", accessed 5 January 2018, <http://www.garda.ie/Controller.aspx?Page=5416&Lang=1>.

179 Hotline.ie, "Annual Report", 9, accessed 12 January 2018, <https://www.hotline.ie/library/annual-reports/2017/annual-report-jan-to-dec-2016.pdf>.

180 Ireland An Garda Síochána, "National Bureau of Criminal Investigation", accessed 19 January 2018, <http://www.garda.ie/Controller.aspx?Page=32>.

181 Government of Ireland, Ireland An Garda Síochána, "Garda National Protective Services Bureau (G.N.P.S.B)", accessed 5 January 2018, <http://www.garda.ie/controller.aspx?page=1646>.

182 *Ibid.*

183 Government of Ireland, Ireland Department of Justice and Equality, "The role of the Anti-Human Trafficking Unit", accessed 19 January 2018, http://www.justice.ie/en/JELR/Pages/human_trafficking.

184 GRETA, Report, 9.

185 Garda Inspectorate (2012), "Report of the Garda Síochána Inspectorate: responding to child sexual abuse", p.5, accessed 20 April 2018, <http://www.gsinsp.ie/en/GSINSP/CSA%20Feb%202012.pdf/Files/CSA%20Feb%202012.pdf>.

186 *Ibid.*, p.53.

187 OPSC, Article 9(2), and Lanzarote Convention, Article 6.

The country has been tailoring campaign strategies to target specific SEC manifestations. For instance, numerous prevention campaigns were elaborated to address OCSE, such as the one promoted by Webwise, which focuses on the safer use of the Internet by young people, and targets not only children, but also parents and teachers via online advertising, social media and child and youth friendly mechanisms.¹⁸⁸ In terms of child trafficking, the AHTU, in partnership with government agencies and civil society, often undertakes initiatives in schools to raise awareness among children on trafficking in human beings.¹⁸⁹ In terms of government training, an innovative example includes providing technical capacity development for immigration officers covering air borders. This training equips staff with the necessary tools to recognise and intervene in cases of unaccompanied minors who are possible victims of human trafficking.¹⁹⁰

The Lanzarote Convention urges states to make available intervention programmes or measures for offenders subject to criminal proceedings.¹⁹¹ Accordingly, Ireland provides child sex offenders with therapeutic support, through governmental bodies such as the Probation Service, to reduce the risk of recidivism against children.¹⁹² Hence, the Probation Service works in close coordination with the Irish Prison Psychology Service to manage the sentences of sex offenders, thereby facilitating their rehabilitation.¹⁹³

Civil society has also extensively contributed to the efforts made to prevent SEC in Ireland through support networks and sensitisation campaigns, which are an important strategy to increase awareness of and change attitudes about SEC. Organisations like ‘One in Four Ireland’ and the CARI Foundation have been instrumental in changing mentalities around child abuse and/or the sexual exploitation children by performing

psychotherapy, advocacy work, and delivering prevention services such as 24/7 helplines.

The Irish Society for the Prevention of Cruelty to Children (ISPCC) and the charity Barnardo’s Ireland are two other organisations that work on the ground to protect children from harm through mentoring and support schemes (for both parents and children), but they are not specific to SEC.

The involvement of actors from the private sector in preventing SEC in Ireland is important because it conveys the message of prevention across broader channels, while alleviating the financial burden government bodies may encounter when combating SEC. Many travel and tourism companies with operations in Ireland have committed to the mission of preventing SECTT, by becoming members of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, an industry-driven initiative supported by ECPAT, UNICEF and the UNWTO.¹⁹⁴

CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

National complaint mechanisms

Ireland has taken advanced steps towards a legal framework to protect the rights of children. However, as underlined by the CRC Committee, “for rights to have meaning, effective remedies must be available to redress violations”.¹⁹⁵ Effective remedies for children, are those which are “appropriately adapted so as to take account of [their] special vulnerability”.¹⁹⁶ To ensure that

188 Webwise, “About us”, accessed 12 January 2018, <https://www.webwise.ie/welcome-to-webwise/us/>.

189 Council of Europe, “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland”, 22, accessed 17 January 2018, <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>.

190 Government of Ireland, Department of Justice & Equality, “Second National Action Plan to Prevent and Combat Human Trafficking in Ireland”, 39.

191 Lanzarote Convention, Article 16.

192 Government of Ireland, “Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 – 2020”, 81.

193 The Probation Service, “Annual Report 2015”, 39, accessed 2 February 2018, <http://www.justice.ie/en/JELR/Probation-Service-Annual-Report-2015.pdf/Files/Probation-Service-Annual-Report-2015.pdf>.

194 The Code, “Members”, accessed 2 February 2018, <http://www.thecode.org/who-have-signed/members/>.

195 Committee on the Rights of the Child (2003), “General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)”, UN Doc. CRC/GC/2003/5, 27 November 2003, para 24.

196 Human Rights Committee (2004), General Comment No. 31, “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant”, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, para 15.

children can access remedies, states must ensure that they have access to complaints mechanisms to enforce their rights.

The Child Rights International Network (hereafter CRIN) developed a scoring system that forms the basis of a global ranking, which ranks states according to the extent to which their legal systems effectively guarantee access to justice for children.¹⁹⁷ Ireland ranked 49 and scored 162.5 out of 261 in the CRIN's global ranking mainly due to the fact that, although ratified, the CRC has not yet been incorporated into domestic law and cannot be enforced in domestic courts.¹⁹⁸

National human rights institutions play an important 'watchdog role' by holding public bodies accountable and keeping track of their progress in meeting human rights standards.¹⁹⁹ The Ombudsman for Children's Office (hereafter OCO) is a human rights institution that promotes the rights and welfare of children in Ireland.²⁰⁰ The OCO is also responsible for receiving, examining and investigating complaints against public bodies.²⁰¹ This includes complaints against any action taken by or on behalf of a public body that may have adversely affected a child.²⁰² Anyone can make a complaint, including children under the age of 18.²⁰³

Regarding the criminal justice sphere, there is no national complaint mechanism adapted for child victims, which takes into account their specific

vulnerabilities. In the national criminal justice system, the Garda Síochána, is in charge of investigating criminal offences and is thus entitled to receive reports of a crime.²⁰⁴ The victims of sexual crimes and child abuse have the right to be accompanied by a solicitor and/or another person of their choice when reporting a crime to the Garda Síochána.²⁰⁵ The Office of the Director of Public Prosecutions has no investigative function, and crimes are solely reported to and dealt with by the Garda Síochána.²⁰⁶ The Criminal Justice (Victims of Crime) Act 2017 emphasises that, when addressing child victims, the Garda Síochána is required to provide information regarding particular measures, procedures or arrangements that are available to them.²⁰⁷

The Irish criminal justice system divides crimes, including SEC-related offences, in two categories: summary and indictable offences.²⁰⁸ The prosecution of summary offences can be instituted by the Garda Síochána,²⁰⁹ whilst indictable offences are prosecuted by the Director of Public Prosecutions.²¹⁰ If the Garda Síochána or the Director of Public Prosecutions decides not to prosecute, a victim can request a summary of reasons.²¹¹

When domestic remedies have been exhausted, children can make use of regional and international complaint mechanisms. In the regional sphere, the European Court of Human Rights can receive individual complaints from any person, including

197 Child Rights International Network (2016), "Rights, Remedies & Representation: Global Report on Access to Justice for Children", accessed 6 December 2017, https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf.

198 Child Rights International Network, "Access to Justice for Children: Global Ranking", accessed 6 December 2017, <https://www.crin.org/en/access-justice-children-global-ranking>.

199 Child Rights International Network, "Rights, Remedies & Representation: Global Report on Access to Justice for Children", 23, accessed 1 February 2018, https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf.

200 Ombudsman for Children's Office, "About us", accessed 1 February 2018, <https://www.oco.ie/about-us/>.

201 Government of Ireland (2002), "Ombudsman For Children Act, 2002", Law 22/2002.

202 *Ibid.*, Section 8.

203 Ombudsman for Children's Office, "Complaints", accessed 1 February 2018, <https://www.oco.ie/complaints/>.

204 Government of Ireland, An Garda Síochána, "Reporting a Crime?", accessed 1 February 2018, <http://www.garda.ie/Controller.aspx?Page=7978>.

205 Government of Ireland, An Garda Síochána, "Information for persons reporting sexual crime & child abuse", accessed 22 February 2018, <https://www.garda.ie/en/About-Us/Specialist-Units/Garda-National-Protective-Services-Bureau-GNPSB-/Sexual-crime-child-abuse/An-Garda-Siochana-Sexual-Crime-Child-Abuse-Leaflet.pdf>.

206 Government of Ireland, Office of the Director of Public Prosecutions, "Guidelines for Prosecutors Director of Public Prosecutions", 10, accessed 22 February, [https://www.dppireland.ie/filestore/documents/Guidelines_for_Prosecutors_\(Revised_Oct07\)_ENGLISH_1.pdf](https://www.dppireland.ie/filestore/documents/Guidelines_for_Prosecutors_(Revised_Oct07)_ENGLISH_1.pdf).

207 Government of Ireland (2017), "Criminal Justice (Victims of Crime) Act 2017", Law 28/2017, Section 7(g).

208 Government of Ireland, Office of the Director of Public Prosecutions, "What happens after the decision to prosecute is made?", accessed 22 February 2018, <https://www.dppireland.ie/brief-guide-to-the-criminal-justice-system/category/3/#a5>.

209 *Ibid.*

210 Government of Ireland, Office of the Director of Public Prosecutions, "Guidelines for Prosecutors Director of Public Prosecutions", 16.

211 Government of Ireland, Office of the Director of Public Prosecutions, "How to request reasons and reviews", 4/5, accessed 22 February 2018, https://www.dppireland.ie/filestore/documents/victims_directive_publications/ENGLISH_-_How_to_request_reasons_and_reviews.pdf.

children,²¹² claiming to be the victim of a violation of the rights set forth in the European Convention on Human Rights.²¹³ With respect to the international sphere, Ireland has ratified the OPCP, allowing children to bring complaints about violations of their rights to the CRC Committee.²¹⁴ However, in cases of violation of rights enshrined in the OPSC, Irish children cannot bring complaints, as Ireland has not ratified the legal convention to date.

There is insufficient data worldwide related to the unique challenges and barriers that child victims of SEC face when accessing justice,²¹⁵ and the same is true in Ireland. Sufficient information is not available regarding child victims of SEC's access to complaint mechanisms in the country.

Child-sensitive justice

The OPSC and the Lanzarote Convention recognise the vulnerability of child victims and urge states to adopt appropriate measures to protect the rights and the interests of the child at all stages of criminal proceedings.²¹⁶ In this regard, the Criminal Justice (Victims of Crime) Act 2017 states that the Garda Síochána, when investigating a case where the alleged victim is a child, must carry out an assessment presuming that the child has protection needs, and taking into consideration her/his best interests.²¹⁷ The Act 2017 further prescribes that victims have the right to "receive information relating to their case and to the criminal justice process in simple and accessible language".²¹⁸

Child victims have the right under the Irish law to be accompanied by an appropriate person, such as a relative, when attending any interview and/or court proceedings.²¹⁹ Additionally, the Criminal Evidence Act 1992 provides children with the right to participate in criminal procedures and providing evidence as witnesses through television links.²²⁰ Finally, the CARI Foundation in Ireland provides a service named Child Accompaniment Support Services (hereafter CASS), which provides court accompaniment for child victims, including for victims of SEC.²²¹ This service is supported by the Irish Commission for the Support of Victims of Crime, an independent body under the aegis of the DJE.²²² The CASS prepares the child for the court procedure and environment, as well as clarify legal terminologies for child victims and their families. This is a continued support service that can follow a sentencing hearing, when appropriate.²²³

Access to recovery and reintegration

The OPSC, Lanzarote Convention and Palermo Protocol highlight the importance of providing child victims with appropriate services of recovery and reintegration.²²⁴ Providing effective and timely protection and support services for child victims is one of Ireland's commitments, as set forth in the 'Better Outcomes, Brighter Future' policy framework.²²⁵ The policy sets that the Health Service Executive (HSE) is one of the leading agencies responsible for ensuring that child victims have access to support services.²²⁶

212 European Court of Human Rights (1998), *A. v. the United Kingdom*, Application No. 100/1997/884/1096, Judgment of 23 September 1998.

213 European Convention on Human Rights, Article 34.

214 OPCP, Article 5.

215 ECPAT International, "Expert Paper: Access to Justice for Child Victims of Sexual Exploitation in Travel and Tourism", 1, accessed 6 January 2018, <http://www.ecpat.org/wp-content/uploads/2016/10/4.9-Expert-Paper-ECPAT-Barriers-to-Access-to-Justice.pdf>. See also: ECPAT International, "Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation", accessed 6 January 2018, http://www.ecpat.org/wp-content/uploads/2017/04/Through-the-Eyes-of-the-Child_Barriers-to-Access-to-Justice-thematic-report.pdf.

216 OPSC, Article 8(1) and Lanzarote Convention, Article 30(1).

217 Government of Ireland, "Criminal Justice (Victims of Crime) Act 2017", Article 15(7).

218 *Ibid.*, Article 22(1).

219 *Ibid.*, Article 18(1).

220 Government of Ireland, "Criminal Evidence Act 1992", Section 16, accessed 30 March 2018, <http://revisedacts.lawreform.ie/eli/1992/act/12/revised/en/html>.

221 CARI, "Annual Report 2015", accessed 26 April 2018, <http://www.cari.ie/images/uploads/pictures/CARI-Annual%20Report%202015%20AMENDED%20FINAL.pdf>, 13-14.

222 Government of Ireland, Commission for the Support of Victims of Crime, "Commission for the Support of Victims of Crime", accessed 14 March 2018, <http://www.csvc.ie/en/csvc/>.

223 CARI, "CASS (Child Accompaniment Support Services)", accessed 14 March 2018, <http://www.cari.ie/our-services/cass-court-accompaniment-support-service>.

224 OPSC, Article 8(1), Lanzarote Convention, Article 30, and Palermo Protocol, Article 6(3).

225 Government of Ireland, Department of Children and Youth Affairs, "Better Outcomes, Brighter Futures", 81.

226 *Ibid.*

Under the supervision of the HSE, is the Anti-Human Trafficking Team (hereafter AHTT), which is a statutory service responsible for providing individual care plans for potential or suspected victims of human trafficking, including children, in all areas of exploitation.²²⁷ Issues addressed by the AHTT include, among others, housing, finance and health.²²⁸ Still concerning trafficking, the City of Dublin Education and Training Board puts education forward as a crucial element for the recovery and reintegration of child victims of trafficking.²²⁹

Ireland also has a state agency called the 'Child and Family Agency', which provides services for a child or person in danger and which can redirect a child to a foster care or residential care if needed.²³⁰ This State agency, Tusla, can also refer children to specialised organisations, such as the CARI Foundation, which provide "child-centred therapy" for children and adolescents who have been affected by sexual abuse.²³¹

Unfortunately, there appears to be no specialised recovery and reintegration services specific to child victims of SEC crimes.

Access to compensation

The term compensation refers to "a monetary reward meant to redress the harm suffered" by the victim.²³² Although no amount of money can

extinguish the despair inflicted on a child victim of sexual exploitation, it can enable him/her to rebuild his/her life by providing for basic needs, such as accommodation, health and therapeutic support. The OPSC and the Palermo Protocol give victims the right to seek compensation for the damage suffered.²³³

Although not specific to children, the Criminal Justice Act 1993 states that victims of crime could obtain a compensation order through a court order in respect of any personal injury or loss resulting from an offence.²³⁴ Civil actions are also available to seek compensation in Ireland. In the Circuit,²³⁵ District²³⁶ and Superior Courts,²³⁷ children are required to have a 'next friend' to conduct civil proceedings, which is an agent of the court whose role is to protect the rights of the child.²³⁸ Additionally, child victims could claim compensation under the Scheme of Compensation for Personal Injuries Criminally Inflicted, of the DJE.²³⁹ Such compensations are paid with funds provided to the Criminal Injuries Compensation Tribunal by the Oireachtas, the legislature of Ireland.²⁴⁰

Victims of trafficking for sexual purposes can also be granted compensation from the State through the Criminal Injuries Compensation Tribunal. However, "the crime has to be committed on Irish territory (land, ship or plane)" and there is a "time limit of three months between the crime and making a claim to the tribunal", which can be

227 Government of Ireland, Health Service Executive, "Anti human trafficking team", accessed 30 January 2018, http://www.hse.ie/eng/services/list/5/sexhealth/whp/Anti_human_trafficking_team.htm.

228 *Ibid.*

229 Government of Ireland, Department of Justice & Equality, "Second National Action Plan to Prevent and Combat Human Trafficking in Ireland", accessed 30 March 2018, http://www.justice.ie/en/JELR/Pages/Second_National_Action_Plan_to_Prevent_and_Combat_Human_Trafficking_in_Ireland.

230 Tusla, "Family & Community Support", accessed 19 April 2018, <http://www.tusla.ie/services/family-community-support/family-support/>.

231 The Cari Foundation, "Child and Adolescent Therapy", accessed 19 April 2018, <http://www.cari.ie/our-services/child-and-adolescent-therapy>.

232 ECPAT International (2017), "Barriers to Compensation for Child Victims of Sexual Exploitation: A discussion paper based on a comparative legal study of selected countries", 4.

233 OPSC, Article 9(4), and Palermo Protocol, Article 6(6).

234 Government of Ireland (1993), "Criminal Justice Act, 1993", Law 6/1993, Section 6(1).

235 Ireland Courts Service, "Circuit Court Rules", Order 6(5), accessed 30 March 2018, <http://www.courts.ie/rules.nsf/6cc6644045a5c09a80256db700399505/eda8747313f237cb80256d94005d4884?OpenDocument>.

236 Ireland Courts Service, "District Court Rules", Order 7(2), accessed 30 March 2018, <http://www.courts.ie/rules.nsf/0c609d7abff72c1c80256d2b0045bb64/7f877817723f672080257c90004453f1?OpenDocument>.

237 Ireland Courts Service, "Rules of the Superior Courts", Order 15(16), accessed 30 March 2018, <http://www.courts.ie/rules.nsf/8652fb610b0b37a980256db700399507/f10c1841df0af07380256d2b0046b3d4?OpenDocument>.

238 Cornell Law School, "Next friend", accessed 22 February 2018, https://www.law.cornell.edu/wex/next_friend.

239 Government of Ireland, Department of Justice and Equality, "Criminal Injuries Compensation Scheme", accessed 2 February 2018, <http://www.justice.ie/en/JELR/Pages/WP15000110>.

240 Government of Ireland, Department of Justice and Equality, "Scheme Of Compensation for Personal Injuries Criminally Inflicted", accessed 30 March 2018, <http://www.justice.ie/en/JELR/Scheme%2011.pdf/Files/Scheme%2011.pdf>.

extended if a reasonable explanation is provided.²⁴¹ Requirements for seeking compensation also include a report from An Garda Síochána and a willingness on the victim's behalf to co-operate in the investigation.²⁴² Problematically no compensation is paid "where the victim and the perpetrator were living together as members of the same household", which may be the case in situations of trafficking; and no compensation is paid "for pain and suffering experienced by the victim".²⁴³ Legal representation is not necessary when applying for compensation and applicants are not expected to come before the tribunal in person.²⁴⁴

Such limitations in the application process for compensation greatly impede victims' right to reparation, and can deter them from coming forward. Thus, although different options are available for child victims to seek compensation, civil society organisations have reported a lack of viable avenues for victim compensation, particularly for victims of trafficking for sexual purposes.²⁴⁵

241 Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA), (2017), "Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland –Second Evaluation Round", GRETA(2017)28, 20 September 2017, Section 178, accessed 20 April 2018, <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>.

242 *Ibid.*

243 *Ibid.*

244 *Ibid.*

245 TIP Report, 218.

Child, Victim and Survivor Participation

Following a referendum held in 2012, Ireland included a provision for children's rights in its Constitution,²⁴⁶ which expressly recognises children as rights holders.²⁴⁷ It includes, in compliance with the CRC,²⁴⁸ recognising them as holders of the right of having their views ascertained and given due weight under the law.²⁴⁹

Succeeding these legislation amendments, Ireland promoted a national consultation that involved the participation of more than 66,700 children and young people that was used to inform the development of the National Strategy on Children and Young People's Participation in Decision-making (2015-2020).²⁵⁰ This strategy includes the provision of a Children and Young People's Participation Hub, which is being established by the DCYA and which aims to become the national centre for excellence on children and young

people's participation in decision-making.²⁵¹ The DCYA also collaborates with other government departments, statutory bodies and non-government organisations to ensure that children's voices are included in the decisions, policies and structures that affect them.

A main limitation of the aforementioned strategy and of the DCYA initiatives however, is the lack of focus on the participation of child victims and survivors in particular. If the consultation of children is progress in and of itself, attention needs to be paid on including child victims and survivors in decision-making processes. Additionally, the Irish Special Rapporteur on Child Protection stresses that the country needs to make further progress towards the meaningful implementation of children's right to be heard in proceedings affecting them.²⁵²

246 Government of Ireland, Department of Children and Youth Affairs, "The Referendum Relating to Children", accessed 3 February 2018, https://www.dcy.gov.ie/viewdoc.asp?fn=/documents/child_welfare_protection/childrensreferendum.htm.

247 Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of Ireland", para 4.

248 CRC, Article 12(1).

249 Constitution of Ireland, Article 42A.

250 Government of Ireland, Department of Children and Youth Affairs, "National Strategy on Children and Young People's Participation in Decision-making 2015-2020", 8, accessed 4 January 2018, <https://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf>.

251 Government of Ireland, Department of Children and Youth Affairs, "Children and Young People's Participation Hub", accessed 3 February 2018, <https://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FPlayandRec%2F20170124ChildrenAndYoungPeopleParticipationHubMainPage.htm>.

252 Ireland Special Rapporteur on Child Protection, Geoffrey Shannon, "Tenth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas", 7, accessed 8 January 2018, https://www.dcy.gov.ie/documents/2017120710thReportSpecialRappChild_Protection.pdf.

Recommendations for Action

INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Accede to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- Strengthen existing international policies and judicial cooperation through multilateral, regional and bilateral arrangements to improve prevention, investigation, prosecution and punishment of SEC, particularly OCSE and sale and trafficking of children for sexual purposes. Mechanisms to coordinate the implementation of such arrangements should be developed.
- Sign and ratify the UNWTO Framework Convention on Tourism Ethics.

NATIONAL RESPONSE TO SEC'S MANIFESTATIONS

- Enact legislation to protect children between 17 and 18 years old from online grooming.
- Enforce the recently enacted legislation by ensuring that cases of sexual exploitation of children are thoroughly investigated and that the perpetrators are prosecuted and adequately punished.

- Develop a child budget allocation strategy taking into consideration the four core principles of the CRC: non-discrimination; focus on the child's best interests; the right to life, survival and development; and respect of the child's views.
- Ensure appropriate human, technical and financial resources are provided to support the implementation of the National Policy Framework for Children & Young People 2014-2020: "Better Outcomes, Brighter Futures" and the Second National Action Plan to Prevent and Combat Human Trafficking in Ireland.
- Ensure that the national policies in place address the deep-rooted socioeconomic factors that make children vulnerable to SEC, and that they prevent discrimination against children from the Traveller community, Roma, migrant and asylum seeker children.
- Include information regarding the implementation of the aim 3.2, specific to SEC, in the next Annual Report for the implementation of the National Policy Framework for Children & Young People 2014-2020.
- Provide comprehensive training and encourage collaboration between police and industries to prevent and combat SEC.

ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

- Develop viable avenues for child victim compensation that takes into consideration their vulnerability.

CHILD, VICTIM AND SURVIVOR PARTICIPATION

- Design strategies to include child survivors' participation in specific programmes combating SEC, in a safe and empowering manner that does not exacerbate their victimisation.

RESEARCH NEEDS AND AGENDA

- Undertake research or comprehensive assessment to investigate how children belonging to the Traveller communities are affected by SEC in Ireland.
- Investigate how children, particularly girls from Eastern European countries, are affected by the sham marriage industry operating in Ireland.
- Establish an effective national system of data collection, analysis and dissemination on SEC in all its forms, disaggregated by age, gender, place of residence, ethnic origin and socio-economic background to facilitate analysis on how SEC is manifested in the country.
- Conduct research on the risks posed by SEC on boys in Ireland, and how to address the unique needs of male child victims, including in terms of recovery and reintegration.



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