



# PANAMA

**ECPAT**

## COUNTRY OVERVIEW

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

OCTOBER, 2019



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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 Overviews 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-organized 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 organizations, 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 the glance

Panama has a population of 4,034,000 people of which 1.32 million are children. Despite being one of the fastest growing economies in Latin America, poverty driven by socioeconomic inequality and ethnic discrimination persists, and as of 2018, 32.8% of children in Panama live below the national poverty line. Afro-Panamanian and indigenous children as well as children with disabilities have been noted as more affected by poverty and discrimination and therefore experiencing restrictions accessing health care, education and other basic services. Additionally, gender and social norms regarding children, such as tolerance towards sexual relations between adult men and adolescents, discriminatory gender stereotypes and a culture of silence surrounding sexual abuse within the family may all contribute to making children vulnerable to sexual exploitation.

Data regarding exploitation of children in prostitution in Panama is scarce. However, increasing number of reported cases and testimonies from sex workers in the country indicates that this crime still occurs. In 2018, 57.9% of Panamanians used the Internet and mobile cellphones are widely available in the country. Research shows that children are often exposed to online risks and parents are less aware of their children's online activities than they believe. Despite increasing numbers of reports for online sexual exploitation crimes, victim identification remains a challenge.

Panama is identified as a source, destination and transit country for trafficking victims. Regional overviews highlight child trafficking trends in the region with estimates of 40% of all sexual trafficking victims in Central America and the Caribbean being girls under 18 years of age; however, Panamanian authorities only formally recorded one case of child trafficking in 2018. The low number of reports seems to indicate a 'hidden number' of cases of trafficking for sexual purposes involving children.

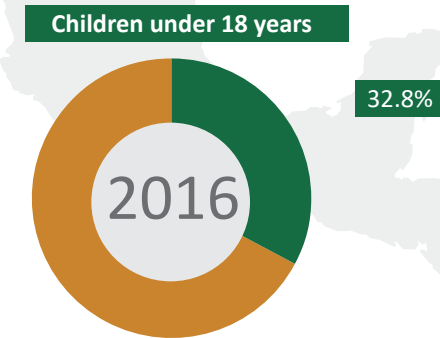
High levels of child poverty and existing social tolerance towards sexual relations between adults and adolescents in a country where tourism has become one of the main sources of income for the economy are factors that may increase children's vulnerability to sexual exploitation in travel and tourism. A recent perception study indicates that people working in the tourism sector are aware of the occurrence of child sexual exploitation in tourist areas of the country, although cases are underreported and more research is needed. Furthermore, child marriage is still a challenge in Panama mostly in the form of unregistered unions taking place in rural and indigenous areas.

The country has ratified the main legal instruments to combat SEC and is also party to a number of international and regional commitments addressing SEC. However, amendments to the national legislation are yet to be made to incorporate definitions for all SEC-related offences to align with the ratified instruments and commitments. Furthermore, loopholes in the legal framework need to be addressed in order to eliminate disparities of penalties between trafficking crimes and related conducts such as exploitation of children in prostitution or the sale of children for the purpose of sexual exploitation.

Despite having a main body dealing with SEC issues and a national action plan on SEC, coordination and cooperation of SEC-related policies and child protection programmes and prevention strategies are fragmented among a number of agencies, which has led to inefficiencies and duplications in the national response to SEC. The proposal for the creation of an integral child protection system in line with the Convention on the Rights of the Child's principles has stagnated over recent years due to opposition from some conservative sectors of Panamanian society. Nevertheless, the government is running a number of prevention programmes and has implemented child-sensitive protocols in the services available to SEC victims. Challenges remain with regard to victim's access to recovery, reintegration and compensation.

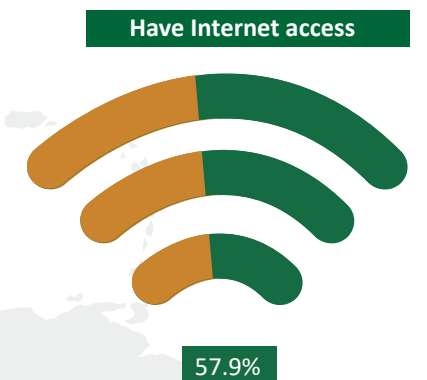
## POPULATION

SOURCE: UNICEF State of the World's Children Report 2017



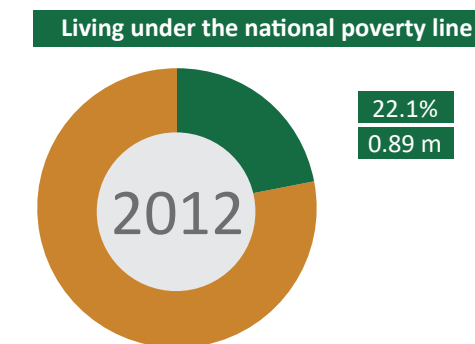
## INTERNET ACCESS

SOURCE: ITU Statistics 2018: Panama



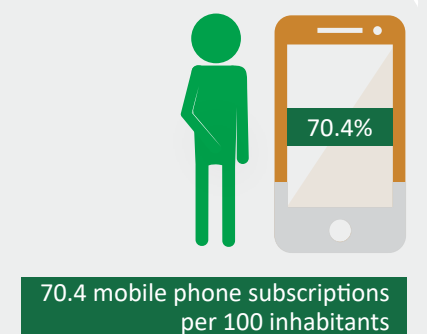
## POVERTY RATE

SOURCE: Poverty & Equity Data Portal: World Bank



## MOBILE PHONE USERS

SOURCE: ITU Statistics 2018: Panama



## CHILDREN'S RIGHTS UNDER THE LAW

	Girls	Boys
Age of consent for sex	14	14
Minimum age for marriage	18*	18*
Legal working age	14*	14*
Compulsory age of schooling	15	15

\* with a few exceptions

## Introduction

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

The Republic of Panama (hereinafter ‘Panama’) is a country in Central America, bordered by Costa Rica to the west and Colombia to the southeast. In 2016, Panama had a population of 4,034,000 people, out of which approximately 32.8% (1,324,000) were children.<sup>1</sup> The population is 70% mestizo (white and Amerindian), 14% Amerindian and mixed (West Indian or Afro-Panamanian), 10% white and 6% Amerindian.<sup>2</sup> There are seven major indigenous peoples in Panama, including the Ngäbe, the Buglé and the Guna, among others.<sup>3</sup>

Over the last twenty-five years, Panama has been one of the fastest growing economies in Latin America. In 2019, it ranked as the second fastest growing economy of 33 in the region (surpassed only by St. Kitts and Nevis).<sup>4</sup> High investment, improvements in productivity, a vibrant financial services sector and a flourishing service sector, bolstered by the recent expansion of the Panama Canal and the Colón free trade zone, have all contributed to the growth of the Panamanian

economy.<sup>5</sup> Although the country was known in the past to be an offshore financial service centre vulnerable to money laundering and financial and tax crimes,<sup>6</sup> changes have been seen in this regard in recent years. In January 2018, Panama was removed from the EU tax haven blacklist and moved to a grey list due to recent transparency commitments and reforms.<sup>7</sup> Since March 2019, the country has been officially taken out of all EU tax haven watch lists.<sup>8</sup> Panama ranked as 66 out of 189 countries in the latest Human Development Index released in 2018 by the United Nations Development Programme, right after Mauritius and ahead of Serbia.<sup>9</sup>

Despite being included among the countries categorized as having a ‘high’ Human Development Index score, according to the Gini Index 2017, Panama is one of the most unequal countries in the world, ranking only ahead of Honduras and Brazil in the Latin American region.<sup>10</sup> Albeit achieving significant progress in poverty reduction in the last years, inequality continues and there are regional disparities in terms of income distribution. Rural areas, mainly inhabited by indigenous people, present higher levels of poverty.<sup>11</sup> Furthermore, inequality is manifested by significant differences in access to basic services, which is only available to some sections of the population, depending on geographic location,

ethnicity and household income levels.<sup>12</sup> In 2016, 22.1% of the Panamanian population was estimated to live under the national poverty line.<sup>13</sup> Poverty specially affects children and according to national statistics, as of 2018, 32.8% of the children population in Panama lived in poverty.<sup>14</sup> Furthermore, inequality may specially affect children vulnerable to discrimination such as Afro-Panamanian and indigenous children and children with disabilities, due to disparities in access to health care, education and other basic services.<sup>15</sup> In 2018, the Committee on the Rights of the Child expressed its concerns regarding the “higher rates of infant mortality (especially due to preventable diseases), malnutrition, maternal mortality and school dropout” affecting these vulnerable groups.<sup>16</sup>

#### 2018 DATA SHOWED

# 32.8%

#### OF THE CHILD POPULATION IN PANAMA LIVED IN POVERTY



Additionally, the rapid economic expansion and the consolidation of Panama as a business paradise, recreation center and popular tourist destination, coupled with high levels of income inequality and a large proportion of children living in poverty could lead to their sexual exploitation.<sup>17</sup> A 2019 perception study conducted by UNICEF Panama and Panamanian NGO Casa Esperanza (which included 500 surveys with people working in the tourism industry), provided indications of the occurrence of SEC in Panamanian tourist areas.<sup>18</sup> In addition, indigenous and mestizo adolescents coming from low-income households and single-parent families were perceived as the most prevalent victims of SEC in the locations where the research took place.<sup>19</sup>

Gender and social norms regarding children may also contribute to the normalization of sexually exploitative behaviour against them.<sup>20</sup> In Panama, social tolerance towards sexual relations between adult men and adolescents, a culture of silence surrounding sexual abuse within the family, discriminatory gender stereotypes and the reticence of politicians and some sectors of society to include sexual education in school curricula due to religious restrictions, are all factors that can hamper the protection of children’s rights<sup>21</sup> and may contribute to SEC in the country.

According to a 2009 survey conducted in Panama by the ILO-IPEC, responded by at least 1,200 participants aged 18 or older, when presented with a situation of sexual exploitation of a child (understood as remunerated sex with a child under 18), 20.3% of respondents indicated that they would not take any action because they did not consider the issue a problem, or considered it a common situation. Moreover, 20.8% of the sample answered that they would report the child victim instead of the client. Only 50% of the respondents would report the client/exploiter.<sup>22</sup>

1 UNICEF (2017), *The State of the World’s Children 2017: Children in a Digital World*, UNICEF Publications, 176.

2 World Population Review (2019), *Panama Population 2019*.

3 IWGIA (n. d.), *Panama*.

4 World Bank Data (2019), *Panama Country Overview*.

5 IMF (2019), *IMF Country Report No. 19/11 – Panama*, 4; BBC News (2012), *Panama Country Profile*.

6 IMF (2014), *Panama: Report on Observance of Standards and Codes—FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism*, 4.

7 European Commission (2019), *Evolution of the EU list of tax havens*.

8 *Ibid.*

9 United Nations Development Programme (2018), *Human Development Indices and Indicators: 2018 Statistical Update*, 23.

10 World Bank Data (2017), *GINI index (World Bank estimate)*.

11 World Bank Data (2019), *Panama Country Overview*.

12 *Ibid.*

13 World Bank Data (2016), *Panama: Poverty headcount ratio at national poverty lines*.

14 MIDES, MEF & INEC (2019), *Índice de Pobreza Multidimensional de Niños, Niñas y Adolescentes*, 57.

15 Committee on the Rights of the Child (2018), *Concluding observations on the combined fifth and sixth periodic reports of Panama*, para.15; Human Rights Council (2014), *Report of the Special Rapporteur on the Rights of Indigenous Peoples: The status of indigenous peoples’ rights in Panama*.

16 *Ibid.*

17 ECPAT International (2016), *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism*, 31.

18 UNICEF Panama and Casa Esperanza (2019), *Percepción de Explotación Sexual Comercial de Niños, Niñas y Adolescente en Áreas de Incidencia Turística*.

19 *Ibid.*, 66.

20 ECPAT International (2016), *Power, Impunity and Anonymity. Understanding the Forces Driving the Demand for Sexual Exploitation of Children*.

21 SENNIAP and UNICEF Panama (2018), *Estrategia Nacional Multisectorial de Prevención de la Violencia Contra Niños, Niñas y Adolescentes 2018-2022 y Plan de Acción 2018-2019 República de Panamá*, 35.

22 ILO – IPEC (2009), *El comercio sexual con personas menores de edad en Centroamérica, Panamá y República Dominicana. Segundo estudio de tolerancia social. Análisis de resultados, desafíos y recomendaciones*, 31-32.



Although this indicates a drop compared to the results of an equivalent survey conducted in 2005,<sup>23</sup> these findings still showed a remarkably high social tolerance towards SEC in Panama, which is often regarded as a problem belonging to private sphere, or not even considered a problem at all. The above-mentioned 2019 perception study conducted in tourist areas showed that 68% of the respondents did not consider SEC to be a problem in their communities but 74% did perceive it as a problem in other areas of the country.<sup>24</sup> However, these findings cannot be generalized to indicate increased public awareness on the issue and new research in this area would be necessary to understand whether social tolerance persist.

**68%**  
OF THE RESPONDENTS DID NOT CONSIDER  
SEXUAL EXPLOITATION OF CHILDREN TO  
BE A PROBLEM IN THEIR COMMUNITIES

**74%**  
OF THE RESPONDENTS DID PERCEIVE IT  
AS A PROBLEM IN OTHER AREAS OF THE  
COUNTRY



Research has shown how one of the main challenges in all countries in Latin America and the Caribbean is recognising that belief systems and gender norms such as ‘machismo’, are a determining factor in failure to implement laws to protect women and girls from violence.<sup>25</sup> ‘Machismo’ promotes a culture of hegemonic masculinity that determines what attributes men should have, such as control, strength, success or sexual desire. It justifies dominance and control over women’s bodies and is directly correlated with social impunity for perpetrators of violence against women and girls.<sup>26</sup> Furthermore, ‘machismo’ is based on a patriarchal ideology that sees males as parent-provider figures who exercise power over the children and women in the household.<sup>27</sup>

When such social and gender norms prevail, and devaluation of children and women by adult men is commonplace society and exploiters tend to shift the blame onto victims.<sup>28</sup> The ILO-IPEC 2009 study noted that in order to fight SEC, it is necessary to look at cultural elements strongly ingrained in the Panamanian society such as the ‘machismo’ culture, which is manifested, for instance, through the purchase of sexual services with minors as an exercise of power by adult men.<sup>29</sup>

Although there is no updated evidence on whether social attitudes towards SEC have improved in the last decade, the number of reports for child sexual abuse and SEC-related crimes has considerably increased in recent years.<sup>30</sup> According to UNICEF Panama, “despite the increase in reporting since 2013, statistical data is not enough to establish a connection between that trend and an increased social awareness about the problem”.<sup>31</sup> In their view, what the statistics on the number of cases reported does show is that “SEC is a serious problem, affecting many girls and boys in Panama and therefore more action is needed in this regard”.<sup>32</sup>

23 ILO – IPEC (2006), *Tolerancia social en la población frente al comercio sexual con personas menores de edad en Centroamérica, Panamá y República Dominicana*, 22. In this previous survey conducted in 2005, 25% of respondents would not take any action; 22% would report the child victim and 24% would report the client.

24 UNICEF Panama and Casa Esperanza (2019), *Percepción de Explotación Sexual Comercial de Niños, Niñas y Adolescente en Áreas de Incidencia Turística*, 20-21.

25 Oxfam International (2018), *Breaking the Mould: changing belief systems and gender norms to eliminate violence against women in Latin America and the Caribbean*, 36.

26 *Ibid.*, 16.

27 *Ibid.*, 48.

28 ECPAT International (2016), *Power, Impunity and Anonymity. Understanding the Forces Driving the Demand for Sexual Exploitation of Children*, 39.

29 ILO – IPEC (2009), *El comercio sexual con personas menores de edad en Centroamérica, Panamá y República Dominicana. Segundo estudio de tolerancia social. Análisis de resultados, desafíos y recomendaciones*, 8.

30 Between 2017 and 2018 the number of reported cases of child sexual abuse and exploitation increased by 68%. See: Agencia EFE (2019, Jul 13), *Aumentan significativamente las denuncias de abuso sexual a menores en Panamá*.

31 UNICEF Panama (Jul 2019), *Personal Communication*.

32 *Ibid.*



## EXPLOITATION OF CHILDREN IN PROSTITUTION<sup>33</sup>

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”.<sup>34</sup>

Data regarding SEC in prostitution is scarce in Panama. The only substantial study on the topic dates back to 2002<sup>35</sup> and there has been no relevant research conducted on this topic since.

According to data from prosecution authorities in Panama, in 2018, there were 173 registered complaints for the crime of corruption of minors (making a child participate in or witness sexual acts); 17 for the crime of procurement (facilitating, inciting, recruiting for or organizing the sexual exploitation of a child in prostitution), and 9 for the crime of remunerated sexual intercourse

with minors.<sup>36</sup> From January to May 2019, the number of registered complaints has been 78, 2 and 7 respectively.<sup>37</sup> Although this data can be an indication of the problem, it is likely that most case of the crime go underreported due to its clandestine nature and the high social tolerance regarding sexual relations between adult men and adolescents, as mentioned above. According to a report of the Ministry of Social Development on the situation of women in Panama, sexual exploitation of girls and adolescents in prostitution is difficult to identify, often occurs clandestinely and is not perceived as a concern by victims who consider it a way of obtaining economic help or favours from the exploiter.<sup>38</sup>

A 2019 study, which included a survey conducted with 62 adult sex workers in the country, showed that it is relatively common to start working in the prostitution sector from a young age. The research found that 37.1% of the surveyed sex workers started being engaged in prostitution when they were under 18 and 1.6% started when they were under 14.<sup>39</sup> Furthermore, less than 10% of the surveyed sex workers were Panamanian nationals, the more common nationalities were Colombian, Dominican, Peruvian and Nicaraguan.<sup>40</sup>

33 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’), 30. Bangkok: ECPAT International.

34 UN General Assembly. (2000, May 25). *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). Art. 2(b).

35 OIT – IPEC (2002), *La explotación sexual comercial de niños, niñas y adolescentes en Panamá*.

36 Office of the Public Prosecutor (2019), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 al 31 de diciembre de 2018*.

37 Office of the Public Prosecutor (2019), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 31 de mayo de 2019*.

38 MIDES (2008), *IV Informe Nacional Clara González. Situación de la mujer en Panamá 2002- 2007*.

39 Escudero, I., Pérez, M. (2019), *Consideraciones de las trabajadoras sexuales que acuden a las clínicas de higiene social de las provincias de Panamá y Herrera, sobre el significado de la prostitución: alternativa económica o forma de violencia*, 7.

40 *Ibid.*, 16.

Despite the lack of recent comprehensive data on the topic, the figures from the prosecution authorities and the accounts from sex workers in the country indicate that the sexual exploitation of children in prostitution is a reality in Panama. A national study on this topic in the country would be essential to obtain updated data and make possible an informed assessment of the scope of the problem and the forms in which it takes place.

## ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),<sup>41</sup> 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).<sup>42</sup> 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”.<sup>43</sup>

Though conducive to innovation and development, the increase in Internet availability can also lead to heightened risks of online child sexual exploitation.<sup>44</sup> Not only are parents and other caretakers often unaware or unequipped to mitigate risks to children, but offenders continue to employ sophisticated methods to exploit children and to access CSAM/CSEM online.<sup>45</sup> In nearly every part of the world, offenders are increasingly

using the Internet as their preferred medium for disseminating CSAM/CSEM and for grooming children with the aim of exploiting them.<sup>46</sup> In Latin America, Internet access and use has sharply increased in recent years. In 2016, 45.5% of households in the region were connected to the Internet, doubling the figure from 2010.<sup>47</sup> Furthermore, Latin Americans are strongly engaged with social networking.<sup>48</sup> Panama aligns with these trends. In 2018, there were approximately 70.4 mobile cell phone subscriptions per 100 inhabitants across the country.<sup>49</sup> In the same year, 57.9% of Panamanians used the Internet.<sup>50</sup>

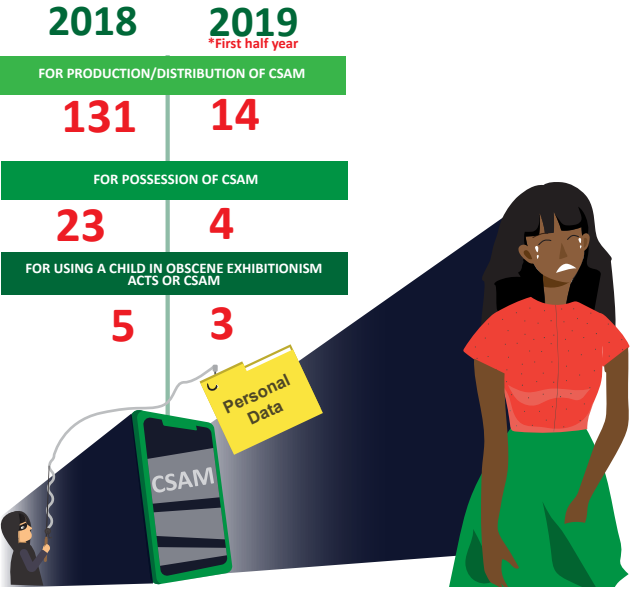
In 2018, CableOnda, one of the main phone and Internet service providers in Panama, conducted a study on children’s Internet usage as part of their Corporate Social Responsibility (CSR) programme Conéctate Seguro (Connect Safely).<sup>51</sup> The study included 3,356 interviews with Panamanian adolescents aged 13-17 and 600 interviews with parents. It is important to note that this study is not representative of the overall child population in Panama, since 80% of respondents stated that they had access to the Internet from home, which is a much higher figure than the average in the country, and therefore the study focuses on Internet usage in households of a certain economic income.

The study found that adolescents spend a daily average of 3.8 hours on the Internet on the weekends and 2.8 hours during the week.<sup>52</sup> Furthermore, 88% of the adolescent respondents used messaging platforms and 39% used video-chat tools in these platforms ‘often’ or ‘very often’.<sup>53</sup> With regard to use of social networks, 82% had Instagram accounts and 89% were active on WhatsApp.<sup>54</sup> Additionally, smartphones appeared to be the main tool to access social media, 88% of the interviewed adolescents access social

media through their mobile phones and only 30% through computers.<sup>55</sup>

The study also included questions regarding exposure to risks online. 33% of the respondents declared having been asked for private information by strangers online, 23% stated having been harassed by adults online and 11% reported having suffered online sexual harassment.<sup>56</sup> Furthermore, 63% of the respondents declared having stumbled upon sexually explicit content online and 58% stated that they had physically met with someone they got to know through the Internet. To be noted though, the study did not specify whether these encounters were with adults or other adolescents so this could include young people in their existing offline communities.<sup>57</sup> Interestingly, only 16% of adolescents declared that their parents always or almost always control or supervise what they do online, compared to 66% of parents that stated they did.<sup>58</sup> These results may indicate that Panamanian children who access the Internet regularly are easily exposed to risky situations online, and that parents may be less aware of their children’s online activities than they think.

### REGISTERED COMPLAINTS



According to data from prosecution authorities in Panama, in 2018, there were 131 registered complaints for the crime of production and/or distribution of CSAM, 12 for the crime of possession of CSAM and 6 for the crime of using a child in obscene exhibitionism acts or CSAM.<sup>59</sup> In the first semester of 2019, the number of registered complaints for the afore-mentioned crimes has been of 14, 4 and 3 respectively.<sup>60</sup> According to recent statements from UNICEF Panama, victim identification in CSAM cases is a challenge for the Office of the Prosecutor, and therefore there is a big gap between the number of reports and the number of identified victims for these crimes.<sup>61</sup> From the 131 reported cases of distribution of CSAM in 2018, only 24 child victims could be identified, although there is no available data on the actual number of cases being under investigation, beyond the number of reports. With regard to possession of CSAM, 5 child victims were identified in 12 reported cases. Of the 29 identified victims in total, 15 were aged 10-14 years old and 11 aged 15-17. There was only one boy identified as victim.<sup>62</sup>

## 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

41 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.  
42 ECPAT International. (n.d.), Issues we work on. Bangkok: ECPAT International.  
43 OPSC, Article 2(c).  
44 ECPAT International (2018), Trends in online child sexual abuse material, 6–7. Bangkok: ECPAT International.  
45 Ibid., 32-33.  
46 Ibid., 31-34.  
47 ECLAC (2017), State of broadband in Latin America and the Caribbean, 7.  
48 ComScore (2011), The Rise of Social Networking in Latin America.  
49 International Telecommunications Union (ITU) (2018), Mobile-cellular subscriptions.  
50 International Telecommunications Union (ITU) (2018), Individuals using the Internet (% of population).  
51 CableOnda (n.d.), Conéctate Seguro.  
52 CableOnda (2018), Reporte - Conéctate Seguro, 8.  
53 Ibid., 11.  
54 Ibid., 13.

55 Ibid., 14.  
56 Ibid., 18.  
57 Ibid., 20.  
58 Ibid., 28 and 38.  
59 Office of the Public Prosecutor (2019), Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 31 de diciembre de 2018.  
60 Office of the Public Prosecutor (2019), Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 30 de junio de 2019.  
61 Agencia EFE (2019, Jul 13) Aumentan significativamente las denuncias de abuso sexual a menores en Panamá.  
62 Office of the Public Prosecutor (2019), Número de víctimas menores de edad registradas en el delito contra la libertad e integridad sexual a nivel nacional, por rango de edad según tipo de delito, del 1 de enero al 31 de diciembre de 2018. (Data facilitated by UNICEF Panamá).



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”.<sup>63</sup>

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)”.<sup>64</sup> 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”.<sup>65</sup> 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.<sup>66</sup>

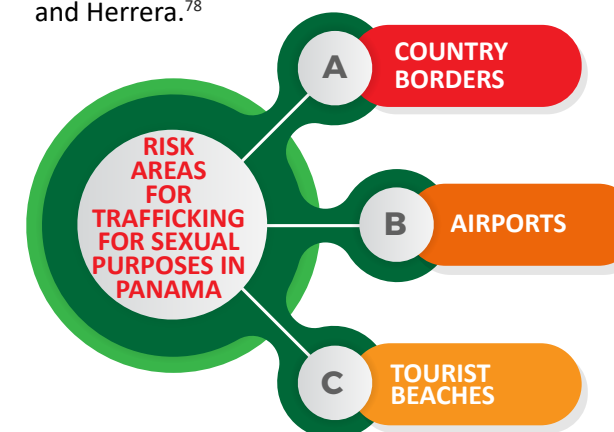
Panama is identified as a source, destination, and transit country for trafficking victims and children are reportedly exploited in trafficking for sexual purposes in the country.<sup>67</sup> Research indicates that Panama is a destination country for trafficking victims due to its outstanding economic development, a minimum salary that is overall higher in comparison to other countries in the region, together with an increasing demand of non-qualified labour in the service sector which makes it attractive for migrants.<sup>68</sup> Furthermore, Panama is a source of victims of trafficking due to the wide inequalities in terms of income and access to basic services in the country, which make people in indigenous communities and rural areas more vulnerable to recruitment by traffickers.<sup>69</sup> Lastly, Panama is a transit country for trafficking victims on the way to North America and even Europe and Asia. Its more permissive migratory policies than other states in the region and its economic stability make it an attractive place for criminal networks seeking to hold victims in an intermediate country before their final destination with the objective of hindering detection and police investigations.<sup>70</sup>

With regard to trafficking of children for sexual purposes, data is scarce and mostly consists of overviews at the regional level. A 2012 regional study conducted by Save the Children indicated that victims of trafficking for sexual purposes in Central America tend to include a significant number of children, adolescents and women.<sup>71</sup> Additionally, UNODC estimated that 40% of the detected victims of trafficking for sexual exploitation in Central America and the Caribbean in 2016 were girls below 18 while 1% were boys under the same age.<sup>72</sup> In 2016, the region recorded increases in the numbers of detected victims who were trafficked for sexual exploitation, compared to previous years.<sup>73</sup>

Despite data highlighting the prevalence of this issue in the region, UNODC statistics on the number of cases in Panama do not provide disaggregation of data by age and therefore

it is not possible to estimate the number of child victims of trafficking in the country.<sup>74</sup> In addition, prosecution authorities in Panama do not publish compiled statistics on the crime of child trafficking as they do for other SEC-related offences. However, according to statistics obtained by UNICEF Panama upon request to the Office of the Prosecutor, there was only one recorded case of child trafficking in 2018, involving a girl victim aged 17 in Coclé province.<sup>75</sup> The data did not specify whether it referred to a case of trafficking for sexual purposes. The extremely low number of reports seems to indicate that there may be a ‘hidden number’ of trafficking cases involving child victims, which fail to be identified or end up being characterised as less severe offences due to deficiencies in investigation and prosecution mechanisms as well as a poor institutional understanding and restricted interpretations of trafficking laws in practice.<sup>76</sup>

Lastly, trafficking for sexual purposes in Latin America is reportedly concentrated in areas with high flows of migrants such as border areas and ports as well as in urban centers and areas with large numbers of tourists.<sup>77</sup> In Panama, some of the risk areas identified include spots along the border with Costa Rica, airports, and tourist beaches. Provinces previously identified as risk areas include Panamá, Panamá Oeste, Coclé, Colón and Herrera.<sup>78</sup>



## 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”.<sup>79</sup> 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.<sup>80</sup>

According to the World Travel and Tourism Council, the travel and tourism sector in Panama represented 14.5% of the GDP in 2018.<sup>81</sup> Panama has become a major leisure destination with 88% of the tourism spending in the country in 2018 corresponding to leisure activities.<sup>82</sup> The country expects 1.9 million international visitors in 2019.<sup>83</sup>

High levels of poverty among the child population as well as existing social tolerance towards sexual relations between adult men and adolescents in a country where tourism has become an important source of income for the economy are all factors that according to research may increase children’s vulnerability to SECTT.<sup>84</sup> Furthermore, research indicates a link between SECTT and trafficking for sexual exploitation in the region related to growth in tourism.<sup>85</sup> As a result, trafficking for sexual purposes often occurs as a response to the demand of travelers and tourists and thus, victims often live in tourist areas.<sup>86</sup>

63 UN General Assembly (2000, November 15), *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 (Palermo Protocol)*. Res. 55/25 of 15. Art. 3 (a).

64 *Ibid.*, Article 3 (c).

65 OPSC, Article 2 (b).

66 ECPAT International (2016), *Terminology Guidelines*. 58. Bangkok: ECPAT International.

67 United States Department of State, (2018). *2018 Trafficking in Persons Report*. 343.

68 Villalibre Fernandez, V. (2015), *Pesca humana. Captación de víctimas para la trata de personas en el contexto panameño*, *Societas*, Vol. 17, no. 2, 137.

69 *Ibid.*

70 *Ibid.*

71 Save the Children (2012), *Violencia y Trata de Personas en Centroamérica. Oportunidades de Intervención regional*, 56.

72 UNODC (2018), *Global Report on Trafficking in Persons*, 72.

73 *Ibid.*

74 UNODC (2018), *Global Report on Trafficking in Persons, Country Profiles: Central America and the Caribbean*, 21.

75 UNICEF Panama (Jul 2019), *Personal Communication*. UNICEF Panamá (2019), *Análisis de Situación de violencias contra niños, niñas y adolescentes en Panamá* [to be published].

76 *Ibid.*; US Department of State (2019) *Trafficking in Persons Report 2019*, 7.

77 Save the Children (2012), *Violencia y Trata de Personas en Centroamérica. Oportunidades de Intervención regional*, 53.

78 *Ibid.*, 72.

79 ECPAT International (2016), *Global Study on Sexual Exploitation of Children in Travel and Tourism* (hereinafter Global study on SECTT). Bangkok: ECPAT International.

80 UNWTO. (2019). *UNWTO Framework Convention on Tourism Ethics*. UN Doc. A/RES/707(XXII). Art. 5 (3).

81 World Travel and Tourism Council (2019), *2019 Annual Research: Key Highlights – Panama*.

82 *Ibid.*

83 *Ibid.*

84 ECPAT International (2016), *Global Study on SECTT*, 31.

85 *Ibid.*, 32.

86 *Ibid.*

A recent perception study conducted by UNICEF Panama and Panamanian NGO Casa Esperanza, including 500 surveys with people working in the tourism sector (mainly in hospitality, transport and entertainment), and focus groups with public officials working on child protection bodies, shed some light on the scope of the situation of SECTT in the provinces of Panama, Coclé, Chiriquí and Bocas de Toro.<sup>87</sup> The study concludes that, although the tourism industry in these locations is not identified as directly promoting SEC, respondents perceived foreign and domestic tourists as the primary offenders and identified nightclubs and public spaces such as beaches and parks as the main places where sexual exploitation takes place.<sup>88</sup> Interestingly, the study indicated the increasing use of social media and messaging platforms such as WhatsApp to directly approach child victims and the use of adolescents as intermediaries to recruit new victims in schools.<sup>89</sup>

Despite the presence of risk factors and perceptions by tourism sector professionals that SECTT is a problem in some areas of Panama, since 2017 the Office of the Prosecutor has only recorded two registered complaints for the crime of ‘child sex tourism’.<sup>90</sup> However, that does not necessarily mean that SECTT does not take place in Panama; it is likely that the practice is potentially more concealed and that few victims report the crime. Anecdotal evidence shared by UNICEF Panama indicated a worrying lack of awareness about the problem among people participating in SECTT sensitization workshops, with some participants considering that children engage in such practices to obtain an economic compensation and therefore they are the ones to blame for their misconduct.<sup>91</sup> The perception study recently conducted also identified a lack of

understanding of the issue of SEC by public officials working in child protection bodies in tourist areas.<sup>92</sup>

Further research at the national level to analyse the scope of SECTT in the country, the forms in which it takes place, whether it is underreported and for what reasons is urgently needed in Panama.

### 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”.<sup>93</sup> 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.<sup>94</sup>

According to the latest available evidence, the 2013 Multiple Indicators Cluster Survey (MICS), 6.2% of women between 15 and 49 in Panama were married before the age of 15 and 25.6% of women between 20 and 49 were married before their 18th birthday.<sup>95</sup> Although data on the exact number of unions each year is not available, these numbers indicate that the practice still occurs in the country.

Since 2015, domestic legislation in Panama forbids marriage for anyone under 18.<sup>96</sup> This has been a great step in the fight against child marriage in the country; however, according to the UNICEF regional director of Latin America and the Caribbean, “challenges remain in the form of unregistered unions”. These illegal early unions are said to be both “cause and consequence of several other problems affecting girls in Panama such as early pregnancies, sexual and gender violence as well as limitations of opportunities and perpetuation of intergenerational poverty cycles”.<sup>97</sup> UNICEF has reported that, in Latin America, early informal unions are more prominent among indigenous and rural populations as well as among population groups with middle and low economic income.<sup>98</sup>

Anecdotal evidence shared by child protection experts in the country indicates the existence of informal unions in rural Panama. In these communities, social tolerance towards early unions is still common, which further hampers detection efforts since few people report cases and the child victims themselves fail to recognise their own exploitation, which is often seen as opportunity to bring their family out of poverty.<sup>99</sup>

An additional factor identified as cause and consequence of early unions is adolescent pregnancy.<sup>100</sup> In 2018, 30.5% of the women receiving medical attention for pregnancies in the centres of the Panamanian Ministry of Health were adolescents and girls aged 10 to 19 years old.<sup>101</sup> The government has pointed out this problem as a “pressing issue” that “requires urgent legislation and the transformation of existing social norms in the Panamanian society”.<sup>102</sup>



87 UNICEF Panama and Casa Esperanza (2019), *Percepción de Explotación Sexual Comercial de Niños, Niñas y Adolescente en Áreas de Incidencia Turística*.

88 *Ibid.*, 68-69.

89 *Ibid.*, 65.

90 Office of the Public Prosecutor (2019), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 30 de junio de 2019*; Office of the Public Prosecutor (2019), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 31 de diciembre de 2018*; Office of the Public Prosecutor (2018), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 31 de diciembre de 2017*.

91 UNICEF Panama (Jul 2019), *Personal Communication*.

92 UNICEF Panama and Casa Esperanza (2019), *Percepción de Explotación Sexual Comercial de Niños, Niñas y Adolescente en Áreas de Incidencia Turística*, 12 and 69.

93 ECPAT International (2016), *Terminology Guidelines*. 63. Bangkok: ECPAT International

94 ECPAT International and Plan International (2015), *Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage*. Bangkok: ECPAT International.

95 Comptroller General of the Republic of Panama (2014). *Encuesta de Indicadores Múltiples por Conglomerados de Panamá 2013*, 14, Panamá: Contraloría General

96 Law 30 of 2015, art. 2. [in Spanish: *Ley Nº 30 de martes 5 de mayo de 2015 que modifica y deroga disposiciones del Código de la Familia*.]

97 UNICEF Panama (2018, Apr 9), *América Latina y el Caribe: una década perdida en la reducción del matrimonio infantil*.

98 *Ibid.* UNICEF Panama (Jul 2019), *Personal Communication*.

99 UNICEF Panama (Jul 2019), *Personal Communication*.

100 UNICEF (2018), *A commitment to end child marriages and early unions in Latin America and the Caribbean*; UNICEF Panama (Jul 2019), *Personal Communication*.

101 La Prensa (2019, Feb 13), *Persiste escalada de embarazos en jóvenes*.

102 SENNIAF and UNICEF Panama (2018), *Estrategia Nacional Multisectorial de Prevención de la Violencia contra Niños, Niñas y Adolescentes 2018-2022*, 39.



## 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 (CRC) - 1989	12 December 1990
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) - 2000	9 February 2001
Optional Protocol on a Communications Procedure - 2014	30 November 2016
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	31 October 2000
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)	18 August 2004
Regional Instruments	Date of ratification/accession
OAS Inter-American Convention on International Trafficking of Minors - 1997	18 January 2000
Convention on Cybercrime (Budapest Convention) - 2004	5 March 2014

Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	2016 - 5th - 6th periodic report submitted	<p>Key recommendations related to SEC:</p> <p>“Urges the State party to expedite the adoption of a comprehensive law on children’s rights where children are recognized as rights holders rather than as objects of protection, in line with the provisions and principles of the Convention.”</p> <p>“Establish and implement a regulatory framework explicitly preventing and aiming to eliminate SECTT, criminalize it, and incorporate sanctions commensurate with the gravity of the crime”;</p>

Human Rights Bodies	Date of latest submitted report	Comments
		<p>and to “adopt adequate preventative measures to combat SECTT, including within the framework of the agreement between the CONAPREDES and the Panamanian Hotels Association”</p> <p>“Amend Act No. 79 of 9 November 2011 on trafficking in persons and related activities to introduce a definition of human trafficking that is in line with the (Palermo) Protocol”</p> <p>“Urges the State party to fulfil its reporting obligations under the OPSC”<sup>103</sup></p>
Committee on the Rights of the Child (OPSC review)	2019 – First periodic report submitted	“Amend Act No. 79 of 9 November 2011 on trafficking in persons and related activities to introduce a definition of human trafficking that is in line with the (Palermo) Protocol”
Human Rights Council – Working Group on the Universal Periodic Review	2015 – Second cycle	Panama will be under review for the Third Cycle in May 2020

## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
SDGs – 2030 Agenda	Adopted on 14 Sept 2015
Regional commitments	
Commitment	Start date
Inter-American Programme for the Prevention and Eradication Child Commercial Sexual Exploitation and Illegal Trafficking: created by the Inter-American Children’s Institute and approved by the OAS, it aims to conduct research on SEC in the region and provide technical assistance to member States to fight SEC.	3 June 2008

<sup>103</sup> Committee of the Rights of the Child (2018), *Concluding observations on the combined fifth and sixth periodic reports of Panama*.

Since its adoption of the 2030 Agenda for Sustainable Development in 2015,<sup>104</sup> Panama’s government has established a coordinating body – the Inter-Institutional and Civil Society Committee for the Support and Follow-up of the SDGs– and a strategic framework to fulfil its commitments towards achieving the SDGs – Panama 2030.<sup>105</sup> During the United Nation High-Level Political Forum in July 2017, the government presented its Voluntary National Review on progress and results in the implementation of the 2030 Agenda in the country. The report focused on the priority SDGs for 2017 (1, 2, 3, 5, 9 and 14), however, although target 5.2 of the Agenda 2030 specifically calls for the elimination of all forms of violence, abuse and exploitation in children, neither the strategic framework nor the Voluntary National Review explicitly address SEC or any of its manifestations.<sup>106</sup>

At the regional level, Panama is a member of the Inter-American Children’s Institute (IIN-OEA),<sup>107</sup> a Specialized Organization of the OAS, working on childhood and adolescence issues. It assists member states of the Inter-American System in the development of policies in line with child rights.<sup>108</sup> In 2007, the IIN-OEA created the Inter-American Programme for the Prevention and Eradication of Commercial Sexual Exploitation and Illegal Trafficking of Children and Adolescents, which was approved by the OAS in 2008. The programme aims to provide technical assistance to member States in the fight against SEC and conduct research on the topic.<sup>109</sup> In the last years, the IIN has published a number of thematic notes and reports and worked together with Panamanian institutions for the organization of trainings and events. Once a year, a training course on SEC is offered for governmental and non-governmental operators working on child

protection.<sup>110</sup> Additionally, in 2018, Panama hosted the 93<sup>rd</sup> ordinary meeting of the IIN-OEA Board of Directors.<sup>111</sup> In the context of this event the IIN-OEA and the Panamanian government co-organized a technical dialogue with civil society in the region to discuss, among other issues, strategies and actions in order to achieve goal 16.2 of the SDGs: ending abuse, exploitation, trafficking and all forms of violence and torture against girls.<sup>112</sup> As a result, the IIN-OEA Board of Directors adopted a resolution to increase actions to fight violence against children in the region and to initiate the drafting of an “Inter-American Program for the Elimination of Violence against Boys, Girls and Adolescents” with the technical assistance of experts from the member states and including the opinions of children and adolescents.<sup>113</sup>

## NATIONAL LEGISLATION

Article 4 of the Constitution of Panama states that “the Republic of Panama abides by the rules of international law,” which implies the constitutional status of international treaties, which once ratified, are applicable at the national level.<sup>114</sup> Panama has ratified the CRC and the OPSC, as well as the Optional Protocol on a Communications Procedure, making some progress over the last years through the modification and approval of new legislation to meet international standards with regard to SEC and child rights in general.<sup>115</sup> However, Panama still lacks a legislative and institutional framework that aligns the whole child protection system with the mandate of the CRC and its optional protocols and therefore, new laws fail to effectively protect child rights.<sup>116</sup> Almost thirty years after the ratification of the CRC, Panama’s child protection system still fails to recognise children as rights holders rather than

as mere objects of protection.<sup>117</sup> Nevertheless, the country has been complying with its reporting obligations to the CRC, although it only submitted its first national report to the OPSC in June 2019, twelve years after the due date.<sup>118</sup>

In the last two decades, domestic legislation on sexual exploitation of children in Panama has been progressively updated to cover most SEC manifestations. The main law that deals with criminal offences relating to SEC is the Criminal Code.<sup>119</sup>

In 2004, Panama enacted a law on the prevention and elimination and categorization of crimes against sexual freedom and integrity (Law 16 of 2004), which included amendments to the former Criminal Code of 1982 and the Judicial Code. The amendments consisted mostly of new provisions criminalising SEC-related conducts, including corruption of minors, exploitation of children in prostitution, distribution and possession of CSAM and sexual exploitation of children in travel and tourism, among others.<sup>120</sup>

In 2007, a new Criminal Code was adopted, including all the aforementioned reforms through the creation of a new chapter on “corruption of minors, commercial sexual exploitation and related conduct” (Chapter II of Title III). The Criminal Code of 2007 has been amended in several occasions, with the most relevant changes being the inclusion of a separate chapter on human trafficking, as a result of the enactment of a law on Human Trafficking and Related Activities (hereinafter Law on Human Trafficking) in 2011<sup>121</sup> and the toughening of penalties for sexual offences as per Law 21 of 2018.<sup>122</sup>

Before the discussion of each of the specific articles referring to the different SEC

manifestations, it is important to mention a number of provisions that apply to all conducts included in Chapter II of Title III of the Criminal Code. First, the Criminal Code criminalises not only the commission but also the attempt to commit any crime.<sup>123</sup> Second, since 2018, the law forbids substitution or suspension of penalties for any crime related to sexual liberty and integrity, including SEC-related crimes provided for in Chapter II of Title III of the Criminal Code, when the victim is under 14 years of age.<sup>124</sup> This provision is problematic because it allows for the possibility of penalties being substituted or suspended in SEC-related cases involving victims aged 14 to 18. Additionally, article 189 criminalises the omission to report any of the crimes in Chapter II by those who have knowledge of children being victims.<sup>125</sup> Further, article 191 of the Criminal Code strictly punishes the owner or administrator of any establishment or place used for committing any of the SEC crimes in chapter II, with fifteen to twenty years of imprisonment.<sup>126</sup>

Lastly, Law 121 of 2013 amended the Criminal Code and added a new provision on organized crime. The law provides a list of “grave crimes” in the context of organized crime, including trafficking of persons and SEC-related crimes.<sup>127</sup> As for article 328-A, anyone belonging to an organized crime group that among its purposes includes any crime related to human trafficking, sexual exploitation of children and/or CSAM-related conducts (among others) will be sanctioned for the mere fact of belonging to the group with fifteen to thirty years of imprisonment. The sanction can be increased up to a half if crimes are directed against children.<sup>128</sup> The law also provides for sanctions against anyone who hinders the provision of testimony or evidence during judicial procedures related to the afore-mentioned crimes.<sup>129</sup>

104 Ministry of Foreign Affairs (2015), *Decreto Ejecutivo No. 393*.

105 CCND (2017), *Panamá 2030*.

106 Government of Panama (2017), *SDGs – Informe Voluntario Panama*.

107 IIN-OEA (n. d.), Member States.

108 IIN-OEA (n. d.), About us.

109 OAS (2008), *General Assembly Res. 2432 (XXXVIII-O/08)*.

110 AnnaObserva (n. d.), Human Resources Training; IIN (2019, Jul 15), *Training of human resources for the prevention and combat of the sexual exploitation of children in 8 States of the region*.

111 IIN-OEA (2018, Oct 2-3), *93ª Reunión Ordinaria del Consejo Directivo del IIN-OEA*.

112 IIN-OEA (2018, Sept 17), *Mesas Técnicas de Infancia y Adolescencia – Panamá*.

113 IIN Board of Directors (2018, Oct 3), *CD/RES. 14 (93-R/18) “Poner fin al maltrato, la explotación, la trata y todas las formas de violencia y tortura contra las niñas, niños y adolescentes”*.

114 Constitution of Panama (1972), art. 4; Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 85.

115 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, paras 7-84. Relevant examples of SEC-related domestic legislation will be outlined in the following section.

116 Observatory for the Rights of Children and Adolescents / Ombudsman Office (2017), *Informe Alternativo Panamá*, 4.

117 *Ibid.*

118 OHCHR (n. d.), Reporting Status for Panama.

119 *Criminal Code* (2007). [in Spanish: *Código Penal de Panamá*].

120 *Law 16 of 2004* [in Spanish: *Ley No. 16 de 31 de marzo de 2004*].

121 *Law on Human Trafficking* (2011). [in Spanish: *Ley No. 79 de 9 de noviembre de 2011 sobre Trata de Personas y Actividades Conexas*].

122 *Law no. 21 of 2018* [in Spanish: *Ley No. 21 de 20 de marzo de 2018 que reforma artículos del Código Penal*].

123 *Criminal Code* (2007), arts. 17 and 48.

124 *Ibid.*, arts. 99 and 102.

125 *Ibid.*, art. 189.

126 *Ibid.*, art. 191.

127 *Law 121 of 2013*, art. 2. [in Spanish: *Ley no. 121 de 31 de diciembre de 2013 que reforma el Código Penal, Judicial y Procesal Penal y adopta medidas contra las actividades relacionadas con el delito de delincuencia organizada*.]

128 *Criminal Code* (2007), art. 328-A.

129 *Ibid.*, art. 387-A.



Exploitation of children in prostitution

The age of sexual consent is set at 14 years as per the Criminal Code.<sup>130</sup> In this sense, children under 14 cannot consent to sexual activity and therefore, sexual intercourse with a child under 14 years of age is considered rape, even if there is no violence or intimidation involved, and punished with 12 to 18 years of imprisonment.<sup>131</sup> The Criminal Code also criminalises anyone who uses an advantageous situation to achieve sexual intercourse with a child between 14 and 18, even if the child consents.<sup>132</sup> In these cases, penalty is increased if committed by a relative, teacher or caregiver of the child.<sup>133</sup> One concerning aspect of the legislation is that in cases of sexual intercourse with a child aged between 14 and 18, when one of the individuals is in a position of advantage, penalties can be three times lower compared to those provided for children under 14 years of age.

Law no. 16 of 2004 added several provisions to the Criminal Code that criminalise conducts related to the sexual exploitation of children in prostitution. Article 180 criminalises the act of “procurement”, defined as facilitating, instigating, recruiting or organizing in any manner, with a profit-making intention, the sexual exploitation of a person of either sex. This offence is punishable with 7 to 9 years of imprisonment and when the victim is under 18 years of age, the penalty is increased to 10 to 12 years of imprisonment.<sup>134</sup> Similarly, obtaining any profit with the use of violence or threats from a person submitted to sexual servitude is punishable with 5 to 10 years of imprisonment.<sup>135</sup> However, no increased penalty is provided for this crime in cases when the victim is a child.

Furthermore, the Criminal Code criminalises the act of paying or promising to pay in money or in kind to a child or a third person in exchange for engagement in sexual acts with the child. This offence is punishable with 8 to 10 years of imprisonment when the victim is aged between 14

and 18, and with 10 to 15 years of imprisonment for victims under 14 years of age.<sup>136</sup>

Although the Criminal Code does not provide a definition of exploitation of children in prostitution, the provisions of the Criminal Code are in line with the OPSC and minimum international standards. The conducts criminalised include offering, obtaining, procuring and providing a child for prostitution, set a difference between adult and child victims in terms of the severity of the penalty and refer to both boys and girls. Furthermore, the law does not allow alleging ignorance of the age of the child to be exempted from criminal responsibility.<sup>137</sup>

On a different note, and in line with international humanitarian law principles, the Criminal Code criminalises the act of recruiting children to participate in hostilities, force them into prostitution or any form of offence against sexual freedom, forced pregnancy or forced sterilization, which is punishable with 10 to 12 years of imprisonment.<sup>138</sup>

Online child sexual exploitation (OCSE)

Law no. 16 of 2004 incorporated new provisions to the Criminal Code referring to online child sexual exploitation. Article 184 of the Criminal Code establishes that anyone who “manufactures, prepares or produces ‘pornographic material’, or offers, trades, exhibits, publishes, publicizes, disseminates or distributes such material via the Internet or any other international or national mass media, virtually presenting or representing children under 18 involved in activities of a sexual nature, whether they are real or simulated”, shall be sentenced to ten to fifteen years of imprisonment.<sup>139</sup> The penalty is increased to 15 to 20 years if the victim is under 14 years of age, if the perpetrator is part of a criminal organisation or if there is a profit-making intention.<sup>140</sup> The Criminal Code also punishes the mere possession of CSAM voluntarily obtained for personal use with five to

ten years of imprisonment.<sup>141</sup>

Similarly, article 187 criminalises the act of “using or consenting a child to be used in obscene exhibitionism acts or ‘pornography’ whether or not it is photographed, filmed or recorded through any medium”, with 8 to 10 years of imprisonment.<sup>142</sup> The same punishment applies to anyone who “uses email, global information networks or any other individual or mass communication medium, in order to incite or promote the online sex of minors, or in order to offer their sexual services or force them to simulate such conduct by telephone or in person”.<sup>143</sup> For victims under 14 years of age penalty is increased to 10 to 15 years.<sup>144</sup> This provision includes conduct related to solicitation of children for sexual purposes through technologies, and therefore, although not explicitly, could be used to criminalise some instances of online grooming and live-streaming of child sexual abuse.

Furthermore, there is a provision criminalising the act of “showing ‘pornographic material’, or giving access to pornographic performances to minors”, punishable with 6 to 8 years of imprisonment. If the perpetrator is a parent, guardian, caregiver or anyone else with any form of custody over the victim, the penalty is increased to 8 to 10 years of imprisonment together with the loss of the right to parental authority/custody.<sup>145</sup>

Although there is not a legal obligation for Internet service providers to report child sexual exploitation material in their platforms, article 189 of the Criminal Code, as mentioned above, criminalises any person who omits to report any of the abovementioned crimes by if they have knowledge of children being victims, including juristic persons.<sup>146</sup> However, no instances of Internet service providers being criminalised for omissions to report CSAM in their platforms have been found.

Moreover, law no. 22 of 2007 “for the protection of children from the exhibition and production of pornographic material” obliges any person or company dealing with the “rental or provision

of computers for Internet use” to prohibit, prevent and restrict access of children to websites with pornographic material through the installation, update and maintenance of blocking programmes.<sup>147</sup> Furthermore, email service providers are obliged to offer their clients blocking programmes for emails with pornographic content as well as parental control services.<sup>148</sup> The law includes fines for those who do not comply with these provisions.<sup>149</sup> It is important to note that, unlike the Criminal Code, this law provides a definition for pornography as “any material lacking a serious educational, social, literary, artistic, scientific or political value, representing sexual acts or masturbation as well as any other sexual representation in a deliberately obscene way aiming to provoke lust or lascivious or libidinous feelings and any form of exaltation, promotion and representation of any form of sexual aberration”,<sup>150</sup> although no definition is provided for CSAM.

Overall, the Criminal Code does criminalise conducts related to the production, distribution, dissemination, offering, trading and possession of CSAM/CSEM, including simulated or virtual material, in line with the OPSC. Further, article 187 could be interpreted as including other OCSE-related conduct such as online advertisement of exploitation of children in prostitution, online live-streaming of child sexual abuse, online sexual solicitation or grooming and the exposure of children to pornographic material. Nevertheless, amendments to the law or a specific law on cybercrime and OCSE would be necessary to specifically criminalise these conducts with the appropriate terminology. Furthermore, there is no definition in the Criminal Code of ‘pornographic material’, ‘pornography’ or ‘obscene exhibitionism acts’ to make explicit the inclusion of all the different representations (photographs, pictures, video, drawings, cartoons, audio, live performances, etc.) and there is no provision referring to the crime of online sexual extortion.

In September 2017, a Bill on Cybercrime was presented in Parliament by the Public Prosecutor aiming to amend the Criminal Code in order to

130 Ibid., art. 175.

131 Ibid.

132 Ibid., art. 176.

133 Ibid.

134 Ibid., art. 180.

135 Ibid., art. 182.

136 Ibid., art. 186.

137 UNICEF Panama (Aug 2019), *Personal Communication*. Although there is no specific legal provision stating this in the Panamanian law, there is no provided exemption of criminal responsibility SEC-related conducts in this regard. The law clearly states that to constitute a crime, it is enough to prove that the victim is a child, regardless of whether the perpetrator had knowledge of this.

138 *Criminal Code* (2007), art. 448.

139 Ibid., art. 184.

140 Ibid.

141 Ibid., art. 185.

142 Ibid., art. 187.

143 Ibid.

144 Ibid.

145 Ibid., art. 188.

146 Ibid., art. 189; Law 16 of 2004, art. 17.

147 *Law no. 22 of 2007*, art. 1. [in Spanish: *Ley no. 22 de 22 de junio de 2007 que adopta medidas para la protección de las personas menores de edad con relación a la exhibición y producción de material pornográfico.*]

148 Ibid., art. 2.

149 Ibid., art. 5.

150 Ibid., art. 6.

eliminate legal loopholes for the investigations of online crimes such as cyberbullying and grooming which are currently not well defined in the law and to align national legislation with the Budapest Convention.<sup>151</sup> Unfortunately, the bill was withdrawn a month later after disagreements with the journalists' professional associations and media representatives in the country which deemed some other articles of the bill to limit freedom of expression rights and press freedom rights of journalists.<sup>152</sup> The Public Prosecutor's Office announced the preparation of "dialogue tables" to reach a consensus and come up with a new bill on the topic,<sup>153</sup> although no updates have been found regarding the status of this new proposal.

### ***Sale and trafficking of children for sexual purposes***

With regard to human trafficking, Panama enacted in 2011 the Law on Human Trafficking. The law criminalises all types of trafficking including those aimed at sexual exploitation.<sup>154</sup> This law added a separate chapter to the Criminal Code on human trafficking crimes, not specifically focused on trafficking of children but containing more severe punishments for cases involving child victims. Article 456-A of the Criminal Code establishes that "anyone who promotes, runs, organizes, finances, advertises, invites or manages, through an individual medium of communication or mass media or in any other manner, the entry or exit of the country, or the displacement within the country of a person of either sex, for the purpose of prostitution or exploitation, sexual or labour servitude, slavery, forced labour, forced marriage, forced begging, illegal extraction of human organs and illegal adoption", shall be punished with 15 to 20 years of imprisonment. The penalty is increased to 20 to 30 years if the victim is a child.<sup>155</sup> The victims consent for the above-mentioned crime, whether they are adults or children, is irrelevant for the purposes of criminal responsibility.<sup>156</sup>

Furthermore, the Criminal Code states that anyone that knowingly uses real estate or personal property for the commission of trafficking crimes shall be punished with 6 to 8 years. Additionally, the owner, or administrator of any establishment or commercial premise open to the public who uses it or allows it to be used for the commission of trafficking crimes shall be punished with 8 to 10 years of imprisonment.<sup>157</sup>

Although the definition of trafficking is mostly in line with the Palermo Protocol, it is important to note that, in contrast to the Protocol, Panamanian law states that "movement" or "displacement" of the victims within or outside the country is a requirement to constitute a trafficking offence. The low number of child trafficking cases recorded in Panama, may be related to a restrictive interpretation of the law that could lead to the characterization of the offence as less severe criminal conduct throughout the investigation.<sup>158</sup> Therefore, instances of domestic child trafficking cases that may not involve displacement or movement of children could be prosecuted as crimes carrying lighter sentences such as commercial sex acts with a minor, rape or exploitation of children in prostitution.<sup>159</sup> The CRC Committee recently recommended amending the Law on Human Trafficking to achieve compliance with the Palermo Protocol.<sup>160</sup> The disparity of penalties between similar conducts should also be addressed so that that exploiting children in prostitution carries higher penalties, in line with those provided for the crime of child trafficking.

Lastly, the Criminal Code includes a provision on the sale of children as a different offence, so that "whoever sells, offers, delivers, transfers or accepts a child or adolescent for exchange of remuneration, payment or reward shall be sanctioned with imprisonment from five to ten years".<sup>161</sup> When the sale, offering, delivery, transfer or acceptance of a child or adolescent is aimed at sexual exploitation, the extraction of their organs,

forced labour or servitude, the penalty shall be increased by one third to half of the maximum.<sup>162</sup> Even with this increase of the maximum penalty for cases of sale of children for the purpose of sexual exploitation, the sanction is less strict than the one provided for trafficking (20-30 years of imprisonment).

### ***Sexual exploitation of children in travel and tourism (SECTT)***

The aforementioned Law no. 16 of 2004 also included provisions related to SECTT in the Criminal Code. Article 190 of the Criminal Code establishes that "anyone who promotes, runs, organizes, advertises, invites, facilitates or manages through an individual medium of communication or mass media or in any other manner, local or international sex tourism involving the recruitment of a child between 14 and 18 years of age, for the purpose of sexual exploitation" shall be punished with ten to twelve years of imprisonment. If the victim is under 14 years of age, punishment shall be increased by up to three quarters of the penalty.<sup>163</sup>

Apart from the amendments to the Criminal Code, Law no. 16 of 2004 includes two additional provisions that aim to regulate the travel and tourism sector for the prevention of SEC. Article 30 establishes that physical and legal persons offering touristic services are prohibited from offering plans and programmes that lead to the sexual exploitation of children in their promotional packages. It also obliges tourism operators to prevent their staff or intermediaries from offering information or sexual contacts with minors.<sup>164</sup> Similarly, article 31 obliges hotels, hostels, homestays, motels and others to include a clause in their accommodation contracts informing about the legal consequences of engaging in SEC in the country. The same applies for travel and tourism agencies and national and international airlines operating in Panama, which are obliged to include information about SEC in their advertisements

and to inform clients of the legal consequences of engaging in SEC in Panama.<sup>165</sup>

### ***Child, early and forced marriages (CEFM)***

In 2015, Panama passed the Law no. 30, amending provisions of the Family Code and raising the minimum legal age to marriage to 18 years old for both boys and girls.<sup>166</sup> There are no exceptions to this provision.<sup>167</sup> However, if a marriage is celebrated and one of the parties is under 18, the union is considered valid anyways and it is only the marital contract regarding property transfers and inheritance that is declared invalid.<sup>168</sup> This provision is of concern because it does not automatically invalidate a marital union where one of the parties is a child victim.

Although the reforms of the Family Code are an advancement in the eradication of child marriage in the country, the problem persists due to the challenge posed by informal unions and unregistered marriages, which are prevalent in Latin America.<sup>169</sup>

### ***Extraterritorial jurisdiction and extradition law***

There are several provisions in Panamanian domestic law that provide for extraterritorial jurisdiction. The Criminal Code establishes the extraterritorial jurisdiction of Panamanian courts over crimes committed abroad by Panamanian diplomatic personnel or public officials on duty, over crimes against a Panamanian national or his/her rights or in cases in which the crimes committed abroad are to produce its effects in Panamanian territory.<sup>170</sup> Further, article 19 establishes that Panama will also have jurisdiction over trafficking crimes committed abroad.<sup>171</sup> There is no mention of whether the conduct must be criminalised in both Panama and the state where the offence took place in order for Panamanian courts to exercise jurisdiction.

151 Office of the Public Prosecutor (2017, Sept 27), *MP presenta proyecto de ley que modifica y adiciona artículos al Código Penal relacionados al Cibercrimen*; National Assembly (2017, Sept 27), *Proyecto de Ley 558 que modifica y adiciona artículos al Código Penal, relacionados con el Cibercrimen*.

152 La Estrella de Panamá (2017, Oct 19), *MP retira proyecto sobre el 'cibercrimen'*.

153 Office of the Public Prosecutor (2017, Oct 18), *Ministerio Público retira proyecto de Cibercrimen*.

154 *Law on Human Trafficking* (2011), art. 4.

155 *Criminal Code* (2007), art. 456-A.

156 *Ibid.*, art. 456-E.

157 *Ibid.*, art. 456-B.

158 US Department of State (2019) *Trafficking in Persons Report 2019*, 7.

159 *Ibid.*, 371.

160 Committee of the Rights of the Child (2018), *Concluding observations on the combined fifth and sixth periodic reports of Panama*, para. 38.a.

161 *Criminal Code* (2007), art. 207.

162 *Ibid.*

163 *Ibid.*, art. 190.

164 *Law 16 of 2004*, art. 30.

165 *Ibid.*, art. 31.

166 *Law 30 of 2015*, art. 2.[in Spanish: *Ley no. 30 de 5 de mayo de 2015 que modifica y deroga disposiciones del Código de la Familia*].

167 UNICEF Panama (Jul 2019), Personal Communication.

168 *Law 30 of 2015*, art. 3.

169 UNICEF Panama (2018, Apr 9), *América Latina y el Caribe: una década perdida en la reducción del matrimonio infantil*.

170 *Criminal Code* (2007), art. 20.

171 *Ibid.*, art. 19.



Regarding specific provisions on SEC-related crimes, article 14 of Law 16 of 2004, which added a number of new offences to the Criminal Code,<sup>172</sup> states that Panamanian courts will have jurisdiction over these crimes when committed abroad if the product of the crime or any of its constitutive elements are committed or produce its effects in Panamanian territory.<sup>173</sup>

The Criminal Procedure Law, which establishes the rules for extradition in those cases not regulated by a bilateral or multilateral treaty,<sup>174</sup> specifies the double criminality requirement in passive extradition cases, which means that the offender can be extradited only if the crime he/she committed was prohibited in both his/her country of origin and in the country where the crime was committed.<sup>175</sup> There is no mention to special rules in SEC-related cases. Lastly, the government can refuse to extradite Panamanian nationals when they are requested by another state.<sup>176</sup>



## COORDINATION AND COOPERATION

The main body, which specifically coordinates policies and measures against the sexual exploitation of children, is the National Commission for the Prevention of Sexual Exploitation Crimes (CONAPREDES), created by Law 16 of 2004 as the technical administrative body for the prevention and eradication of sexual exploitation in Panama.<sup>177</sup> The General Attorney chairs this body and its members include several ministers and other high-ranking officials, including the Government Minister, the Minister of Public Safety and the Minister of Social Development.<sup>178</sup> In 2008, CONAPREDES adopted the “National Plan for the Prevention and Elimination of Commercial Sexual Exploitation of Boys, Girls and Adolescents 2008-2010” (hereinafter, ‘National Plan on SEC’)<sup>179</sup>, which has reportedly been extended indefinitely while a new plan is being drafted for the period 2019-2025.<sup>180</sup> To the time of writing, no updates have been found on progress made in this regard.

The National Plan on SEC has four main components or lines of action: prevention, attention to victims, investigation and sanctions for offenders and institutional strengthening. Activities of the National Plan on SEC are funded through budget allocations from the Government<sup>181</sup> as

well as through the Sexual Exploitation Fund.<sup>182</sup> The Fund, administered by CONAPREDES, collects money through two taxes. One consists on charging one Panamanian balboa (1 USD) to every foreign tourist leaving Panama from Tocumen International Airport.<sup>183</sup> The other one taxes video rental shops and movie theatres for the sale, rental or exhibition of legal pornographic movies with 5% of the price of the material( although it is unclear whether this last tax is being collected in practice.)<sup>184</sup> According to the CONAPREDES annual financial report, the Sexual Exploitation Fund collected 668,952.10 Balboas in 2018 via the airport tax and contains a total of 3,429,559.18 Balboas (equivalent to the same amount in USD) as of 31<sup>st</sup> December 2018.<sup>185</sup>

**668,952.10 B/.**  
COLLECTED IN 2018 VIA THE AIRPORT TAX



172 Including corruption of minors, exploitation of children in prostitution, distribution and possession of child pornography and sexual exploitation of children in travel and tourism.

173 Law 16 of 2004, Art. 14.

174 Criminal Procedure Law (2008), art. 516. [in Spanish: Código Procesal Penal].

175 Ibid., art. 517.

176 Ibid., art. 518.1.

177 Law 16 of 2004, art. 21.

178 Ibid., art. 22; Office of the Public Prosecutor (n. d.), CONAPREDES.

179 CONAPREDES (2008), Plan Nacional para la prevención y la eliminación de la explotación sexual comercial de niños, niñas y adolescentes 2008 a 2010.

180 Government of Panama (2019), Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, para. 83.

181 Law 16 of 2004, art. 29.

182 Ibid., art. 23.

183 Ibid., art. 25.

184 Ibid., art. 24.

185 CONAPREDES (2019), Informe de Gestión enero a diciembre 2018, 29.

Furthermore, Law 16 of 2004 mandated the elaboration of periodically updated statistics of SEC-related crimes including a registry of offenders. This statistical information is confidential and should inform authorities for the design of prevention and victim support programmes.<sup>186</sup> The publicly available statistics from the Public Prosecutor’s office regarding SEC-crimes<sup>187</sup> are not as exhaustive as provided in the law, although it is unknown whether authorities have been developing confidential statistical reports on the matter. With regard to the offenders’ registry, in March 2019, the Panamanian Parliament passed a bill for the creation of a National Registry of Sexual Offenders. Once the bill is turned into a law, the registry will include all those offenders sanctioned with at least four years of imprisonment for any of the SEC-related crimes included in the Criminal Code.<sup>188</sup> According to recent media reports, there has been no progress in the approval on the law, although a Member of Parliament stated the aim to keep the issue on the agenda and resubmit the bill for its approval.<sup>189</sup>

In early 2019, CONAPREDES, in collaboration with the University of Panama, established the Observatory of Sexual Exploitation of Boys, Girls and Adolescents (OBESNNA). The observatory will conduct research and analyse the phenomenon of SEC in the country in order to inform CONAPREDES in the design of public policies on SEC.<sup>190</sup> Furthermore, CONAPREDES, together with OBESNNA, aims to update the National Plan on SEC in line with the 2030 SDG’s as part of their 2019 strategy.<sup>191</sup> No information on progress made in this regard has been found.

Despite the existence of a main body specifically dealing with SEC issues and a national plan on the topic, Panama lacks an overarching strategy and child protection framework and therefore, competencies regarding the coordination of SEC-

related policies as well as prevention strategies and child and victim protection services are fragmented among a number of different bodies. These include the National Commission on Human Trafficking, the National Secretariat for Children, Adolescents and Family, the National Inter-Sectorial Committee for the Prevention of Violence against Children, and the Children and Adolescents National Council.

Concerning trafficking, since 2011, the Ministry of Public Safety coordinates the National Commission against Trafficking of Persons, the main technical administrative body dealing with coordination of trafficking policies at the national level.<sup>192</sup> The Commission has recently approved a new National Plan on Human Trafficking for the period 2019-2022.<sup>193</sup>

The National Secretariat for Children, Adolescents and Family (SENNIAF), under the auspices of the Ministry of Social Development (MIDES), is the main child protection body in Panama and coordinates public policies in relation to child rights.<sup>194</sup> Through its Department for the Protection against Violence and Abuse, it coordinates the attention to child victims of sexual violence and SEC-related crimes, liaising with the National Police, the Ministry of Health, the Courts for Children and Adolescents and national NGOs.<sup>195</sup> They also conduct awareness raising campaigns on SEC and coordinate the victim assistance services and existing shelters for children.<sup>196</sup>

In 2014, a National Inter-Sectorial Committee for the Prevention of Violence against Children (CONIPREVINNA) was created within SENNIAF as a national coordination mechanism for the implementation of strategies, plans and actions for the prevention of violence against children.<sup>197</sup> In 2018, CONIPREVINNA, together with UNICEF, presented a multi-sectorial national strategy and

an action plan for the prevention of violence against children and adolescents.<sup>198</sup> The strategy was designed in line with the CRC principle of child participation<sup>199</sup> and aimed to generate a prevention framework in line with the SDGs (4, 5, 8 and 16)<sup>200</sup> through five strategic contexts for action: families, schools, communities, society and information systems.<sup>201</sup> The action plan for 2018-2019 derived from the strategy created local bodies for implementation and monitoring of the programmes at the sub-national level.<sup>202</sup> Among the key strategic actions of the plan was the renewal of the new National Action Plan on SEC as an inter-sectorial roadmap for the prevention and elimination of SEC coordinated by CONAPREDES during 2019.<sup>203</sup> However, no information has been found on developments on this subject.

Additionally, in April 2019, MIDES created the Children and Adolescents National Council, as a coordinating, proponent and advisory body of public policies dealing with children and adolescents and for the promotion and protection of children’s rights.<sup>204</sup> The Council is chaired by MIDES while SENNIAF acts as the Technical Secretariat and is mandated to hold meetings at least every three months. Members of the council include a number of institutional actors such as ministers, members of the police, the judiciary, the ombudsman, local government representatives, civil society actors and two children acting as representatives of the Consulting Councils of Children and Adolescents, which aims to give voice to the children in the country.<sup>205</sup> The Children and Adolescents National Council had its opening meeting in June 2019.<sup>206</sup>

Despite the existence of a plethora of legal provisions and institutions, challenges remain regarding the coordination of child protection strategies. Multiple different plans and bodies, and the lack of an effective overarching strategy and legal framework on child protection has been

pointed out as one of the main reasons for the problem of institutional cooperation, leading to “disperse, partial and repetitive programmes and services” and “poor impact and results monitoring”.<sup>207</sup>

Over the last decade, a bill for the creation of an integral system for the protection of child rights (*Ley que crea el Sistema de Garantías y de Protección Integral de los Derechos de la Infancia, la Niñez y la Adolescencia*) has been under preparation. This integral system is meant to reorganize the whole child protection system in Panama, in line with the CRC provisions and principles recognising children as right-holders. In addition, the bill aims to clearly redefine the roles and functions of the existing institutions to ensure a more efficient and effective universal protection of children’s rights and to align institutional actions with the SDGs in order to monitor progress and evaluate results.<sup>208</sup> However, opposition to the bill by some conservative sectors of the Panamanian National Assembly have so far prevented the approval of the bill.<sup>209</sup> The CRC Committee expressed its concern regarding the delays in the approval of this bill in 2018.<sup>210</sup>

Some steps forward have been taken in the last years. In 2018, the government approved a proposal presented by MIDES for the creation of that system as a response to the recommendations of the CRC Committee. For the drafting of the proposal, MIDES established a technical working group with institutional bodies and members of civil society to discuss and analyse the situation of children’s rights in Panama. The next steps established in the proposal are to draft a framework law on children’s rights and to develop a base/guidance document on the public polices for the integral protection of children and adolescents to adjust national policy to the CRC standards. The drafting of the law and the base public policy document is reportedly

186 Law 16 of 2004, art. 27.

187 Office of the Public Prosecutor (2019), *Número de denuncias registradas a nivel nacional; por mes según delito contra la libertad e integridad sexual (p) del 1 de enero al 31 de diciembre de 2018*.

188 La Estrella de Panamá (2019, Mar 20), *Asamblea Nacional aprueba creación del Registro Nacional de Agresores Sexuales*.

189 Telemetro (2019, Jul 20), *Diputada Cano retomará proyecto de ley que crea registro de agresores sexuales*.

190 La Universidad (2019, Apr 30), *Observatorio de Explotación Sexual se instala en la UP*.

191 CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 76.

192 Law on Human Trafficking (2011), art. 12.

193 National Commission against Trafficking in Persons (2018), *Plan Nacional contra la trata de personas de la República de Panamá 2017-2022*.

194 SENNIAF (n. d.), SENNIAF, La institución.

195 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 97.

196 SENNIAF (n. d.), SENNIAF Violencia Sexual: Prevención y atención a niñas, niños y adolescentes víctimas de violencia sexual; SENNIAF (n. d.) Supervisión y Monitoreo de Casas Hogares.

197 SENNIAF (n. d.), CONIPREVINNA.

198 SENNIAF and UNICEF Panama (2018), *Estrategia Nacional Multisectorial para la Prevención de la Violencia contra Niños, Niñas y Adolescentes 2018-2022*.

199 *Ibid.*, 51.

200 *Ibid.*, 55.

201 *Ibid.*, 61-68.

202 *Ibid.*, 70.

203 *Ibid.*, 76.

204 MIDES (2019), *Decreto Ejecutivo no. 14 de 23 de abril de 2019 Por el cual se crea el Consejo Nacional de la Niñez y la Adolescencia*.

205 *Ibid.*

206 MIDES (2019, Jun 6), *Instalación del Consejo Nacional de la Niñez y la Adolescencia*.

207 Observatory for the Rights of Children and Adolescents / Ombudsman Office (2017), *Alternative Report Panama*, 4.

208 UNICEF Panama (Jul 2019), *Personal Communication*;

209 *Ibid.*

210 Committee of the Rights of the Child (2018), *Concluding observations on the combined fifth and sixth periodic reports of Panama*, paras. 5-7.



under preparation.<sup>211</sup> Child protection experts in the country believe that the newly established government, which took office in July 2019, will keep taking steps in this direction, further pushing for the approval of the bill, as repeatedly requested by the CRC Committee, and in any case aiming to improve the structure of the child protection system via various measures.<sup>212</sup>

## PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

Different national bodies in Panama conduct prevention activities on SEC. The National Plan on SEC establishes as its prevention objectives to “reduce to zero the tolerance of SEC at the political and social level” and “develop initiatives aiming at the socioeconomic development of children, adolescents and their families in the priority areas defined by the plan”.<sup>213</sup>

For the implementation of these objectives, CONAPREDES, often in collaboration with SENNI AF, local NGOs, schools and other organizations, has conducted a number of prevention and awareness raising workshops, reaching a total of 7,412 persons directly trained and 3,375 indirectly trained in 2018.<sup>214</sup> Of the activities and projects conducted by CONAPREDES, 64% were prevention activities.<sup>215</sup> Targets included children and adolescents, parents, students, teachers, volunteers and tourism sector operators.<sup>216</sup> Furthermore, CONAPREDES conducts general public awareness raising through advertising campaigns in the media, banners in the streets and via the Internet.<sup>217</sup> A new advertising campaign

was approved for 2019, targeting young people, parents as well as offenders in order to reduce the demand of SEC.<sup>218</sup> At the time of writing, no information has been found on whether this advertising campaign is currently running.

On a different note, CONAPREDES delivers training for relevant stakeholders on the topic of SEC, as well as capacity building activities on the adequate use of technologies and the prevention of OCSE and detection of CSAM.<sup>219</sup> As reported in the annual management report of 2018, some of these activities include training to public officials in different ministries and the Public Prosecutor’s Office, psychologists, journalists, the judiciary, NGO workers and social workers.<sup>220</sup>

### IN 2018

**7,412** PERSONS DIRECTLY TRAINED

**3,375** INDIRECTLY TRAINED



**64%** OF ACTIVITIES AND PROJECTS CONDUCTED BY CONAPREDES WERE PREVENTION ACTIVITIES

SENNI AF also conducts prevention activities, mostly through trainings for children, teachers and civil servants on topics related to sexual abuse, trafficking and sexual violence prevention.<sup>221</sup> For example, in 2018 SENNI AF launched the campaign #YoTeCreo (#IBelieveYou), focusing on child sexual abuse prevention through awareness raising among parents and children for early detection of indicators of abuse.<sup>222</sup> Further, the Public Prosecutor’s Office conducted 15 training courses for its staff on the topics of trafficking and sexual exploitation between 2011 and 2018.<sup>223</sup> Lastly, the IOM and UNODC regularly cooperate in trainings delivered for public officials working on trafficking issues.<sup>224</sup>

Concerning OCSE, in 2017, the IIN-OEA started the implementation of the RIAMUSI project in Panama in collaboration of SENNI AF.<sup>225</sup> RIAMUSI is a regional initiative first developed in Dominican Republic that aims to create an “intergenerational network of multiplying agents for safe internet use” in the different countries in the region.<sup>226</sup> The project consists on training students, parents and teachers that will promote child internet safety in Panama and elaborate roadmaps, protocols and manuals to address situations of online risk including OCSE-related issues such as grooming, sexual extortion and sexting.<sup>227</sup> In addition, the project aims to develop an inter-disciplinary and inter-institutional dialogue at the regional and national level on these issues.<sup>228</sup> In April 2019, as part of the second stage of the implementation process, IIN-OEA and SENNI AF organized workshops for the members of the network in Panama. Institutional actors from

SENNI AF, CONAPREDES the Ministry of Education and the police, as well as representatives from the private sector and civil society also participated in the discussions.<sup>229</sup> As a result, RIAMUSI participants elaborated a manual and a protocol for the project.<sup>230</sup>

Furthermore, Fundación Vida Segura,<sup>231</sup> an NGO working on Internet safety in Panama organises activities for the Safer Internet Day and recently published an e-book on cybersecurity aiming to help parents understand, prevent and protect children from online risks such as grooming, CSAM and sexting.<sup>232</sup> Lastly, CableOnda, one of the main Internet service providers in the country as part of their CSR programme Conéctate Seguro (Connect Safely), conducts research on Internet safety to educate children and parents on Internet risks.<sup>233</sup>

In terms of SECTT prevention, since 2009, CONAPREDES collaborates with the Panamanian Tourism Chamber to combat and report any form of SEC, promote cooperation within the tourism sector, sensitize staff and intermediaries and inform tourists about the criminal sanctions for these crimes.<sup>234</sup> As a result, CONAPREDES signed in 2010 and recently renewed in 2018, a letter of commitment with the Panamanian Hotel Association to promote prevention activities within the tourism sector via sensitization and capacity building on SEC for hotel staff, security personnel in the sector, restaurant owners, travel agents and tourism and hospitality students from the Inter-American University.<sup>235</sup> In June 2019, CONAPREDES and the Panamanian Tourism Authority developed

211 MIDES (8, Jan 17), *Consejo de Gabinete aprueba Sistema de Protección Integral de Niñez y Adolescencia en Panamá*.

212 UNICEF Panama (Jul 2019), *Personal Communication*.

213 CONAPREDES (2008), *Plan Nacional para la prevención y la eliminación de la explotación sexual comercial de niños, niñas y adolescentes 2008 a 2010*, 27.

214 Direct training refers to workshops that collected a list of signatures from participants. Indirect training refers to awareness raising in open access events, fairs and through flyer distribution. CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 57.

215 CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 56.

216 *Ibid.*, 49-55.

217 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 133.

218 CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 5.

219 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 102.

220 CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 49-55.

221 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 105.

222 SENNI AF (2019), *Memoria Anual 2018*, 76-77.

223 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 104.

224 *Ibid.*, para. 107.

225 IIN-OEA (2019), *Informe de Gestión 2015-2018*, 34-35.

226 IIN-OEA & World Vision (2018), *Red Intergeneracional para la Promoción del Uso Seguro de Internet, RIAMUSI: Una mirada a la situación actual y una propuesta metodológica*.

227 *Ibid.*, 100.

228 *Ibid.*

229 SENNI AF (2019, Apr 12), *Culmina taller presencial de la segunda etapa, en la formación de la Primera Red Intergeneracional de Agentes Multiplicadores del Uso Seguro del Internet RIAMUSI*.

230 RIAMUSI (May 2019), *Manual del uso seguro de Internet*; RIAMUSI (May 2019), *Protocolo para el uso seguro de Internet*; RIAMUSI (May 2019), *Hoja de Ruta y Riesgos para el uso seguro de Internet*.

231 Fundación Vida Segura (n. d.), *Quiénes somos*.

232 Fundación Vida Segura (2018), *#RegresoAClases Ciberseguro, Guía Práctica para Padres y Madres Conectados, Información y Consejos para entender y prevenir los peligros en Internet*.

233 CableOnda (n.d.), *Conéctate Seguro*.

234 CONAPREDES and CAMTUR (2009), *Carta de Compromiso*.

235 Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 118.

four trainings in prevention of SEC for 55 hotel staff in the Chiriquí province. The focus was to inform participants of the importance of registering guests and request for documents to certify that children are accompanied by their parents or tutors in order to prevent SEC in the hotel facilities.<sup>236</sup> One of the strategic objectives of CONAPREDES in 2019 is to achieve the commitment of the sensitized tourism companies to sign a Code of Conduct.<sup>237</sup> Additionally, in 2011, the commission signed a letter of commitment with the Association of Gambling Establishments to prevent SEC crimes in casinos and other gambling establishments.<sup>238</sup> According to the Association's website, this alliance is still ongoing.<sup>239</sup> Despite the existence of SECTT prevention programmes at the national level, the perception study on the topic of SECTT conducted by UNICEF Panama and Casa Esperanza found that professionals in the tourism sector are not aware of these initiatives, with a majority of respondents considering that more government action and SECTT prevention and victim assistance programmes at the local level is needed.<sup>240</sup>

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

In Panama, several specialised law enforcement agencies and investigative police units deal with SEC.

The Public Prosecutor's Office (*Ministerio Público*) is the responsible body for investigating

and suppressing crimes. The office is an autonomous entity— as it does not belong to either the Executive, Legislative or Judicial Branch. Since 2007, there is at least one District Office of the Public Prosecutor specialized in sexual crimes and human trafficking cases in each of the Panamanian provinces,<sup>241</sup> although no updated information has been found on whether these District Offices are in place and operating. Lastly, since 2008, the Special Prosecution Office for Organized Crime is the responsible investigative body for organized crime cases dealing with SEC and trafficking involving both adults and minors.<sup>242</sup> Panama does not have specialized units dealing specifically with online sexual exploitation of children. CSAM cases are channeled through the victim attention programme of SENNIACF.<sup>243</sup>

The Judicial Investigation Directorate of the National Police is the investigative police of Panama. This unit has a division on sexual crimes dealing with cases of sexual abuse and exploitation as well as trafficking cases involving both child and adult victims.<sup>244</sup> Although this specialized police division, which is formed by a team of 16 police officers,<sup>245</sup> is only present at the national level, the Government of Panama has recently reported that at the provincial level each of the sub-judicial investigation directions has personnel trained for the investigation of SEC cases.<sup>246</sup> Furthermore, the Children and Adolescents National Police Unit provides assistance with cases involving children.<sup>247</sup>

Concerning the judicial system, the criminal courts of all the Panamanian provincial capitals have specialised sections for children and adolescents (*Juzgados de Niñez y Adolescencia*), dealing with cases with child victims in especially vulnerable situations such as SEC cases.<sup>248</sup> The High Court for

Children and Adolescents studies the appeals filed after decisions made by district courts.<sup>249</sup>

Lastly, the Ombudsman Office is the national body responsible to ensure compliance with children's rights in the country, including those rights provided by the CRC and the OPSC. It has a Specialized Unit for Children and Adolescents and it provides legal assistance for the participation in proceedings of anybody who may have knowledge of SEC-related crimes and has the obligation to report such crimes.<sup>250</sup> The Ombudsman Office is also responsible for developing prevention and awareness raising actions.<sup>251</sup>

### National complaint mechanisms

As mentioned above, the Criminal Code of Panama establishes a legal obligation for everybody to report any situation or information that may amount to a SEC case. This obligation also includes legal persons.<sup>252</sup> The omission to report can result in sanctions of one to three years of imprisonment. In cases where the commission of the crimes cannot be proved, the person who reported will be exempt of criminal liability.<sup>253</sup>

Because of this obligation, the complaint mechanisms for SEC are accessible for everybody, complaints can be filed in a number of different bodies and there are almost no formalities required. Children can report to the authorities any action committed against them and do not require the presence of their parents to initiate the proceedings.<sup>254</sup> However, during the proceedings, parents must act as the legal representatives of their children, with the exception of specific acts that according to the law the child is authorized to carry out him/herself.<sup>255</sup> The Public Prosecutor's Office without the requirement of a complaint

to be filed first can also initiate proceedings *ex officio*.<sup>256</sup> The complaint, which can be anonymous and can be done via a written document, sent through a telegram, fax or email, or through the phone.<sup>257</sup> The complaints can be filed with a number of different bodies and institutions including: the center for complaint reception of the Judicial Investigation Direction (formerly known as the Judicial Technical Police), in their specialized unit for sexual exploitation crimes or in any of their subnational offices; in the Public Prosecutor's Office and any of their district offices, in the Children and Adolescents National Police Units, in the Office of the Ombudsman, in the Ministry of Social Development or in any NGO dedicated to children protection, who will then forward the information to the competent authorities. Complaints can be filed 24 hours a day, 7 days a week.<sup>258</sup>

Additionally, Panama has a number of 24-hour hotlines where complaints can be made. These include line 311 from the Citizen's Attention Center<sup>259</sup>; Line 147 of the Orientation and Integral Attention center of MIDES,<sup>260</sup> line 511 – 9540 of the Children and Adolescents Police and line 512 – 2232 of the Judicial Investigation Direction.<sup>261</sup> However, none of these government agencies have reported the number of complaints received through the hotlines for cases of SEC. In 2017, Child Helpline International submitted a communication for the purpose of the CRC review, urging the Panamanian government to establish a "3-4 digit toll free national child helpline" to "assist children in need of care and protection from violence and allow their voice to be heard by policy makers".<sup>262</sup> Special emphasis was placed in ensuring that the helpline primarily caters to the needs of children, ensuring collaboration between entities to follow up on cases reported through

<sup>236</sup> CONAPREDES (2019, Jun 18), *CONAPREDES capacita personal hotelero de la provincia de Chiriquí*.

<sup>237</sup> CONAPREDES (2019), *Informe de Gestion – enero a diciembre 2018*, 76.

<sup>238</sup> *Ibid.*

<sup>239</sup> ASAJA (n.d.), Homepage.

<sup>240</sup> UNICEF Panama and Casa Esperanza (2019), *Percepción de Explotación Sexual Comercial de Niños, Niñas y Adolescente en Áreas de Incidencia Turística*, 61-62.

<sup>241</sup> Office of the Public Prosecutor (2007), *Resolución No. 35 of 2007*.

<sup>242</sup> Office of the Public Prosecutor (2008), *Resolución no. 29 of 2008*.

<sup>243</sup> OAS (2010), *X informe al Secretario General de la OEA sobre las medidas emprendidas por los estados miembros para prevenir y erradicar la explotación sexual comercial de niñas, niños y adolescentes en las américas: Explotación sexual comercial de niños, niñas y adolescentes e internet*, 42.

<sup>244</sup> National Police of Panama (2017, Aug 22), *¿Sabías que la Policía Nacional, cuenta con una División Especializada en Delitos Sexuales?*.

<sup>245</sup> National Police of Panama (Jul 2019), *Planilla de la Policía Nacional Segunda Quincena Julio 2019*.

<sup>246</sup> Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 164.

<sup>247</sup> UNICEF Panama (n. d.), *Líneas telefónicas para realizar denuncias, pedir ayuda o recibir orientación*.

<sup>248</sup> Republic of Panama, Judiciary (2008), *Manual de Organización y Funciones del Órgano Judicial*, 193-197; *Family Code* (1994), art. 744.

<sup>249</sup> *Ibid.*

<sup>250</sup> *Law 16 of 2004*, arts. 17 and 28; Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 122.

<sup>251</sup> Government of Panama (2019), *Informe Inicial de la República de Panamá en virtud del artículo 12 del Protocolo Facultativo a la Convención de los Derechos del Niño relativo a la venta de niños, la prostitución infantil y la utilización de niños en la pornografía*, para. 123.

<sup>252</sup> *Law 16 of 2004*, art. 17.

<sup>253</sup> *Criminal Code* (2007), art. 189.

<sup>254</sup> CONAPREDES and ILO (2006), *Guía para denunciar delitos de explotación sexual comercial de niños, niñas y adolescentes*, 15.

<sup>255</sup> *Family Code* (1994), art. 332.

<sup>256</sup> *Law 16 of 2004*, art. 12.

<sup>257</sup> CONAPREDES and ILO (2006), *Guía para denunciar delitos de explotación sexual comercial de niños, niñas y adolescentes*, 17.

<sup>258</sup> *Ibid.*

<sup>259</sup> Citizen Attention Center (n. d.), ¿Qué es el 311?

<sup>260</sup> MIDES (n. d.), ¿Qué es el Centro de orientación y Atención Integral (COAI)?

<sup>261</sup> SENNIACF (n. d.), Prevención y atención a niñas, niños y adolescentes víctimas de violencia sexual.

<sup>262</sup> Child Helpline International (2017), *Recommendations to the UN Committee on the Rights of the Child Prepared by Child Helpline International*.



the helpline as well as providing an outreach component so marginalized children and children in remote areas are aware of and can access the helpline.<sup>263</sup> No information has been found on progress made to establish a national helpline specifically for children.

At the regional level, individuals or groups of individuals, including children and NGOs may submit petitions to the Inter-American Commission on Human Rights (IACHR), on their behalf or on behalf of third persons, regarding alleged violations of the American Convention on Human Rights.<sup>264</sup> A petition can only be lodged after domestic remedies have been exhausted, and normally must be filed within six months after the final judgment.<sup>265</sup> The victim may designate a lawyer or other person to represent him/her before the IACHR, but this is not compulsory.<sup>266</sup> The decisions of the IACHR are non-binding, so if the State does not comply with the recommendations of the IACHR, the IACHR may refer the case to the Inter-American Court of Human Rights (IACtHR).<sup>267</sup> The IACtHR interprets and applies the American Convention on Human Rights and other Inter-American human rights treaties and issues a judgment, which may include an order to pay reparations to the victim(s) of human rights violations.<sup>268</sup> The Court’s judgments are legally binding on the State against which they are made.<sup>269</sup> To the time of writing, no cases of SEC in Panama have been submitted to the Inter-American human rights mechanisms.

Child-sensitive justice

The Public Prosecutor’s Office is the responsible body for victim protection and to ensure the victim’s rights are respected during criminal

proceedings.<sup>270</sup> This is done through the Victim and Witness Protection Secretariat (SEPROVIT) and each of the Victim and Witness Protection Units (UPAVIT) located in different provinces in Panama.<sup>271</sup> The actions of SEPROVIT and UPAVIT are conducted following the principles of respect for human rights, best interest of the child, non-discrimination, privacy and non-revictimization.<sup>272</sup> UPAVIT works using an interdisciplinary approach and its staff include psychologists, social workers and lawyers. They work with the child victims since their arrival, go with them to the hearings, provide psychological attention and make sure that the right protection measures are taken.<sup>273</sup> There are currently 11 UPAVITs operating in the country, having presence in all of the Panamanian provinces.<sup>274</sup>

Furthermore, the Public Prosecutors Office, with the assistance of UNODC, elaborated a Protocol for Victim and Witness Assistance in Sexual Crimes Proceedings, to be employed by the UPAVITs in their operations.<sup>275</sup> This protocol contains a number of provisions to protect the rights of child victims during the proceedings and ensure child-sensitive procedures. These include the use of a more informal dress code and child-friendly verbal and non-verbal language by UPAVIT professionals when dealing with child victims, the use of Gesell domes (double mirror rooms) or designated children’s areas for interviews with child victims in order to ensure a friendly, safe and private environment and avoid re-victimization and the protection of the privacy of the child using only the initials of the victim in case files and never collecting photos of the child.<sup>276</sup> Lastly, UPAVITs should prioritise cases concerning children or children with disabilities over all others<sup>277</sup> and in cases in which it is not possible to determine the

age of the victims, it should be presumed that the victim is a child.<sup>278</sup> The UNICEF country office has confirmed that these child-sensitive measures in UPAVIT are being implemented in practice, which represents a significant improvement in the country. Nevertheless, child protection experts from UNICEF have also noticed that some challenges remain in terms of follow up on individual cases, understaffing and lack of specialized personnel with technical expertise on sexual crimes against children.<sup>279</sup>

There are a number of other provisions in the Panamanian domestic legislation that aim to protect the rights of child victims during criminal proceedings. Article 333 of the Family Code provides that where there are opposing interests between the parents and the child, the judge shall appoint a lawyer to represent the child.<sup>280</sup> Furthermore, article 738 establishes that the Ombudsman for Children (*Defensor del Menor*) be part of all proceedings concerning children.<sup>281</sup> Article 818 states that in proceedings concerning minors, the child and their parents or legal representatives are allowed to communicate directly with the Judge or any other public official in the proceedings.<sup>282</sup> Article 739 states that proceedings regarding children shall be confidential and only the parties, proxies, relatives, licensed lawyers and persons that, at the discretion of the judge, demonstrate a legitimate interest in the matter will have access to the proceedings.<sup>283</sup> Similarly, the Criminal Procedural Code establishes that, as an exception to the principle of public disclosure, in cases where the victim is underage, the Court may decide to carry out such cases totally or partially in private.<sup>284</sup> Furthermore, article 391 of the same law provides that for the testimony of children, these can be arranged to be conducted in private and the testimony shall be fully recorded in audio or video for its exhibition in the court deliberations.<sup>285</sup> However, in order to

protect the integrity of the victims, a child, when testifying, may be accompanied by a relative or any other person whom the minor trusts, as long as this person does not influence their testimony.<sup>286</sup>

With regard to free legal assistance for children, Article 829 of the Family Code states that court-appointed lawyers shall provide free representation for citizens, families, minors and disabled people that cannot afford to pay for their services, before the family courts and youth courts.<sup>287</sup> In addition, MIDES and the Ombudsman will provide legal assistance to those who report SEC crimes so they can participate in the proceedings.<sup>288</sup> Beyond institutional mechanisms for free legal assistance, other initiatives from civil society and the private sector in this regard include the Legal Consulting Office of the Inter-American University of Panama,<sup>289</sup> and the Community Legal Assistance Program held by the Foundation created by law firm Morgan&Morgan.<sup>290</sup>

Access to recovery and reintegration

SENNIAF is the national body dealing with attention to SEC victims. In 2018, SENNI AF provided attention services for 219 cases of child victims of violence and abuse, although it is unspecified how many of these were SEC cases.<sup>291</sup>

In 2007, the MIDES issued a Protocol for the Attention of Child Victims of Commercial Sexual Exploitation.<sup>292</sup> The protocol is meant to be used by all public officials of MIDES and SENNI AF dealing with children as well as by NGOs that provide direct attention services for SEC victims.<sup>293</sup> The procedure established in the protocol provides guidelines for victim identification, recovery and reintegration. The protocol also includes a number of child-sensitive measures aiming to avoid survivors’ revictimization. For instance, MIDES must ensure that the child is always together with

263 Ibid.  
264 The Inter-American Commission on Human Rights is one of two bodies within the Organization of American States (OAS) for the promotion and protection of human rights. The other human rights body is the Inter-American Court of Human Rights.  
265 Inter-American Commission on Human Rights (2009), *Rules of Procedure of the Inter-American Commission on Human Rights*, arts. 31-32.  
266 Ibid., art. 23.  
267 Ibid., art. 45.  
268 Inter-American Commission on Human Rights (1969, Nov 22) *American Convention on Human Rights*, art. 63.  
269 Inter-American Court of Human Rights (2018), *ABC de la Corte Interamericana de Derechos Humanos : El qué, cómo, cuándo, dónde y porqué de la Corte Interamericana. Preguntas frecuentes*, 20.  
270 *Criminal Procedure Law* (2008), art. 20.  
271 Office of the Public Prosecutor (n. d.), SEPROVIT.  
272 Ibid.  
273 Office of the Public Prosecutor (n. d.) UPAVIT.  
274 Ibid.  
275 Office of the Public Prosecutor and UNODC (2015), *Protocolo de Atención Integral a Víctimas y Testigos de Delitos contra la Libertad e Integridad Sexual, por parte de la Unidad de Protección a Víctimas, Testigos, Peritos y demás Intervinientes en el Proceso Penal – UPAVIT, del Ministerio Público De Panamá*.  
276 Ibid., 46.  
277 Ibid., 49.

278 Ibid., 47.  
279 UNICEF Panama (Jul 2019), *Personal Communication*.  
280 Family Code (1994), art. 333.  
281 Ibid., art. 735.  
282 Ibid., art. 818.  
283 Ibid., art. 739.  
284 *Criminal Procedure Law* (2008), art. 362.3.  
285 Ibid., art. 391.  
286 Ibid., art. 332.7.  
287 *Family Code* (1994), art. 829.  
288 CONAPREDES and ILO (2006), *Guía para denunciar delitos de explotación sexual comercial de niños, niñas y adolescentes*, 14.  
289 Inter-American University of Panama (n. d.) Consultorio Jurídico.  
290 Fundamorgan (n. d.), Community Legal Assistance Program.  
291 SENNI AF (2019), *Estadísticas Generales de Atención, diciembre 2018*, 3.  
292 MIDES (2007), *Protocolo de atención a personas menores de edad víctimas de explotación sexual comercial*.  
293 Ibid., 15.

someone he/she trusts.<sup>294</sup> Additionally, the child has the right to participate and have an opinion in the elaboration of his/her individualized protection plan<sup>295</sup> and any shelter placement is meant to be a last resort and temporary.<sup>296</sup> It is important to note that this protocol was issued in 2007, even before the creation of SENNIAF and no information has been found on whether it is still used in practice by personnel providing attention to SEC victims.

SENNIAF is also in charge of supervising and monitoring the shelters for children (*casas hogar*) in the country, which are run by different NGOs.<sup>297</sup> There are currently 53 operating shelters for children in Panama.<sup>298</sup> None of them are specialized on SEC victims; instead, each shelter fosters children in very different situations: abandoned children, children living in poverty, pregnant adolescents, victims of domestic violence, etc.<sup>299</sup> UNICEF officials in the country have reported that the numbers of institutionalized children in Panama is considerably high and thus, shelters for children in the country are often overcrowded.<sup>300</sup>

## Access to compensation

The Panamanian Criminal Code establishes that the civil liability deriving from criminal responsibility obliges the perpetrator to compensate the victim of the crime for all damages incurred.<sup>301</sup>

Furthermore, article 20 of law 16 of 2004 establishes that in trafficking cases, the courts shall order the compensation of the victim for costs including “medical or psychological treatment, therapy and rehabilitation, transport, provisional housing, childcare, loss of profit/earnings, lawyer fees, emotional disturbance, pain and suffering”.<sup>302</sup> To ensure the payment, the judge may order the seizure of the perpetrator’s property.<sup>303</sup> There is no equivalent provision establishing the right of compensation to victims of other SEC manifestations.



## CHILD, VICTIM AND SURVIVOR PARTICIPATION

In 2004, Panama created the Youth Public Policy, a policy instrument aiming to promote the rights of adolescents and the youth (aged 15 to 29), including the right to participate in decision-making processes and civic life, to empower them and to guarantee the conditions necessary for their personal development.<sup>304</sup> The document was created after an extensive process of consultation with young people and youth organizations from all over the country.<sup>305</sup> Among the policy’s strategic lines, was the creation of participation spaces for young people at all levels of decision-making, as well as the design of an Action Plan and a National Law on Youth to guarantee the rights of young people.<sup>306</sup> In 2015, MIDES issued an Inter-institutional Strategic Plan for the Youth, for the period 2015-2019, to turn the Youth Public Policy strategic lines into concrete actions.<sup>307</sup> With regard to child and youth participation, strategic actions include promoting recognition of youth organizations so that they can take an active role in decision-making processes for public policy as well as budget allocations for youth initiatives.<sup>308</sup>

Although youth participation in decision-making processes is recognised in the youth policy framework, Panama still lacks an integral framework on child protection that aligns the current legislation and policies to the mandate and principles of the CRC, included the rights of children (not only for adolescents but also for children under 15) to be heard and participate in decision-making processes. In 2018, the CRC Committee pointed out the urgency of approval of the bill for the creation of an integral system for child protection (*Ley que crea el Sistema de Garantías y de Protección Integral de los Derechos de la Infancia, la Niñez y la Adolescencia*), currently on hold, to ensure this right.<sup>309</sup>

Despite the challenges regarding the approval of the afore-mentioned bill, several recent efforts to include the principle of child participation in policy instruments have been identified. Since 2017, SENNIAF has created three Consulting Councils of Children and Adolescents, in the districts of Colón, San Carlos and Panamá.<sup>310</sup> These Consulting Councils are spaces for child participation and representation of children’s rights at the district level and are coordinated by local government

294 *Ibid.*, 20.

295 *Ibid.*, 24.

296 *Ibid.*, 25.

297 MIDES (2009, Apr 21), *Executive Decree 26 of 2009*, art. 4; UNICEF Panama (Jul 2019), Personal Communication.

298 SENNIAF (n. d.) Supervisión y Monitoreo de Casas Hogares.

299 UNICEF Panama (Jul 2019), *Personal Communication*.

300 *Ibid.*

301 Criminal Code (2007), arts 128 and 129.

302 *Law 16 of 2004*, art. 20.

303 *Ibid.*

304 Ministry of Youth, Women and Family (2004), *Política Pública de Juventud de Panamá*, 17.

305 *Ibid.*, 51.

306 *Ibid.*, 17-18.

307 MIDES (2015), *Plan Estratégico Interinstitucional de Juventudes Panamá 2015-2019*, 16.

308 *Ibid.*, 158.

309 Committee of the Rights of the Child (2018), *Concluding observations on the combined fifth and sixth periodic reports of Panama*, paras. 5-7.

310 SENNIAF (n. d.), *Consejos Consultivos de Niñez y Adolescencia*.



entities, NGOs, education centers and child protection institutions. The Consulting Councils also provide children and adolescents with training on children's rights with a specific focus on the right of child participation.<sup>311</sup> At the national level, the creation in 2019 of the Children and Adolescents National Council, a coordinating, proponent and advisory body of public policies dealing with children and adolescents, which will count on the participation of two representatives of the Consulting Councils of Children and Adolescents, further aims to give voice to the children in the country.<sup>312</sup> However, no instances of specific participation mechanisms for child victims and survivors of SEC have been found to be in place.

311 *Ibid.*

312 MIDES (2019), *Decreto Ejecutivo no. 14 de 23 de abril de 2019 Por el cual se crea el Consejo Nacional de la Niñez y la Adolescencia*.



## INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Emphasise the need of including issues related to the sexual exploitation of children in Child Protection goals contained in the “Panama 2030” plan, the strategic framework Panama has developed to fulfil its commitments towards achieving the SDGs;
- Strengthen existing international police and judicial cooperation through multilateral, regional and bilateral arrangements to improve prevention, investigation, prosecution and punishment of sexual exploitation of children and develop mechanisms to coordinate the implementation of such arrangements.

## NATIONAL RESPONSE TO SEC'S MANIFESTATIONS

- Approve and implement the bill for the creation of an integral system for the protection of child rights (*Ley que crea el Sistema de Garantías y de Protección Integral de los Derechos de la Infancia, la Niñez y la Asolescencia*), in order to align national legislation to the principles of the Convention on the Rights of the Child and restructure the child protection system in the country to ensure efficiency;
- Amend article 176 of the Criminal Code so that penalties for sexual intercourse with a minor between 14 and 18 when the adult is in a position of responsibility towards the child are equated to those prescribed for sexual intercourse with children under 14;

- Amend article 182 of the Criminal Code increasing the penalties when the crime of obtaining a profit from a person submitted to sexual servitude is committed against a child;
- Amend articles 184, 185 and 187 of the Criminal Code to specifically criminalise conducts related to online child sexual exploitation such as grooming, live streaming of sexual abuse and online sexual extortion using the right terminology. Alternatively, approve the bill on cybercrime, addressing the afore-mentioned issue and providing a definition for “pornography”, “pornographic material” and “obscene exhibitionism acts” that includes all possible representations (photographs, video, drawings, audio, live performances, etc.);
- Amend the Criminal Code so that conducts similar to trafficking of children for sexual purposes, such as exploiting children in prostitution and the sale of children for sexual purposes carry more severe penalties, similar to those provided for the crime of trafficking of children for sexual purposes;
- Criminalise informal unions in which one of the parties is a child;
- Draft a new National Action Plan on SEC for the period 2019-2025;
- Fulfil the strategic objective of CONAPREDES to get tourism companies to sign a National Code of Conduct.

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

- Create specialised police and prosecution units for the investigation of crimes related to online child sexual exploitation and allocate budget to equip them with technology and specialized staff;
- Ensure that the UPAVITs have specialised staff working exclusively with child victims of sexual crimes. Ensure follow-up of individual cases after proceedings have finalized;
- Establish a shelter that provides specialised attention to child victims of sexual exploitation;
- Develop compensation mechanisms for victims of all forms of sexual exploitation of children, not just trafficking victims.

CHILD, VICTIM AND SURVIVOR PARTICIPATION

- Promote the inclusion of child protection and sexual exploitation of children as priority areas for dialogue, advocacy and programming in the Consulting Councils for Children at the local level and the Children and Adolescents National Council;
- Ensure that child victims have a meaningful role providing inputs for the revision of the next Strategic Plan for the Youth, which ends in 2019. Actively reach out to child victims and survivors to ensure participation in the final drafting of the bill for the creation of an integral system for the protection of child rights as well as the update of the National Action Plan on Sexual Exploitation of Children.

RESEARCH NEEDS AND AGENDA

- Develop annual reports on sexual exploitation of children in the country, including data collected on its different manifestations, disaggregated by gender, age, ethnicity, region and statistics on prosecution and conviction of offenders. Criminal statistics at the national level should be as exhaustive as mandated by Law 16 of 2004 (art. 27);
- Conduct new studies on social perception and social tolerance towards sexual exploitation of children and sexual relations between adults and adolescents.



CEFM	Child, early and forced marriage
CONA	Children and Adolescents National Council
CONAPREDES	National Commission for the Prevention of Sexual Exploitation Crimes
CONIPREVINNA	National Inter-Sectorial Committee for the Prevention of Violence against Children
CRC	Convention of the Rights of the Child
CSAM/CSEM	Child sexual abuse material / child sexual exploitation material
EU	European Union
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IIN-OEA	Inter-American Children’s Institute
ILO	International Labour Organization
IOM	International Organization for Migration
MICS	Multiple Indicator Cluster Survey
MIDES	Ministry of Social Development
OAS	Organization of American States
OBESNNA	Observatory of Sexual Exploitation of Boys, Girls and Adolescents
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.
RIAMUSI	Intergenerational Network of Multiplying Agents for Safe Internet Use
SDG	Sustainable Development Goals
SEC	Sexual exploitation of children
SECTT	Sexual exploitation of children in travel and tourism
SENNIAF	National Secretariat for Children, Adolescents and Family
SEPROVIT	Victim and Witness Protection Secretariat
UNICEF	United Nations Children’s Fund
UNODC	United Nations Office on Drugs and Crime
UPAVIT	Victim and Witness Protection Units





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