



# EXECUTIVE SUMMARY

## Austria\*



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## Introduction

Austria is a federal republic with a democratically elected parliament. Despite having a good child protection system in place, Austria continues to be affected by child abuse and the commercial sexual exploitation of children (CSEC), including child pornography, trafficking in children for sexual purposes and child sex tourism (CST). According to authorities, approximately 20,000 incidents of child abuse are reported annually. Contributing factors to CSEC in Austria are continuing demand both domestically and abroad, limited awareness and preventive measures, consumerism, peer pressure, difficulties in data collection on child victims, and a lack of coordination at national and provincial levels.

The number of unaccompanied minor asylum-seekers (UMAs) is rising in Austria and such children are particularly vulnerable to trafficking and sexual exploitation. While there may be a number of circumstances under which UMAs come to Austria, they are in many cases smuggled or trafficked.<sup>1</sup> The victims are forced to engage in illegal activities such as theft, pick pocketing and prostitution or they are sold for adoption or marriage.<sup>2</sup> There are indications that especially children and youth from Eastern Europe are brought to Austria and are forced to apply for asylum and engage in criminal activity. Austria is also experiencing an increase in child marriages, though it is unclear whether these are linked to trafficking or result in sexual exploitation.<sup>3</sup>

There are no official statistics or estimates of the number of **children exploited through prostitution** in Austria. Several sources point to links between child prostitution and child trafficking and between child prostitution and UMAs outside of the trafficking context. In

2010 concrete indications of child prostitution were reported from nearly all Länder by NGOs and governmental institutions, especially by organisations providing outreach work. The institutions also discussed emerging phenomena that still need to be researched in depth, for instance “lover boys” or “prostitution in return for goods.”

Austria is both a transit and destination country for **children trafficked for commercial sexual exploitation** and forced labour. There were 118 cases of child trafficking suspected from 2009-2011;<sup>4</sup> however, exact figures on the actual scope of child trafficking are very hard to determine, both due to the clandestine nature of trafficking as well as difficulties in differentiating between UMAs, smuggled children, and child victims of trafficking.<sup>5</sup> Victims originating from Africa have been trafficked to or through Austria via Italy, while Italy has served as a destination for victims from Ukraine and Belarus trafficked through Austria.<sup>6</sup>

With the growing prevalence of the Internet and other ICTs, Austrian children and youth are being exposed to a number of potential threats which may impact their safety, including the rise of **child pornography**. “Comparing Children’s Online Opportunities and Risks across Europe,” published in 2008, suggested that Austria belongs to the European countries categorised as being at medium risk for children. Unlike their peers in the EU and other countries, Austrian children do not appear to have experienced dangerous online situations such as receiving unwanted sexual comments or meeting in person a stranger introduced online.

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

tourists from Austria (and Germany) also continue to fuel the demand for sex services from children along the border region between the Czech Republic, Germany and Austria. There is no data available about the latest trends of this phenomenon, though Austrian sex tourists are reported to travel to the Czech Republic mainly to sexually exploit boys.<sup>7</sup>

## National Plan of Action (NPA)

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

There have been three *National Plans of Action against Human Trafficking* (NPA-HT). The first one was developed in 2007 by the Working Group on Child Trafficking, which also produced a separate report focusing on actions targeting children.<sup>8</sup> The Second NPA-HT was

adopted in May 2009 and outlines actions for improving the situation of child victims as well as providing systematic support for trafficked children.<sup>9</sup> The Third NPA-HT was adopted in March 2012<sup>10</sup> and demonstrates considerable progress. It is the first NPA focusing on specific victim support measures for children, including a national referral mechanism and a manual for professionals who provide support for victims.

The *Young Rights Action Plan* (YAP), developed after a comprehensive consultation process that also involved children and youth, was implemented from 2004-2007<sup>11</sup> but has not been updated. There are currently no plans to update the YAP.

## Coordination and Cooperation

A number of efforts to foster collaborative approaches in the fight against CSEC have been undertaken by the government since 2006. Multi-stakeholder working groups and roundtables comprising NGO representatives have been established at the national, provincial and municipal level. However, information exchange (especially with civil society organisations) remains limited and the involvement of key actors for child rights issues from the Länder needs to be further enhanced.<sup>12</sup> The Committee on the Rights of the Child (CRC) was also concerned about the lack of a mechanism to coordinate existing institutions dealing with CSEC issues at the provincial and national levels.<sup>13</sup>

Two working groups were set up in 2007 within the Task Force on Human Trafficking

(TF-HT), dealing with the topics of “Child Trafficking” and “Prostitution”. The Working Group on Child Trafficking (WG-CT) is coordinated by the Department for Children and Youth, under the Ministry of Economy, Family and Youth and brings together representatives of the ministries, the Länder governments, and NGOs (including ECPAT and IOM Austria).

In 2009, the Youth Ministry formed an interdepartmental Working Group on Sexual Exploitation of Children (CC-CSEC) which includes representatives of the competent ministries and NGOs.<sup>14</sup> The main task of this body is to follow up on the recommendations contained in the final declaration of the Third World Congress against Sexual Exploitation of Children and Adolescents held in Rio de

Janeiro in 2008, coordinate related activities, initiate necessary measures and evaluate the process.<sup>15</sup>

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

The second NPA-HT has an entire chapter devoted to “International Cooperation”, which envisages prevention measures such as awareness raising, and promotion of economic activities among risk groups. Related to child

trafficking, Austria also supports activities within the EU to develop guidelines and standards of data collection. In this context, Austria managed a project in cooperation with the IOM, five other EU member states, Europol, Frontex, and ICMPD, presenting the results in the spring of 2009 at an international conference.

In November 2010, EUROPOL (European Law Enforcement Agency) launched Project HAVEN (Halting Europeans Abusing Victims in Every Nation).<sup>16</sup> The Austrian Dep. for Crimes of Violence and against Morality (which addresses child sexual abuse and exploitation) joined Project HAVEN soon after. In January 2012, a European operation was planned and executed by the Europol Child Sexual Exploitation Team within the Operations Department, in cooperation with police, customs and border authorities in Austria, Bulgaria, Finland, France, Hungary, the Netherlands, Slovenia and the United Kingdom.<sup>17</sup>

## Prevention

Preventive measures in the area of awareness raising about CSEC topics and a comprehensive approach for combating sexual exploitation of children through targeted measures are not yet recognisable. Hence, there is still a lack of systematic anchoring of CSEC topics in the training and further education of relevant professional groups, such as police officers, immigration and asylum authorities, judges and public prosecutors, youth welfare officials, teachers etc. Medical personnel are not sufficiently trained to meet the specific needs of victims as is required by the OPSC. Generally, authorities tend to equate training on the topic of child abuse with topics of the OPSC.<sup>18</sup> However, these topics are too narrow in that they exclude the aspects of commercial exploitation covered in the OPSC. Additionally, the prevention and protection of child victims from domestic violence and sexual violence within the family is often equated with prevention or protection of victims from sexual exploitation or child trafficking.<sup>19</sup>

Awareness-raising measures implemented by the Austrian government typically address

trafficking in persons generally without any events or campaigns focused specifically on child trafficking. As recommended by the Working Group on Child Trafficking, sensitisation on this issue should be enhanced through the dissemination of information targeting the general public, and the media, and focusing on the demand for services from trafficked children, and conducting awareness-raising activities in and outside schools.<sup>20</sup> An information folder on “Child Trafficking in Austria” has been designed by the Working Group on Child Trafficking to facilitate the identification of child victims and to assist staff in addressing this issue. The material was made available to ministries, provincial governments, and civil society institutions for use in training on child trafficking. According to the Working Group, as of 2011, 18,000 folders have been distributed. In an effort to introduce the issue of human trafficking into the school curriculum, the Ministry for Education, Arts and Culture has made available a handbook on the topic,<sup>21</sup> and the Task Force on Combating Human Trafficking has developed teaching material on child trafficking and created a

touring exhibition for schools.

There have been no activities in Austria focused on addressing the exposure of children to pornography or the use of children in the manufacture of child pornography. However, there has been progress with regard to protecting children online through enhancing safety in the use of the Internet and other ICTs. Online safety has been included in the curriculum of secondary schools. In 2010, with the support of the government and the Austrian Data Protection Commission, Saferinternet.at, Microsoft Austria, and experienced teachers developed and published the teachers' handbook "Data Privacy Protection on the Internet". The handbook discusses child pornography and the need for

children to protect themselves from online threats.<sup>22</sup>

In 2007, ECPAT Austria was mandated by the Ministry of Economic Affairs and Employment to develop a series of measures for raising awareness about CSEC in the tourism industry. In this context, information material for travellers, travel agencies, and tour operators, as well as educational material for tourism schools were developed. With the support of the Ministry of Economy, in 2008 the working group "Business and Schools" also published a media package entitled "Tourism and Leisure Industry", thematising the issue "Ethics in tourism," in particular "Sexual exploitation of children".<sup>23</sup>

## Protection

There have been no substantial changes in legislation against CSEC crimes since 2006, despite the 2008 recommendation of the CRC to strengthen existing provisions, especially with regard to child pornography-related offences. Although many of the OPSC legal provisions are incorporated in national legislation, there are still gaps, particularly related to the differing age limits across pieces of legislation.

Within the domestic Austrian legal framework until 2011, the CRC was not approved as a constitutional law in large part and was not self-executing in courts and with administrative authorities due to "Reservations". The Federal Constitutional Law on the Rights of the Child, passed in 2011, identifies certain individual rights of the CRC and makes these principles self-executing at the constitutional level for courts and administrative authorities. The ruling parties chose a very selective approach for this law, only including single rights and not the CRC as a whole document. Nonetheless, the right to protection against sexual exploitation and the right to compensation and rehabilitation were included. However, one year after the enactment, no substantial effect can yet be detected.

Substantial legislative efforts have been undertaken to tackle sexual abuse and violence. The *Second Protection against Violence Act* of

2009 included an elevation of the severity of punishments for sexual offences,<sup>24</sup> as well as the adoption and elevation of minimum penalties. Furthermore, procedural rights of victims were strengthened and laws in relation to relapse prevention were fortified. Deliberate access to child pornography was criminalised and is now punished in the same way as possession of child pornography.<sup>25</sup> Also, in 2012, extraterritorial legislation was extended and grooming was criminalised. Despite these positive developments, there are still gaps in legal provisions securing the rights of victims of sexual exploitation, such as the criminalisation of minor prostitutes or the non-criminalisation of certain cases of child pornography depicting 14-18 year old adolescents.

Austrian *Penal Code* provisions on **child prostitution** generally comply with the OPSC, as they address "the use of a child in sexual activities for remuneration or any other form of consideration."<sup>26</sup> Furthermore, Austrian law prohibits all acts of obtaining, procuring or providing a child for prostitution, and specifies that the exchange of benefits or remuneration may be in cash or in kind. The age of sexual consent in Austria is 14 years old.<sup>27</sup> In some circumstances, intercourse with children under 16 years old is illegal, for example, when the offender exploits such a child's distress (drug addiction, homelessness, etc.).<sup>28</sup>

Articles of the Austrian *Penal Code* apply to **child trafficking for sexual purposes**, but they do not consistently provide for stricter punishments in cases where victims are children. Furthermore, while Austrian law generally covers most of the trafficking-related acts contemplated by the Trafficking Protocol, the wording of the articles may lead to some problems in their implementation.

Provisions addressing **child pornography** are not in line with relevant international and regional standards as they provide weak legal protection to children between the ages of 14 and 18. Article 208(a) of the *Penal Code*, which came into force in January 2012, criminalises the intentional initiation of sexual acts by means of telecommunication and computer systems as well as by any other means that deceive the child about the intention of the contact. Furthermore, the production or possession of child pornography is not criminalised if it was produced for personal use and the adolescent depicted is over the age of 14 and has consented to the production. The definition of child pornography should not distinguish between children older and younger than 14, and the law should be strengthened to criminalise the possession of child pornography involving adolescents between the ages of 14 and 18 years regardless of the child's consent.

Under the *Penal Code*, any Austrian citizen engaging in **child sex tourism** is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed (*no double criminality* principle is required to enforce extraterritorial laws). However, under Austrian law and extradition treaties signed with foreign governments, there is no obligation for Austrian authorities to extradite their nationals.

Austrian citizens and foreign nationals residing in Austria are liable to punishment if they sexually exploit children under the age of 18 abroad, exploit a situation of distress of a person under the age of 16 for sexual abuse, commit crimes related to pornography depicting children, promote prostitution and/or the pornographic presentation of children, or bring a person into a country to perform prostitution. Furthermore, other CSEC-related crimes such as slavery, forced marriage, and illegal adoption

are covered by extraterritoriality.

The Federal Ministry of the Interior has established a Central Service Unit Combating Alien Smuggling and Trafficking in Human Beings within its Criminal Intelligence Service and each *Länder* has a specialised department on trafficking and smuggling at the state office of criminal investigation. Furthermore, the Ministry of the Interior has established a special unit for child pornography at the national reporting office. This division organises the collaboration between national, foreign and international law enforcement authorities and carries out official acts if there are suspicions of child pornography. It receives information about child pornography from authorities, the public or Stopline.

Specialised police units dealing with violence against children are active in most Vienna police stations. The main task of these divisions is to ensure that children below the age of 14 years receive medical examinations that address the specific needs of sexual violence. In the Austrian counties, there are special units that ensure the right of victims of sexual abuse to be interrogated by a person of the same sex. The police are bound by internal guidelines on special child friendly procedures that are to be applied when the child is younger than 14 years.<sup>29</sup> In order to raise law enforcement awareness, child trafficking was included in the mandatory basic education for all police officers. Specialised training on investigating child trafficking crimes needs to be enhanced, particularly to ensure early identification of victims and child-sensitive investigations.

A number of capacity-building activities have also been implemented by NGOs. ECPAT Austria has developed sex trafficking training programs and a manual, coordinated by the ECPAT Europe Law Enforcement Group. These trainings were attended by law enforcement staff, employees at youth welfare organisations, women's shelters, refugee organisations, and similar bodies.<sup>30</sup> In the framework of the ECPAT-The Body Shop-campaign against child trafficking ECPAT Austria conducted a training-the-trainer seminar in 2010 and four multi-stakeholder trainings on child trafficking in 2010 and 2011.<sup>31</sup>



## Child and Youth Participation

There is hardly any evidence of direct youth participation in the development or implementation of awareness-raising efforts against CSEC in Austria. Most government initiatives are focused on general child rights and not on youth participation. The only exception is the Youth Advisory Committee of ECPAT Austria which has implemented a number of projects and activities specifically addressing CSEC. There has not been any initiative on youth participation in fighting CSEC from the Austrian government in recent

years. However, the National Coalition on Child Rights made a youth report for the CRC, which was partly funded by the Ministry for Youth. The Youth Advisory Committee of ECPAT Austria was actively involved in the development of the Alternative Report on the implementation of the OPSC. Furthermore, the youth group developed and implemented peer-to-peer workshops on the “Safe use of new technologies and the dangers of child pornography” for students ages 14-18 years.

## Priority Actions Required

### National Plan of Action

Austria should update the “Young Rights Action Plan” including measures to address CSEC manifestations, especially child pornography, child prostitution, and child sex tourism.

### Coordination and Cooperation

Information exchange between government agencies and civil society organisations working on child trafficking and CSEC issues should be strengthened.

Austria needs to establish a mechanism to effectively coordinate existing institutions dealing with CSEC issues, including at the provincial and national levels.

Austria should continue to allocate financial resources to international cooperation projects addressing CSEC in the countries of origin of child trafficking victims and in the destination countries of Austrian child sex tourists.

### Prevention

The Austrian government must take urgent action to implement prevention and awareness programmes that address the vulnerability to trafficking of at-risk children, to help ensure that all children receive the same rights.

Specific sensitisation activities to reach out to children vulnerable to exploitation in

prostitution and online sexual exploitation should be developed.

### Protection

The national trafficking law needs to allow for more severe punishment for child trafficking as well as more flexibility to punish new forms of exploitation of children in trafficking.

The possession of child pornography involving adolescents between 14 and 18 years old should be criminalised regardless of the child’s consent.

### Recovery and Reintegration

The government should provide financial and logistical support to current NGO efforts to establish a shelter home for child victims of forced marriage.

Austria should ensure that repatriation of child trafficking victims is not carried out automatically but only when it is in the best interest of the child.

### Child and Youth Participation

Austria needs to ensure effective participation of children in the implementation, monitoring and evaluation of existing NPAs related to CSEC.

Austria should support child participation initiatives, including child-led organisations.

## Endnotes

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