



# EXECUTIVE SUMMARY

## Belgium\*



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## Introduction

**Belgium**, officially the Kingdom of Belgium, is a federal state of Western Europe. Belgium is ranked 21st in the world according to its Human Development Index in 2014.<sup>1</sup> In 2012, however, 17.2% of Belgian children were affected by poverty<sup>2</sup> and the Federal Police recorded 3,469 complaints involving psychological, physical, sexual, or other abuse of children within the family.<sup>3</sup>

Belgium is considered a country of origin, destination, and transit for many men, women and children who are victims of forced labour and sexual exploitation. The majority of victims exploited in Belgium come from Bulgaria, Romania, Albania, Nigeria, China and Turkey.<sup>4</sup> Unaccompanied Foreign Minors (UFMs), sometimes victims of trafficking, mainly come from Afghanistan, Syria, North Africa and Central Africa. Female Belgian minors are also recruited by procurers (pimps), who force them into prostitution in the country. This type of trafficking also affects foreign children, especially those of Roma origin.<sup>5</sup>

Belgian legislation respects the minimum standards for the elimination of **human trafficking**. However, in order to obtain a residence permit and receive assistance, victims are required to cooperate with the authorities, which may involve having to identify their traffickers. In 2013, there were 432 suspects of which 196 were prosecuted for trafficking for sexual purposes. Provisional data indicates that at least 70 trafficking suspects were convicted in 2013, of which 63 received prison sentences. Nine prison sentences imposed for trafficking were less than one year, 41 ranged from one to five years imprisonment and 13 led to five years' imprisonment or more.<sup>6</sup> According to Immigration Office figures, four cases of trafficking of minors for sexual purposes were detected in 2013<sup>7</sup>.

In Belgium, **prostitution** is neither defined nor punished in its Penal Code in relation to adults or children. The prostitution of minors is, however, prohibited by the offence of inciting minors to corruption or prostitution. In 2013, according to official statistics from the Federal Police, Belgian police recorded 341 acts of inciting minors to corruption and 51 acts of exploitation of the corruption of minors.<sup>8</sup>

According to official figures, the Federal Police investigated 392 cases of **child pornography** (469 in 2011).<sup>9</sup> Child Focus has established many tools and response mechanisms concerning the sexual abuse of children such as [clicksafe.be](http://clicksafe.be), where young people can seek help in cases of abuse.<sup>10</sup>

The Belgium government has different measures in place to tackle the **sexual exploitation of children in travel and tourism (SECTT)** due to its extraterritorial jurisdiction regime. Nevertheless, the first trial relating to SECTT took place on 18 February 2013.<sup>11</sup>

## National Plan of Action

The Belgian government has not adopted a national action plan for children that include specific measures for protection against sexual exploitation since 2005.<sup>12</sup> The government has, however, adopted a new national action plan for 2012-2014 concerning trafficking in human beings. The Interdepartmental Coordination Unit for the Fight against Trafficking in and Smuggling of Human Beings is responsible for executing this action plan.<sup>13</sup>

On a legislative level, the plan envisages a revision of the 10 August 2005 law on human trafficking, which was carried out with two successive changes adopted in 2013 as well as an evaluation of the “minor” section of the ministerial directive on multidisciplinary cooperation regarding victims of human trafficking of 26 September 2008.

## Coordination and Cooperation

### Local and national levels

In order to combat the commercial sexual exploitation of children (CSEC), it is vital to coordinate action and encourage cooperation between the different players involved in the fight against CSEC. The Belgian government has introduced many initiatives against smuggling and trafficking of human beings. An Interdepartmental Coordination Unit against Trafficking in and Smuggling of Human Beings was created in 2004 by royal decree.<sup>14</sup> This Unit, placed under the chairmanship of the Ministry of Justice, brings together all the relevant federal stakeholders, both operational and political. Aside from its coordination role, the Unit should critically evaluate the results of anti-trafficking initiatives and, where appropriate, collaborate in formulating proposals and recommendations for improvement regarding the policy related to smuggling and trafficking.<sup>15</sup> However, no initiatives have been proposed yet to tackle child pornography or child prostitution.

Regarding legal cooperation, the Senate's working group on human trafficking recommends more emphasis at the local level on localised security plans against human trafficking as the local police play an essential role in the detection of human trafficking cases.<sup>16</sup>

### Regional and international levels

With its 2012-2015 National Security Plan, the Belgian police force is committed to training its collaborators for better coordination of services regarding international police cooperation.<sup>17</sup> The Federal Prosecutor is responsible for facilitating international judicial and police cooperation. Furthermore the Belgian police force also has an effective network of liaison officers stationed abroad. Finally, there is also close cooperation between the police and Customs Cooperation Centres in the cross-border regions.<sup>18</sup>

The Schengen Information System (SIS) allows police services from signatory countries to search for people and report subjects.<sup>19</sup> Bilateral police agreements exist with neighbouring countries, other EU countries and developing countries. These agreements are developed into action plans implemented by Federal Judicial Police directorates. Belgium only has a small number of joint investigation teams that specialise in human trafficking, but their international police cooperation with cross-border regions among Belgium, the Netherlands and Germany is a prime example of a good practice in international police cooperation across borders.<sup>20</sup>

## Prevention

Awareness campaigns have so far mainly been managed by NGOs. ECPAT Belgium has launched several awareness campaigns on the subject of SECTT and child pornography. The “Stop Child Prostitution” campaign was launched in 2004 to highlight the problem of sexual exploitation of children in travel and tourism and encourage the reporting of suspicious situations via the Federal Police’s Human Trafficking Unit. This campaign, renamed “I say STOP!” in 2014 is the result of a working group, the STOP Group, which brings together partners in the public sector (Ministry of Foreign Affairs, Defence, Justice, Police), in the private sector (Federation of the Tourism Industry, FEBETRA) and in NGOs (Plan Belgium, Child Focus, ECPAT Belgium and the Samilia Foundation).

ECPAT and The Body Shop ran an international campaign to stop trafficking in children for sexual purposes.<sup>21</sup> ECPAT Belgium is a partner in the European project, “Make-IT-Safe”, conducted between January 2013 and December 2014.<sup>22</sup> In 2011, Child Focus and the six main Internet providers signed an e-safety charter.<sup>23</sup> The organisation is also working on prevention through e-safety among children, teachers and parents.

The Belgian Senate has established a working group on human trafficking (March 2012); the group calls for accelerated training to raise awareness among frontline workers in areas such as social inspection detention centres, healthcare, law enforcement and magistrates.<sup>24</sup> In 2011, the Interdepartmental Coordination Unit against Trafficking in and Smuggling of Human Beings created a poster and an awareness brochure to help hospital staff identify victims of trafficking.<sup>25</sup> In 2012, the Training Board of the Federal Police and the Central “Human Trafficking” Department introduced the issue into the curriculum for candidate inspectors and chief inspectors.<sup>26</sup>

Regarding the collection of data on human trafficking, the 16 May 2004 anti-trafficking Royal Decree enabled the creation of a Centre for Information and Analysis on Trafficking in and Smuggling of Human Beings (CIATTEH). A management committee was created to ensure that the CIATTEH functions effectively.<sup>27</sup>

## Protection

### International Instruments

Belgium has ratified the principal international treaties relating to child rights such as the Convention on the Rights of the Child (CRC), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC), the International Labour Organization (ILO), Convention on the Worst Forms of Child Labour, the UN Convention against Transnational Organized Crime and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol).

At the regional level, Belgium has ratified the key regional instruments that relate to CSEC, notably the Council of Europe Convention on Cybercrime, the Council of Europe Convention on Action against Trafficking in Human Beings and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

### National Legislation

The Penal Code implicitly penalises **child prostitution** in articles 379 and 380, which prohibit the incitement of minors to debauchery or prostitution. Nonetheless, the term “prostitution” is not defined in accordance with article 2(b) of the OP-CRC-SC. Article 379 of the Penal Code defines the incitement of minors to debauchery or prostitution as: “Whoever shall have violated public decency by provoking, favouring or inciting sexual immorality, corruption or the prostitution of a minor of

either sex, in order to gratify the passions of another, shall be punished by severe imprisonment (...) and a fine (...).” The sentence varies depending on the age of the victim (less than 14 years, less than 16 years, and less than 18 years); the younger the victim, the heavier the sentence.

Article 380 § 4 of the Penal Code defines the **sexual exploitation of minors**. It states that perpetrators can be punished even if the minor consented to the act. **Human trafficking** is clearly defined in article 433quinquies of the Penal Code. The Act of 29 April 2013<sup>28</sup> amended this article and expanded the types of exploitation to “prostitution or other forms of sexual exploitation,” which were previously restricted to “prostitution or child pornography.” Articles 433sexies to octies list the aggravating circumstances, which includes the victim’s age.

Article 383bis of the Penal Code states that anyone who *displays, sells, rents, distributes or delivers emblems, objects, films, photos, slides or other visual formats representing sexual positions or acts of a pornographic nature involving or showing minors, or who manufactures, possesses, imports or arranges for import, or delivers to a transport or distribution agent for commercial or distribution purposes is liable upon conviction to imprisonment for a term of five to ten years and a fine of 500 to 10,000 Euros*. Additionally, Belgian law only implicates producing and importing **child pornography** where these acts were committed for commercial or distributive purposes. The Lanzarote Convention<sup>29</sup> obliges signatory States to make **soliciting minors over the Internet for sexual purposes** (grooming) a punishable offence if these virtual exchanges are followed by concrete acts to meet with the child. To answer this need, Belgium adopted two new laws on 10 April 2014: the law amending the Penal Code to protect children against online predators and the law on the protection of minors against solicitation for the purpose of commission of sexual offences.<sup>30</sup>

Article 10ter of the Code of Criminal Procedure<sup>31</sup> on the principle of extraterritoriality allows Belgium to prosecute Belgian nationals or foreigners on Belgian territory having committed sexual offences abroad if these offences were committed against a minor.

## Procedures Applicable to Child Victims

The Belgian Code of Criminal Procedure contains special protection measures for minors that are victims or witnesses of certain crimes (cf. Book I, Chapter VII of the Code of Criminal Procedure), including all offences related to CSEC. For example, article 91bis states that any minor has the right to be accompanied by the adult person of his or her choice during hearings with judicial authorities.

## Specific Measures for UFM

Victims who cooperate with judicial bodies can benefit from a specific residence permit. On 1 June 2007, this procedure was appended to the 15 December 1980 Immigration Act and is explained in detail in the 26 September 2008 departmental circular.<sup>32</sup>

Victims identified by competent parties (such as the police, social inspection services, etc.) must be directed to specialised victim reception centres and receive information about the protected status to which they have a right. According to ECPAT Belgium, there are serious flaws in the process of identifying minors. ECPAT Belgium has already emphasised the importance of awareness-raising sessions and trafficking-detection training for parties likely to be in contact with UFM.<sup>33</sup>

In trafficking cases, the victim can request compensation by bringing a civil action during criminal proceedings. Specialised centres ensure that UFM’s rights and interests as victims are protected.<sup>34</sup>

## Institutions Responsible for Protecting Young Victims

The complex nature of Belgian institutions is an obstacle to victims. The different parties in the field do not always collaborate efficiently which acts against the child's best interests. An emergency contact number (**116 000**) was put in place by the government and the Foundation for Missing and Sexually Exploited Children, "Child Focus". The [www.stopchildporno.be](http://www.stopchildporno.be) website is available twenty-four hours a day to Internet users who have been exposed to child pornography and have questions about it.<sup>35</sup> Cases of sexual exploitation committed abroad may also be reported on the site "I say STOP!" ([www.isaystop.com](http://www.isaystop.com)) set up in November 2014 by ECPAT Belgium and its partners of the STOP Group, replacing the old [www.stopchildprostitution.be](http://www.stopchildprostitution.be) website.

The Directorate of Crimes Against Persons (DJP) has jurisdiction over various crimes against persons including human trafficking and smuggling.

## Support Services for Children

There are three reception centres for trafficking victims (Sürya, Payoke, Pag-Asa). A variety of specialised medical and psychological services are available for victims in these specialised reception centres. However, victims must obtain the status of victim of trafficking in human beings to receive this assistance.<sup>36</sup>

In 2013, the government issued or renewed 839 residence permits to victims of trafficking. The government has continued to finance the three centres (Sürya, Payoke, Pag-Asa) that offer trafficking victims housing and complete assistance.<sup>37</sup> Child victims of trafficking are not allowed to stay in centres for adults and are sent back to specialised centres for minors who do not specifically receive victims of trafficking.<sup>38</sup>

## Training Law Enforcement Personnel

The police 2012 – 2015 national safety plan states that new procedures will be taught on receiving young and vulnerable victims and referring them to specialised services.<sup>39</sup> The government gave special training on combating human trafficking to Belgian troops before they were deployed overseas for international peacekeeping missions.<sup>40</sup>

## Child and Youth Participation

**In Belgium, various institutions serve as platforms which allow the concerns of children and youth to be heard in political circles.**

The **Youth Council** represents Belgian French-speaking youth in Wallonia and Brussels. Their main objective is to be youth spokespersons at the national and international level and to defend youth interests by directly negotiating with politicians. The annual "**Youth Parliament**" brings 80 young people, aged 17 to 26, to the Parliament of the French Community in Brussels and allows them to 'walk in the shoes' of a member of parliament.

The "Vlaamse Jeugdraad" is the official consultative body for children, youth, and youth organisations in the Flemish Community. In the Brussels Region, the "Brusselse Jeugdraad" (Brussels Youth Council) gives opinions on youth issues for the "Vlaamse Gemeenschapscommissie" (Flemish Community Commission).<sup>41</sup>

UNICEF Belgium created a youth project called "What Do You Think?" that gives a voice to the most vulnerable children and young people.

## Priority Actions Required

### National Plan of Action

- Adopt national action plans that specifically target CSEC or violence against children.

### Coordination and Cooperation

- Make international cooperation between administrative immigration services and the police faster and more efficient during the process of detecting and referring victims.
- Participate in international agreements that will implement an alert system that works via liaison officers from the police and/or immigration services.
- Harmonise procedures and facilitate collaboration between different stakeholders so minors that are victims of trafficking do not have to repeat their story to every service.

### Prevention

- Provide institutional support for public awareness-raising campaigns about trafficking for economic and sexual purposes to encourage everyone to pay close attention to possible trafficking situations and to warn potential offenders of the risks they could face.
- Increase coordination between different departments that deal with trafficking and create a centralised database of victims that respects their anonymity.

### Protection

- Include a definition of child prostitution in the Belgian Penal Code that is in accordance with the UN Optional Protocol.
- Improve the detection of trafficking victims in Belgium by continuing to increase the number of frontline responders involved in the victim identification process.
- Make an eventual assessment of reforms in audio-visual recording laws and amend them to apply to offences where recording is not required by law.
- Ensure victims' rights and interests are protected by appointing a lawyer to victims that have made a statement or filed a complaint once they have obtained the status of victim of trafficking in human beings.
- Make the procedure to obtain the status of victim of trafficking in human beings more flexible so minors can be protected on the basis of minimal cooperation with authorities and young witnesses can preserve their anonymity.

### Bodies with Jurisdiction over Child Protection

- Harmonise procedures regarding the number of services that oversee minors as well as the different community regulations concerning minors.
- Detect suspicious disappearances and prevent victims from re-entering trafficking networks by implementing a follow-up procedure for UFM.

## Social Services

- Build new centres for minors that are victims of sexual exploitation.

## Law Enforcement Training

- Train frontline workers regularly about the application of victim status and the detection and identification of victims.
- Systematise awareness-raising and training of professionals likely to be in contact with trafficking victims (such as police officers, social inspection officers, judges, social workers, health care workers, reception centre employees, etc.), with special attention given to professionals who are the first point of contact with minors (guardians, guardianship services, Youth Assistance Services, juvenile court judges, the Youth Protection Agency, etc.).
- Detect victims more effectively by encouraging mayors to further prioritise human trafficking and to reintroduce the issue within local police zonal safety plans.

## Child and Youth Participation

- Encourage existing groups and organisations in Belgium to focus on youth participation, particularly concerning the prevention of CSEC in their programmes.



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