**Philippines**

ECPAT International has developed [a legal checklist](https://ecpat.org/wp-content/uploads/2021/09/SECTT-Checklist_ENG-1.pdf) for governments providing guidance for legal interventions and measures to adopt in order to improve their national legal frameworks. This will help to effectively address the crime of sexual exploitation of children in travel and tourism, including its online elements.

The legal checklist was developed based on the recommendations of the first [Global Study](https://ecpat.org/wp-content/uploads/2021/08/Global-Report-Offenders-on-the-Move.pdf) on sexual exploitation of children in the context of travel and tourism. Following the development of this legal checklist, ECPAT International conducted country legal analysis for the Philippines and other countries in Southeast Asia, as well as Africa, Asia and the Americas.

The country analysis serves as a baseline to indicate and track the implementation status of the legal interventions within and across the four regions. It provides governments with clear directions for improving their actions with respect to child protection against sexual exploitation in the context of travel and tourism, including its online elements.

The table below allows easy assessment of existing legislation against the 24 measures of the legal checklist. It will be updated as the laws and policies change. An [explanatory note](https://ecpat.org/wp-content/uploads/2021/08/SECTT-Checklist_ENG_Explanatory-note.pdf) and an [assessment matrix](https://ecpat.org/wp-content/uploads/2021/09/Assesment-Matrix_2021SEP_ENG_v2.pdf) can be consulted for further reference.

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|  | **Recommendations** | **Implemented** | **Legislation** |
|  | Establish by law **extra-territorial jurisdiction**, within the parameters of Article 4 OPSC, for all offences of sexual exploitation of children, including those occurring in the online environment. | No | In the Philippines extraterritorial jurisdiction is limited to certain offences against the State (Act No. 3815 – article2).However, the following laws may be applied to SEC offences: The Cybercrime Prevention Act of 2012, section 21, which states, “*The Regional Trial Court shall have jurisdiction over any violation of the provisions of this Act, including any violation committed by a Filipino national regardless of the place of commission. Jurisdiction shall also lie if any of the elements was committed within the Philippines or committed with the use of any computer system wholly or partly situated in the country, or when by such commission any damage is caused to a natural or juridical person who, at the time the offence was committed, was in the Philippines.*”Section 26-A of the Expanded Anti-Trafficking in Persons Act 10364 (2012) provides extraterritorial jurisdiction to any act committed outside of the Philippines independently of whether or not this act constituted an offence in the country of commission, and as long as the suspect or the accused is Filipino, resident of the Philippines, and/or committed the act against Filipinos.  |
|  | Include in extradition treaties the sexual exploitation of children as **extraditable offences** and apply when appropriate the rules of article 5 OPSC, regardless the nationality of the (alleged) offender. | Partially | In terms of extradition, according to the Presidential Decree No. 1069, a person who has committed a crime in a foreign country can only be extradited on the basis of a treaty (section 3).Contents of extradition treaties have not been reviewed.Section 22 of Anti-Child Pornography Act (2009) only states, “*The DOJ [Department of Justice], in consultation with the Department of Foreign Affairs (DFA), shall endeavor to include child pornography among extraditable offences in future treaties.*”Section 26-A of the Expanded Anti-Trafficking in Persons Act 10364 (2012) provides that the government might surrender or extradite a person accused of trafficking in the Philippines to another state pursuant to the applicable extradition laws and treaties.Section 25 of the Cybercrime Prevention Act 10175 (2012) refers to the Extradition Law to be applied in cases of cybercrime.The contents of extradition treaties with the Philippines have not been checked. |
|  | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | Partially | Double criminality principle is applied. Section 3(a) of the Philippine Extradition Law stipulates that extradition may be granted only pursuant an existent treaty and if the act is criminalised under the laws of both the Philippines and the state requesting the extradition. With regards to trafficking double criminality is not applied. (See above section 26 of the Expanded Anti-Trafficking in Persons Act) |
|  | Abolish **statutory limitations** for the prosecution of ALL offences of sexual exploitation of children. | No | Article 90 of the Revised Penal Code (1930) stipulates that the statute of limitation of crimes may range from 5-20 years. In cases of trafficking, section 14 of the Expanded Anti-Trafficking in Persons Act 10364 (2012) prescribes that the Statute of limitation period only begins to run after the child turns 18 years old. |
|  | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. |  Partially | Foreign sex offenders notified as sex offenders by their embassies will be ordered out of the Philippines as well as blacklisted. Section 16(c) of the Anti-Child Pornography Act (2009) prescribes the immediate deportation and infinite deny of entry of foreign offenders who completed their sentence. Section 10(i) of the Expanded Anti-Trafficking in Persons Act 10364 (2012) prescribes the same. Section 31(d) of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act No. 7610 (1992) prescribes the same.No restrictions for travel of convicted nationals.The House Bill No. 6257, Ingress Prohibition of Alien Sex Offenders of Children Act is under discussion.  |
|  | Ensure **consistency in the definition of a ‘child’** as anyone under the age of 18 for all crimes of sexual exploitation, regardless of the age of sexual consent. | Partially  | Relevant legislation does define a child as anyone below 18 years of age. In particular, both the Republic Act No. 7610 on Special Protection of Children Against Abuse, Exploitation and Discrimination Act and the Anti-Child Pornography Act No. 9775 protect children under 18 or from abuse/exploitation.However, Section 5 of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (1992) considers victim of ‘child prostitution’ and other sexual abuse any person under 12 years old.  |
|  | Ensure that the **age of sexual consent** for both males and females is 18 and a close in age exemption (up to 3 years) is provided for consensual sexual relationships between adolescents in order to allow voluntary, well-informed and mutual sexual contact between close in age peers and to prevent criminalization of young people in willing sexual relationships. |  No | Article 266-A (d) of Republic Act No. 8353 fixes age of consent to 12 (a bill is under discussion to increase the age of consent to at least 16 years of age and would include a close in age exemption. The bill was approved by the Senate at the end of September 2021 and is pending finalization by an ad-hoc bicameral conference committee and final signature by the President |
|  | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No  | In February 2019, a bill titled "An Act Protecting Children From Traveling Sex Offenders and For Other Purposes” was filed in the Senate of the Philippines barring foreign sex offenders, including those whose names are listed in any sex offender registry, from traveling to the country. The bill, among other thingsdirects the DOJ to establish a sex offender registry. However, the Bill has not been passed. |
|  | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Partially  | Rule 114 Section 5 (d) and 5(e) of the Revised Rules of Criminal Procedures provides that bail shall not be granted in cases where there is a high risk of that the offender will commit another crime or will flee the country. Furthermore, pursuant Rule 114 Section 5, any offence that results in more than 6 years of imprisonment shall not be granted bail. The offender shall be denied bail if the trial condemns him/her with more than 6 years of imprisonment. Thus, bail is not applicable to the crime of rape, trafficking of children as these are condemned for 20 years pursuant section 10(a) of the Anti-Trafficking Act. |
|  | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Partially | The national legislation only criminalises the attempt to commit exploitation of children in prostitution under Section 5 of the RA 7610. |
|  | Impose more severe sentences for **reoffending** in case of sexual exploitation against children, e.g. by defining reoffending as an aggravating circumstance, regardless of whether the crimes were perpetrated abroad or in-country. | Yes  | There are no laws that impose more severe sentences for recidivist who specifically commit sexual offences against children. However, article 14(9) of the Revised Penal Code defines recidivist as a person “*who, at the time of his trial for one crime, shall have been previously convicted by final judgment of another crime embraced in the same title of this Code.*” Reoffending is thus a factor that aggravates the criminal liability of the person. Preventive imprisonment shall not be deducted from the period of sentence for recidivists. |
|  | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. |  Yes | In the Philippines, the national legislation imposes mandatory duties on certain professionals working with children to report suspected cases of OCSEA. Pursuant to the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, mandatory reporting duties related to all child abuse cases, including OCSEA offences, have been imposed on “the head of any public or private hospital, medical clinic and similar institution, as well as the attending physician and nurse”. (Section 4) These persons are bound to report to the Department of Social Welfare and Development (DSWD) within 48 hours of obtaining knowledge about a child abuse case. Besides these persons, these rules also impose reporting duties on government workers like “teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, barangay officials, corrections officers and other government officials and employees whose work involves dealing with children”. (Section 5) Other citizens may also report cases of child abuse to the DSDW, however they do not have any mandatory duties. (Section 3)The Implementing Rules and Regulations of the Anti-Child Pornography Act of 2009 impose mandatory reporting duties on private citizens. |
|  | Establish obligatory government-regulated child protection standards for the tourism industry for example, attach responsibility to an appropriate regulatory authority and/or implement industry specific **national codes for child protection** as a legal requirement for the travel and tourism industry to operate. | Yes  | According to section 3(e) of the Tourism Act and its implementing rules and regulations (2009), the State shall ensure that tourism projects and developments prevents exploitation of women and children in tourism More specific to children, section 10 (b) of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (1992) forbids any person from having the company of a non-related minor (12 years or less) or 10 years his/her junior in public or private place such as touristic resorts and hotels. The offence leads to maximum imprisonment sentence and a fine of 50000 pesos (USD 961) Under section 10 (d) any owner or manager operating a public or private place for accommodation and allowing someone from having the company of a non-related minor, shall see his or her license revoked and be imprisoned for a medium period. He or she shall also pay a fine of 50000 pesos (USD 961).Local tourist destinations such as Bohol province, Malay, Aklan municipality and San Juan, Siquijor town have enacted a Tourism Child Protection Ordinance which requires tourism businesses to adopt a child protection policy, train staff on child protection and display information materials that promote child safe tourism. Since June 2020, the Department of Tourism in partnership with ECPAT Philippines has been conducting webinars for tourism officers nationwide on how to replicate the model ordinance in their respective localities. |
|  | Ensure the **liability of travel and tourism businesses** (in operations and supply chains) for criminal conduct including:* Organising travel arrangements or transportation that are explicitly or implicitly meant to create or facilitate opportunities to engage (involve) children in sexual activities;
* Procuring, aiding or abetting the exploitative sexual conduct with a child;
* Advertising or promoting sexual exploitation of children;
* Benefitting, by any means, from any form of sexual exploitation of a child (or children) in the context of their travel and tourism business.
 | Yes  | Article VII section 11 of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act sanctions travel agencies from promoting or facilitating among other exploitation of children in prostitution and child sexual abuse and child traffickingArticle VII section 11 of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act sanctions any establishment or resorts that promote or facilitate ‘child prostitution’ and other sexual abuse.Under section 10 (d) any owner or manager operating a public or private place for accommodation and allowing someone from having the company of a non-related minor, shall see his or her license revoked and be imprisoned for a medium period. He or she shall also pay a fine of 50000 pesos (USD 961).Although section 4(d) of the Anti-Trafficking Act prohibits any person (natural or juridical) from organising tours and travel plans for the purpose of offering prostitution, pornography or sexual exploitation, it is not restrictively applicable to children. Any advertisement, publishing or distribution of publication promoting trafficking in persons by means of informative technology or internet is prohibited under section 5(c) of the Anti-Trafficking Act. The same goes to advertising child pornography under section 4(c) of the Anti-Child Pornography Act.  |
|  | Criminalise the **grooming of children for sexual purposes** (often called ‘solicitation’ in law) including through Internet and other communication technologies to facilitate either online or offline sexual exploitation. |  Yes | Section 4(h) of the Anti-Child Pornography Act (2009) prohibits any person from engaging in the luring or grooming of a child. |
|  | Establish legislation requiring for a **criminal background check** for every person (national or non-national) applying for work with or for children or who is currently working with or for children. Introduce legislation prohibiting convicted sex offenders to hold positions involving or facilitating contact with children. | No | The proposal for the Magna Carta of Day Care Workers stipulates one qualification of a DCW is that he/she should not have pending case on child abuse. Nevertheless, for the offences like rape, seduction, and acts of lasciviousness committed by teachers or other persons entrusted with “education and guidance of youth”, Article 346 of the Revised Penal Code prescribes “the penalty of temporary special disqualification in its maximum period to perpetual special disqualification”. |
|  | Regulate and monitor the use of volunteers (including in **‘voluntourism’**) in settings and activities that involve direct contact with children, particularly prohibiting visits to orphanages/residential care settings in favour of redirecting the industry towards solutions that support community-based care. | No  |  |
|  | Ratify and implement relevant **regional and international instruments** related to child’s rights and sexual exploitation of children. | Partially | * Convention on the Rights of the Child (CRC) Ratified in 1990
* Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography Ratified in 2002
* Optional Protocol to the CRC on a Communications Procedure (OP3 CRC) Not signed
* ILO Convention on the Worst Forms of Child Labour (No. 182) - Ratified in 2000
* UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children - Ratified in 2002
* The United Nations’ World Tourism Organisation’s (UNWTO) Framework Convention on Tourism Ethics - Not ratified
* Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) - Not Ratified
* Council of Europe Convention on Cybercrime (Budapest Convention) – Acceded to in 2018
* ASEAN Convention Against Trafficking in Person, Especially Women and Children – Ratified in 2017
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|  | Establish **protection measures** for child victims at any stage of the legal process against the suspected offender. | Yes | The Anti-Child Pornography Act, § 14 makes child victims of trafficking and pornography automatically eligible for protection under the Witness Protection Act. Section 8 of this Act states that the witness shall have the following rights and benefits: (a) To have a secure housing facility until he has testified or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. When the circumstances warrant, the Witness shall be entitled to relocation and/or change of personal identity at the expense of the Program. This right may be extended to any member of the family of the Witness within the second civil degree of consanguinity or affinity. In addition, the Act 9262 "*Anti-Violence Against Women and Their Children Act of 2004*" states that the Court might issue a protection order to prevent further acts of violence against a woman or her child specified in Sec. 5 of this Act and grant other necessary relief. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life (section 8).Philippines has a number of procedures in place to protect the privacy of child victims of sexual exploitation from banning media coverage (Extended Anti-trafficking act, section 10) to taking the child’s testimony in in camera hearings (Anti-Child Abuse Act, § 30; Expanded Anti-Trafficking Act, § 10; Anti-Child Pornography Act, § 13; Rule on Examination of a Child Witness, § 31), via permitting children to withhold in-court testimony that reveals their identity (Rule on Examination of a Child Witness, § 31). |
|  | Establish **child-friendly interviewing practices by professionally trained police.**  | Partially | Witness Protection, Security and Benefit Act (1991) provides witness protection in severe and serious cases. Child victims of trafficking and sexual abuse fall in this category. The Special Protection of Children Against Abuse, Exploitation and Discrimination Act (1992) sections 28,29 and 30 provides respectively protective custody of the child, confidentiality and special court proceedings. The Supreme Court’s Rule on the Examination of a Child Witnessprovides child friendly procedure to be applied in all cases of examination of children witness. More specifically to child victim and witness of SEC, the Protocol for Case Management of Child Victims of Abuse, Neglect and Exploitation prescribes a set of child sensitive procedures from the beginning to the end of the case. A Child Advocacy Centre does not exist in the country. |
|  | Ensure that national legislation provides the **right for child victims to receive support in their recovery and rehabilitation**, including accessing re-integration services. | Yes | Section 2 of the Expanded Anti-Trafficking in Persons Act established that “*The State shall give highest priority to the enactment of measures and development that […] ensure [victims’] recovery, rehabilitation and reintegration into the mainstream of society*”.Section 31 of the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, mentions a fund disbursed for the rehabilitation of each child victim. Section 14 of the Anti-Child Pornography Act establishes that all child victims of online child sexual exploitation are provided appropriate care, custody and support for their recovery and reintegration.  |
|  | Establish a **national reporting mechanism (e.g. hotline)** that coordinates access to services, and helps to overcome reluctance to report sexual exploitation of children. | Yes | The child helpline, Bantay Bata 163, is also promoted as a hotline for members of the public to report cases of child sexual abuse and exploitation.Reports can also be made to the national emergency police hotline (117) and different police divisions including the Women’s Crisis and Child Protection Office, and the Criminal Investigation and Detection Group for Cyber Crime.The Philippines is linked to the Virtual Private Network of the National Center for Missing and Exploited Children (NCMEC). The Department of Justice Office of Cybercrime is notified when NCMEC receives a report that has a Philippines nexus through its CyberTipline.ECPAT Philippines and the Cybercrime Investigation and Coordinating Center (CICC) on Oct. 14, 2020 have signed a Memorandum of Understanding to operate an INHOPE Internet Hotline in the Philippines. INHOPE is a network of international hotlines that aims to quickly remove CSAM from the internet and retain information to aid law enforcement investigation. |
|  | Create **data retention and** preservation laws, regulations and procedures, to ensure the retention and preservation of digital evidence and enable cooperation with law enforcement which applies to ISPs, mobile phone companies, digital social media and communication companies, cloud storage companies, based in/operating in national jurisdiction. | Yes | According to section 9 of the Anti-Child Pornography Act, ISPs are obligated to preserve evidence for use in criminal proceedings for a minimum of six months and give details of users who access or attempt to access websites containing child abuse images following a request from the police. |
|  | Ensure that national legislation provides the **right for all child victims of sexual exploitation to seek compensation** in national courts from convicted perpetrators who harmed them and/or through state-managed funds.  |  Yes | Revised Rules of Criminal Procedure rule 111, section 1: When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offence charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.Revised Rules of Criminal Procedure, rule 120: court may order defendant to pay damages caused by his wrongful act.In addition, general crime victim funds are authorized by the Philippines, Act Creating a Board of Claims, R.A. 7309 (1992). This allows victims to get compensation through state compensation programmes. |

**Legal Sources:**

[Act creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes](http://hrlibrary.umn.edu/research/Philippines/RA%207309%20-%20%20Law%20Creating%20the%20Board%20Of%20Claims.pdf) (Republic Act No. 7309)

Anti-Child Pornography Act of 2009 (Republic Act No. 9775)

[Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208)](https://www.pcw.gov.ph/law/republic-act-9208)

[Anti-Violence Against Women and Their Children Act of 2004 (Republic Act No. 9262)](http://hrlibrary.umn.edu/research/Philippines/RA%209262%20-%20Law%20Against%20Violence%20Against%20Women%20and%20Their%20Children.pdf)

[Cybercrime Prevention Act of 2012 (Republic Act No. 10175)](https://www.officialgazette.gov.ph/2012/09/12/republic-act-no-10175/)

Extradition Law (Presidential Decree No. 1069)

[Revised Penal Code of 1930 (Act No. 3815)](https://lawphil.net/statutes/acts/act_3815_1930.html)

[Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (Republic Act No. 7610 of 1992)](https://pcw.gov.ph/sites/default/files/documents/laws/republic_act_7610.pdf)

[Tourism Act of 2009 (Republic Act No. 9593)](https://www.officialgazette.gov.ph/2009/05/12/republic-act-no-9593-s-2009/#:~:text=%E2%80%94%20The%20State%20declares%20tourism%20as,to%20mold%20an%20enhanced%20sense)

Witness Protection, Security and Benefit Act (Republic Act No. 6981)