**Uganda**



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 Uganda and other countries in Africa, as well as Southeast Asia, 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.

Note: A pending Sexual Offences Bill criminalises “indecent communication” according to information publicly available as of July 2021 and includes a provision exempting child victims from being penalised for engaging in acts constituting sexual exploitation.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Recommendations | Implemented | Legislation |
| 1. | 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. | Yes | Article 5 of the Penal Code specifies that an act done partly within and partly beyond the jurisdiction can be punished under the Penal Code in the same manner as if such act had been done wholly within the jurisdiction.Article 30 of the Computer Misuse Act establishes that the Act applies to any person whatever his or her nationality or citizenship and whether he or she is within or outside Uganda and where an offence under this Act, is committed by any person in any place outside Uganda. However, to be prosecuted, it is required that the accused was in Uganda at the material time or the computer, programme or data was in Uganda at the material time.Article 19 of the Prevention of Trafficking in Persons Act (PTPA) stipulates that the act will apply to offences committed outside Uganda by a person who, while being a citizen of, or permanently residing in Uganda, commits an act outside Uganda (active extraterritorial jurisdiction) and also if the victim was a citizen of Uganda at the time of commission of the offence (passive extraterritorial jurisdiction). The Act also will apply for offences committed partly inside and partly outside Uganda or if a substantial proportion of the effects of the offence have occurred or taken place within the territory of Uganda.The Anti-Pornography Act is silent on extraterritorial applicability of its provisions. |
| 2. | 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. | No | The Extradition Act contains general provisions relating to extradition in Uganda. Article 28 lists the crimes extraditable under the Act, SEC-related offences are not part of the list.However, Article 20 of the PTPA establishes that: “*A person charged with an offence under this Act shall be liable to extradition under the existing Extradition laws*”. |
| 3. | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | Yes | The principle of double criminality doesn’t apply in cases of extra-territorial jurisdiction (point 1).The Extradition Act doesn’t contain any provision on the principle of double criminality. |
| 4. | Abolish **statutory limitations** for the prosecution of ALL offences of sexual exploitation of children. | Yes | The laws do not seem to prescribe any statutory limitation periods for the prosecution of SEC-related offences. |
| 5. | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. | Partially | Article 10 of the Immigration Act prohibits the entry of any person who, not having received a free pardon, has been convicted in any country of murder, or any offence for which a sentence of imprisonment has been passed for any term, and who by reason of the circumstances connected with the conviction is declared by the Minister to be an undesirable immigrant.No provisions on the prohibition of persons convicted of sexual exploitation of children to leave the country have been found. |
| 6. | 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. | Yes | Article 257 of the Constitution defines a ‘child’ as anyone under eighteen years old.Article 2 of the Children Act defines a ‘child’ as anyone under eighteen years old.Article 2 of the Anti-Pornography Act defines a ‘child’ as anyone under eighteen years old.Article 2 of the PTPA defines a ‘child’ as anyone under eighteen years old. |
| 7. | Provide criteria to determine whether the consent for sexual activities between peers under the age of 18, or if there is a close-in-age exception is e.g. voluntary, well-informed and mutual, to avoid misunderstanding and clarify non-exploitative situations and to prevent criminalization of young people in consensual sexual relationships | Partially | The age of sexual consent is 18 years. According to the Ugandan Penal Code, “any person who performs a sexual act with another person who is below the age of eighteen years, commits a felony known as defilement and is on conviction liable to life imprisonment”. The Penal Code does not provide for a close-in-age exception and establishes the offence of “child-to-child sex”, expressly criminalising sexual acts between children. (article 129 A). Under the PTPA, section 3(4) states that “consent” of a victim of trafficking shall not be relevant.  |
| 8. | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No | Ugandan laws do not provide for the establishment of a national sex offender’s register.However, article 24 of the Anti-Pornography Act provides for the establishment of a register of pornography offenders. |
| 9. | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Yes | There are no provisions on bail in the national legislation. |
| 10. | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Yes | Article 21 of the Computer Misuse Act criminalises attempt to commit any of the offences under the Act.Article 8 of the PTPA punishes attempts to traffic in persons with imprisonment for five years or a fine of one hundred and twenty currency points or to both. |
| 11. | 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. | No | There are no provisions on recidivism in the national legislation. |
| 12. | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. | Yes | Article 42A of the Children Act establishes the obligation to report matters affecting the well-being of children under their charge for medical practitioners, social workers, teachers, and local councilors. It also stipulates that any person who knows about a child at risk of sexual abuse or in need of care and protection has the duty to report to a designated child protection organisation or authority.In addition, article 4(5) also establishes that a person who witnesses an abuse against the rights of a child shall, as soon as possible, report the matter to the police or any authority responsible for child welfare.Finally, article 11 states a duty to report infringement of a child's rights. |
| 13. | 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. | No |  |
| 14. | 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. | Partially | Although there are no specific laws ensuring the liability of the private travel and tourism sector for SECTT, some provisions exist within the national legislation to ensure the liability of legal entities and the withdrawal of licences.Article 18 of the Anti-Pornography Act states that when a proprietor of a place of leisure or entertainment or of a business dealing in leisure or entertainment commits a second offence under the Act, the court may issue an order suspending or prohibiting the offender from dealing in leisure or entertainment.Article 3(2) of the PTPA criminalising the trafficking of persons, stipulates that where the offender is a legal person, it shall be liable to a fine of one thousand currency points (approx. US$5,408 as of October 2020), and temporary or permanent closure, deregistration, dissolution, or disqualification from practice of certain activities. Also, under the PTPA, sexual exploitation of children (referred to as “sex tourism”) is included in the definition of “sexual exploitation” [section 2(o)] and is defined as “a program organized by travel and tourism, related establishments or individuals, which consists of tourism packages or activities, utilizing and offering escort and sexual services and practices offered for any persons as part of work recreation.  |
| 15. | 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. | No |  |
| 16. | 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 Prevention of Trafficking in Persons Act (PTPA) requires that any person applying for employment that places them in a position of authority or care of children to disclose any conviction of trafficking under the PTPA [Section 9]. However this provision only applies to crimes of sexual exploitation of children criminalized in the PTPA. |
| 17. | 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 |  |
| 18. | Ratify and implement relevant **regional and international instruments** related to child’s rights and sexual exploitation of children. | No | * Convention on the Rights of the Child - Ratified in 1990
* Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - Ratified in 2001
* Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure - Not ratified
* ILO Convention on the Worst Forms of Child Labour (No. 182) - Ratified in 2001
* UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children - Not ratified
* 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) - Not ratified
* African Union Charter on the Rights and Welfare of the Child - Ratified in 1994
* African Union Convention on Cyber Security and Personal Data Protection - Not ratified
 |
| 19. | Establish **protection measures** for child victims at any stage of the legal process against the suspected offender. | Partially | Article 42C of the Children Act entitles every child the right to protective services which include support and protection of children during proceedings in a family and children court.The Children Act applies to nationals and non-nationals child victims (article 4).The Ugandan laws do not make any specific provision for psychological support to children during investigation and legal proceedings. Nevertheless, the Children Act entitles every child the right to protective services which include support and protection of children during proceedings in a family and children court. In addition, the Children Act guarantees every child the right to legal aid stating that every child has the right to “effective legal aid including representation in all civil, criminal and administrative proceedings”. The PTPA (2009) and PTPA Regulations (2019) outline a number of victim protections, rights, and processes – PTIPA Sections 11, 12, 13, 14, 15, and 16 / Regulations Sections 14, 15, 16, 17, 18, 19, 20-22, 23, 24, and 25.  |
| 20. | Establish **child-friendly interviewing practices by professionally trained police.** | Partially  | In terms of child-friendly interview methods, the Children Act provides that proceedings of a family and children court shall be held in camera and shall be as informal as possible and by inquiry instead of exposing the child to adversarial procedures and parents or guardians of the child shall be present whenever possible. The Child Advocacy Center (CAC) does not exist in the country.  |
| 21. | Ensure that national legislation provides the **right for child victims to receive support in their recovery and rehabilitation**, including accessing re-integration services. | Partially | Article 42A of the Children Act gives the responsibility to child protection organisation, probation and social welfare officer or a police officer who has conducted an investigation to take measures to assist the child, or refer the child to protective services including counselling, mediation, prevention and early intervention services, family reconstruction and rehabilitation, behaviour modification, and problem solving. Articles 42B stipulates that the Minister must develop prevention and early intervention programmes, including psycho-social, rehabilitation and therapeutic programmes for children.Article 7 of the Anti-Pornography Act stipulates that the Committee is able to promote the rehabilitation of individuals, groups, families or communities affected by pornography.Article 12 of the PTPA establishes protection, assistance and support for children victims of trafficking including available health and social services, medical care, counseling and psychological assistance, provided in accordance with their special needs, especially with regard to accommodation, education and care.However, the law doesn’t seem to provide tailored programmes for child victims. |
| 22. | 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 | In 2014, a toll free line (116) was created to report issues of child violence, abuse and neglect. The national child helpline service provides children and the community with an avenue for reporting incidents of violence, abuse and exploitation occurring to either themselves or their peers. It also provides children with access to protection and remedial services.Furthermore, in September 2015, the National Information Technology Authority (NITA-U) launched a reporting portal on online child sexual abuse. It is an online mechanism where online CSAM can be reported. It allows persons to make a complaint anonymously. |
| 23. | 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. | No | Article 9 of the Computer Misuse Act states that an investigative officer may apply to a court for preservation of data that has been stored or processed by means of a computer system or any other information and communication technologies, where there are reasonable grounds to believe that such data is vulnerable to loss or modification.Sections 8 and 9 of the PTPA Regulations call for creation and monitoring of a national data base on cases of trafficking in persons.  |
| 24. | 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 | Article 92 of the Children Act stipulates that the executive committee courts may ask for compensation for a child victim. The Children Act applies to nationals and non-nationals child victims (article 4).Article 27 of the Computer Misuse Act establishes the possibility for victims to seek compensation. The law applies to nationals and non-nationals child victims (article 30)Article 16 of the PTPA establishes the possibility for victims to seek compensation. The PTPA applies to nationals and non-nationals child victims (article 11). |

**Uganda - Legislation**

[Constitution](https://washington.mofa.go.ug/files/downloads/Constitution_of_Uganda_1995.pdf)

[Penal Code](https://ulii.org/ug/legislation/consolidated-act/120)

[Penal Code amended](https://ulii.org/system/files/legislation/act/2007/8/the_penal_code_amendment_act_no_8_of_2007_pdf_96734.pdf)

[Criminal Procedure Code Act](https://ulii.org/ug/legislation/consolidated-act/116)

[Children Act](https://ulii.org/system/files/legislation/act/2019/59/The-Children-Act-Cap-59-as-amended-2016.pdf)

[Anti-Pornography Act](https://ulii.org/system/files/legislation/act/2014/1/Anti%20Pornography%20Act%20of%202014.pdf)

[Computer Misuse Act](https://ulii.org/ug/legislation/act/2015/2-6)

[Prevention of Trafficking in Persons Act (PTPA)](https://www.mia.go.ug/sites/default/files/download/Prevention-Trafficking-Persons-Act-2009.compressed.pdf)

[Extradition Act 1964](https://ulii.org/ug/legislation/consolidated-act/117)

[The Uganda Communication Commission Act No. 1 of 2013](https://www.ug-cert.ug/files/downloads/UCC%20Act%202013.pdf)

[Immigration Act](https://ulii.org/ug/legislation/consolidated-act/63)