

EXTEND TIME LIMITS FOR REPORTING CHILD SEXUAL ABUSE UNTIL SURVIVORS REACH 53y OLD.

ECLAG Memo 3 on the proposed Recast Child Sexual Abuse Directive
October 2024

ECLAG welcomes and supports the [EC proposed recast of Directive 2011/93/EU of February 2024 on Sexual Abuse and Exploitation of Children](#). ECLAG emphasizes that EU Member States have the obligation to protect children from falling victims of sexual abuse and to ensure victims have access to justice. Recognizing the unique nature of child sexual abuse, ECLAG advocates for **the abolition of statutes of limitation (SOL)**¹ to guarantee the right of every victim to access justice.

As the Directive can only establish minimum standards of harmonisation, we welcome the European Commission' proposal to introduce minimal time limits (*Article 16*). **However, the proposed time limits should be based on objective evidence** demonstrating that they provide most victims a realistic opportunity to seek justice and effectively protect other children from further harm by convicted offenders. **Therefore, we call for extending the proposed time limits to at least until survivors reach the age of 53, i.e. 35 years after victims reach 18 years old, for all crimes of child sexual abuse and exploitation.**

The specificity of child sexual abuse calls for the abolition of statutes of limitation. Any time period should be based on objective evidence.

- **The severity of child sexual abuse and its impact on victims and society.** Child sexual abuse is a public health epidemic. [1 out of 5 of European children have suffered some sort of CSA](#). Child sexual abuse frequently has [long term physical, psychological and social consequences well into adulthood](#). It also causes a [high economic burden for survivors, their families and taxpayers](#). A 2023 study concluded that childhood violence is the most costly public health issue in the US, exceeding the costs of cancer or heart disease.²
- **Sexual abuse and exploitation of children and delayed disclosure. Child sexual exploitation and abuse is a distinct crime with unique characteristics** that justify eliminating statutes of limitations.³ In particular:

¹ FR: *délais de prescription*; GER: *Verjährungsvorschriften*; IT: *legge che prevede termini di prescrizione*; SP: *prescripción legal*; PT: *prazo de prescrição*; NL: *verjaringstermijn*; SW: *preskription*; FI: *vanhentumisaika*; PL: *przedawnienie*; HU: *elévülési idő*; CZ: *promlčecí lhůta*; DK: *forældelsesfrist*.

² Peterson C, Aslam MV, Niolon PH, et al, [Economic Burden of Health Conditions Associated With Adverse Childhood Experiences Among US Adults](#), JAMA Netw Open. 2023.

³ For further details and references, see the M.A. Kostopoulou, [Comparative study of the statutes of limitations in respect of sexual offences against children in the States Parties to the Lanzarote Convention](#), May 2023, pp.7-8 ; M. McVarish, M. Hamilton, M. Hurtado, [Justice Unleashed: ending limitations, protecting children](#), The Brave Movement & Child Global, July 2023, p. 8.

- **Children’s specific vulnerabilities and developmental limitations hinder their ability to disclose.** Children may also not fully grasp that what occurred was abusive, especially if the abuser was a trusted adult. It may take reaching adulthood for survivors to develop the emotional maturity to recognize the abuse for what it was and understand its long-term effects.
 - **Child sexual abuse and exploitation may remain hidden for years,** leaving often no direct visible signs that would prompt immediate investigation and legal action.
 - **Psychological, interpersonal and sociocultural barriers** (such as the perceived “taboo” nature of the crime in question) **prevent children from disclosing their abuse, if ever.** These offenses are often committed repeatedly, in a close circle (family, school, church, sports club, etc.) and are marked by the **perpetrator's ascendancy or authority over the victims.** Offenders exert a control over their victims and their community, preventing victims from reporting. However, as time passes, the offender's control over the victim lessens, allowing the victim to take action.
 - [Extensive research](#) shows that the trauma can cause victims to **repress or block out the memories** (‘traumatic amnesia’, i.e. memory loss as a trauma response). [About 40 % of the victims](#) can simply not report the abuse as their memories are blocked in certain areas of the brain as a protective measure, and will only be reactivated at the chance of certain triggering events, which may never occur.
 - **Victims also frequently repress their trauma due to feelings of guilt, shame or fear.** The power imbalance and self-blame make it emotionally easier to deny or minimize the abuse. This guilt delays their ability to fully understand, process and confront what happened and prevent victims from coming forward.
 - Finally, due to the severity of the abuse experienced when they were child, **victims are left vulnerable and need time to heal before they are ready to face the challenges of the legal process.** These processes are overwhelming, including interaction with the police, lawyers, magistrates but also the possible confrontation with their abuser in court, the publicity of their abuse and potential media attention. This often exacerbates the trauma victims have already experienced. These challenges can significantly hinder victims’ ability to seek justice if they are bound by time limits on reporting abuse.
- Recent evidence shows that due to obstacles to reporting and trauma response, [the average age of disclosure for survivors is 52 years.](#) The most recent research conducted by Child USA shows that [the majority of victims who disclosed their abuse did first after age 50.](#) At least 30% of victims never disclose at all.
 - **Many of the factors mentioned above which affect disclosure timing are unrelated to the severity of the abusive act or its potential penalties.** The Commission’s suggestion to establish the limitation period based on the severity of the punishment for the crime does not account for the specific nature of this crime. Research on [Adverse Childhood Experiences \(ACE\)](#) shows that the **severity of the long-term physical and mental health consequences of ACEs are dose-dependent,** meaning that the severity of the trauma increases with the number of ACEs a

child experiences. For example, a survivor of child sexual abuse involving a "less severe" act, such as fondling, may experience more severe long-term health consequences if they also faced multiple other ACEs, like living in a household with substance abuse or domestic violence. In contrast, a survivor of a more severe sexual abuse, like rape, who did not experience other ACEs may have less severe long-term impacts. **Any time period should consider the diverse and cumulative nature of children's experiences, which are not reflected in the potential penalties for the abuse they have endured.**

- **Research shows that many child sexual abuse offenders, though not all, [remains at risk of reoffending long after](#) they have committed their initial crimes.**
- Accordingly, statutes of limitation should be abolished for all crimes of child sexual abuse and exploitation. As a minimum standard, **the Directive should ensure that survivors have at least until age 53 to report any crime of child sexual abuse and exploitation.**

Extending SOL meets a legitimate aims

- Abolishing or extending SOL aims:
 - to **combat impunity** for sexual offences committed against children;
 - to ensure survivors of child sexual abuse can seek justice when they are effectively able to do so, **acknowledging the unique complexities they face**;
 - **to protect children from sexual abuse perpetrated by recidivists**;
 - to exert **greater pressure on the offenders** to prevent them from committing the abuse and from reoffending.
- **Prosecution also acts as a prevention tool.** It allows the society to monitor convicted offenders, engage them in programmes aimed at lowering the risk of their reoffending and stop them from occupying employment and volunteering positions where contact with children is possible.
- Short statutes of limitations have historically allowed institutions to escape responsibility for their role in enabling or ignoring abuse. **Abolishing or extending SOL ensures that institutions can still be held accountable** for failing to prevent abuse, failing to act on allegations, or actively covering up wrongdoing, even if the abuse happened many years ago.

Extending SOL for child sexual abuse respects the rights of the defence

- While most States have traditionally decided to set time limits for reporting and prosecuting criminal acts, **these limits are not an absolute or fundamental legal principle.** They can be extended, modified, or abolished, in line with a state's repressive policy.
- The rationale behind these time limits is typically to protect suspects from late prosecution and to maintain social order by establishing a point at which legal certainty and societal stability take precedence over pursuing offences. While it is crucial to consider the impact that abolishing or extending SOL can have on the defense, **numerous countries and international institutions have acknowledged that extending or abolishing SOL for crimes of child sexual abuse does not inherently violate defense' rights.** Among others, the [European Court of Human Rights](#) (ECtHR)

has supported the extension or abolition of SOL for serious crimes, emphasizing that such measures can be compatible with the principles of justice.⁴ The [UN Committee on the Rights of the Child](#) has called on States to “remove systemic barriers to justice for children, including limited prescription periods”. The [Parliamentary Assembly of the Council of Europe](#) urged Member States to abolish the statute of limitations. In EU, [Cyprus and Ireland](#) never had such limitation or had them for a short period of time limited to a specific territory and category of offence. Belgium has recently abolished them and Luxembourg also abolished them for child rape. In France, the [Independent Commission on Incest and Sexual Violence against Children \(CIIVISE\)](#) also recommended the abolition of statute of limitations.⁵

- In particular, **extending SOL does not compromise the rights of suspects and offenders to benefit from all the guarantees of a fair trial** provided for in domestic and international law. The absence of SOL does not change the fact that guilt must be proven, taking into account the presumption of innocence and the rights to a fair trial. Courts can still dismiss the case if the evidence is insufficient or unreliable due to the passage of time, or if a delayed prosecution would hinder a fair trial.
- **Child sexual abuse and exploitation can be reliably proofed even after a significant period of time.** Proving acts committed in private will always remain challenging, whether the acts occurred 1 month, 10 years or even 30 years ago. While some evidence may diminish over time, **various forms of evidence can still support claims made long after the abuse occurred.**
 - **Advances in forensic science, such as DNA testing** and other forms of biological evidence that may remain viable for years, makes it possible to uncover physical evidence long after the abuse has occurred.
 - **Physical records, written communication, documents (notably for abuse committed in institutions), or digital footprints** may still exist long after the event. This is especially true in cases involving **child sexual abuse materials (CSAM)**, which often persists over time. Years after the abuse, the possession and distribution of CSAM can still be prosecuted as an ongoing offence, while the original abuse depicted in the images or videos may not be legally pursued if the statute of limitations has expired.
 - **Medical records and psychological evaluations of the victim's trauma** may reveal a history of symptoms, such as Post-Traumatic Stress Disorder, depression, or anxiety, which can help corroborate the victim's claims.
 - **Confession by the abuser or multiple testimonies** from different victims against the same perpetrator can also lead to the successful prosecution of a child sexual abuse offender, even years after the crimes occurred.
- **Extending SOL merely rebalances an inequitable relationship** which was extremely favourable to offenders and disproportionately impacted survivors who need time to process their abuse and come forward. It reflects a shift in the understanding of 'social peace,' placing less emphasis

⁴ See notably the analysis made of ECtHR case law in Belgian Constitutional Court, [Arrêt n°76/2022 of 9 June 2022](#), Numéro de rôle 7404.

⁵ See also the comments of the lawyer Carine Durrieu Diebolt, [Recommandation de la CIIVISE: une meilleur reconnaissance des victimes par l'imprescriptibilité?](#), 4 December 2023.

on the offender's peace of mind — a traditional rationale for statute of limitations— and instead prioritizing restoring the victims' right to access justice.

Access to justice for CSA survivors should not be a postcode lottery within the EU

- **There is a clear need for harmonisation on SOL within the EU.** In the absence of a joint EU approach to SOLs, **access to justice for survivors resembles a “postcode lottery”**, depending on survivors' country of residence. Some EU Member States have eliminated them for most or all child sexual abuse offenses, while others have extended them without abolishing them, and some have made minimal legislative changes.⁶ It is not acceptable that some EU countries with short SOLs serve as safe havens for offenders who are then able to move to another EU country and seek a position with regular contact with children.
- Establishing minimum limitations periods within the Directive respects **the legal principle of proportionality and leaves it to Member States to decide how to implement these in practice.** Various technical options exist to extend limitation periods. Some Member States may choose to abolish statutes of limitation, like in Ireland, Cyprus, Belgium or Luxembourg when it comes to rape. Others may decide that the limitation period only begins when the survivor reaches a certain age (as seen in Spain where it starts at 35, Germany at 30 or Austria at 28). Some Member States may ensure that the limitation period cannot run out before survivors reach a certain age (as Poland where SOL may not elapse before the victim turns 40). Others, such as Italy, may opt to double the standard limitation period for child sexual abuse offenses. **All these approaches are acceptable, provided that the limitation period does not expire before survivors have reached the age of 53.**
- In 2020, the Parliamentary Assembly of the Council of Europe urged member States “**to abolish the statute of limitations** for sexual violence against children, or to at least ensure that the prescription periods for sexual violence against children in civil and criminal law are proportionate to the gravity of the alleged abuse and, in any case, **no shorter than thirty years after the victim has reached the age of 18**”.⁷ In June 2024, within the framework of the Lanzarote Committee, all 27 EU Member States expressed a **unanimous political consensus to significantly expand statutes of limitations for CSA**.⁸
- Many EU countries started to recognize the unique challenges that survivors face and started to adjust their legal frameworks to allow more time for victims to come forward and seek justice. **The Directive provides a unique opportunity for EU-wide harmonization of SOL to ensure all survivors have at least until age 53 to report any crimes of child sexual abuse and exploitation, i.e. at least 35 years after the victims reach 18 years old.**

→ See our amendments to Article 16.

⁶ For a comparison of EU Member States approaches to SOLs see the analysis in Justice Unleashed, cited above; M.A. Kostopoulou, Comparative study of the statutes of limitations in respect of sexual offences against children in the States Parties to the Lanzarote Convention, May 2023.

⁷ Parliamentary Assembly of Council of Europe, Resolution 2330 (2020) Addressing sexual violence against children: stepping up action and co-operation in Europe, para. 6.1.4

⁸ Lanzarote Committee, Opinion on article 33 of the Lanzarote Convention and its explanatory note, adopted on 11 June 2024.