

Many cases – few convictions?
Sexual exploitation of children through German travelling child sex offenders
Research in Germany, Cambodia and Vietnam

Executive summary

Background

Every year, millions of children are estimated to be victims of sexual exploitation worldwide. Some are exploited by tourists or travellers, some are trafficked into sexual exploitation and millions of images of child sexual abuse circulate daily on the internet.

Many offenders feel protected through a deceptive anonymity abroad. Being far away from home, outside their usual social environment, it seems easier for them to justify the crime by supposedly assuming different social rules. Furthermore, travelling offenders believe they are untouchable by the legal system of both the destination country and their home country. On the other hand, many travellers who witness suspicious situations are uncertain about taking action. Even if they are willing to react and report the cases, they might encounter language obstacles, or the lack of well-known and easy accessible hotlines or websites might discourage them from taking action. But reports on suspicious situations, where the welfare and safety of a child seems to be at risk, can not only lead to rescuing the child out of the acute situation but also promote the prevention of sexual exploitation of children by detecting new hot spots.

For 25 years ECPAT¹, as a global network of non-governmental organisations, has been committed to improving criminal law and for intensifying prosecution of travelling child sex offenders on the one hand, and for improving victims support and the protection of children on the other hand. The report is embedded in the EuropeAid funded project “Don’t look away – be aware & report the sexual exploitation of children in travel and tourism!” (2012-2015). It involved six ECPAT groups from Austria, France, Germany, Luxembourg, the Netherlands and Poland as well as 15 partner organisations from other European and African countries. The overall aim of the project was to improve the protection of vulnerable children especially in tourist destinations from being abused by travelling sex offenders. One outcome of the project was the launching of the reporting mechanism www.nicht-wegsehen.net in cooperation with the Federal Criminal Police (Bundeskriminalamt) by ECPAT Germany in 2014 as well as the international platform www.reportchildsextourism.org.

Research objective and methodology

The assessment aims to fill the existing gaps by providing recommendations on more effective ways of prevention and cooperation for different stakeholders, including reporting mechanisms like www.nicht-wegsehen.net and campaigning with the purpose to positively address the situation of sexual exploitation of children. The results of the research with judges, the German embassy, former victims, NGOs in Cambodia and in Vietnam but also German offenders who are serving their prison sentence in Cambodia provide a complementary image of the situation in the destination country of international offenders. Also, gathering reliable data on convictions of German offenders who sexually exploited foreign children abroad should serve as a tool for lobbying on a political level in order to sensitize the judiciary for child-friendly justice, promote international cooperation of law enforcement agencies and strengthen the access to compensation for affected children.

¹ECPAT is the acronym for *Ending Child Pornography, Child Prostitution and Trafficking of Children for Sexual Purpose*, www.ecpat.net

The methodology of the report is a combination of qualitative and quantitative data collection through literature and press article review on international travelling child sex offenders in Cambodia, the evaluation of the received reports on www.nicht-wegsehen.net, a quantitative query of courts, prosecutor offices and Federal State Criminal Police in Germany and interviews with different stakeholders and experts.

Key findings

Between 27/05/2014 and 01/12/2015 ECPAT Germany received a total of 58 messages through the reporting website www.nicht-wegsehen.net, of which 29 were relevant to the issue of sexual exploitation of children. Through a broad campaign in the year 2015, the website became better known to the public, with a significant increase of reports during the campaign period. More than half of all relevant messages were received anonymously. During the evaluation period no individual had reported directly to the BKA. This proves the importance and necessity of the low-threshold possibility for individuals to report to ECPAT Germany as an interface between them and the competent authority which is responsible for further steps such as law enforcement or victim support.

According to the extraterritorial principle of the German Penal Code, each German citizen who sexually abuses foreign children abroad can be prosecuted not only in the country where the crime was committed but also in Germany. On a national level, however, there is no database of those cases. ECPAT Germany surveyed 761 courts and 138 prosecutor offices on the question whether criminal proceedings against perpetrators of those crimes abroad had been conducted in Germany between the year 2005 and 2015. The information found is based on 141 respondents (16%) and the replies of 13 out of 16 Federal State Criminal Police Offices (Landeskriminalamt). 35 proceedings were reported, with additional three convictions that have been found by a legal search of DLA Piper. This means a total number of 38 criminal court proceedings against German travelling child sex offenders.

The following main obstacles have been identified in criminal proceedings with cross-border implications:

- Language barriers in the context of the communication among the authorities of the involved countries as well as inaccurate interpretation at court
- A long period between the crime and the testimony in court, particularly when the victim was very young when the crime occurred as the victims may not be able anymore to accurately remember all details of the assault.
- Residence determination rights of the foreign victim, which is requested as a witness during the criminal proceedings in Germany: parents or other legal guardians have full decision on the ordinary and actual residence of the child and might not agree with a journey to Germany, mostly out of fear of the authorities and a lack of understanding about the following steps. Connected to this is often the difficulty for German prosecutors to establish contact with the child victim and their family abroad.
- Different rules for (repeated) hearing of under aged victim-witnesses
- Lack of awareness of judges regarding various manifestations of sexual abuse

Conclusions and Recommendations

The compilation of data and statistics on German travelling child sex offenders is highly deficient. It was not possible to find out how many cases there are which are not brought to trial, why lawsuits fail and what the actual number of convictions is. There are statistics by the Federal Criminal Police

Office, however, they do not record cases with cross-border implications separately. The collection of data is also lacking a coherent approach on the international level. No sufficient and working international cooperation between the relevant actors of the justice and prosecution services exists. There are, however, successful models from other European countries which can be used as a blueprint. For example, Germany is not part of the data interchange programme of the International Criminal Police Organization (Interpol). The compilation of data must therefore be improved by the targeted generation of data on the national level and the enhancement of communication and exchange on the international level through binational agreements and deepened cooperation with international law enforcement agencies such as Interpol and Europol.

In judicial proceedings involving German travelling child sex offenders in Germany and abroad there is one main obstacle prohibiting successful trials which is the absence of professional interpreters during the process. Judges in destination countries identify this as a result of the insufficient cooperation with the administration of the home country of the offenders and call for the absorption of costs for interpreters by the German administration. In only very few cases, both in Germany and abroad, compensation is paid to underage victims of sexual abuse. It has been shown that often German lawyers are not even aware of the legal possibilities to invoke such claims.

In regard to court procedures in Germany, there is a need for additional juridical clarification as to whether the law for strengthening the rights of victims of sexual abuse (StORMG) is also applicable to foreign children who are victims of sexual abuse through German offenders. Moreover, it must be checked whether ancillary suits by foreign victims are possible in the frame of the Victim Protection Directive (Opferschutzrichtlinie). It is also questionable whether the draft for the third Victims Rights Reform Act (Opferrechtsreformgesetz) is by law while not considering claims of compensation by foreign underage victims of sexual abuse. This should be made clear by a judicial expertise.

Full access to justice must be granted for foreign children, especially when they were abused by German offenders. Organisations supporting victims and child rights organisations should be made better known among prosecution services, lawyers and courts in general in order to enhance cooperation and networking between both.

The results of the study show, with Cambodia as an exemplary country, that offenders systematically seek contact to children through their work. While current preventive measures focus on classic tourism, other forms such as business travels and Voluntourism must be targeted by new preventive concepts. It is especially necessary to extend the scope of standards for child protection to include the private sector. They must be applicable to organisations and corporations sending volunteers or members of staff into projects which include contact with children. In addition, a strong relationship between online and offline abuse can be distinguished, meaning that the sexual abuse of children is at the same time used to produce abusive material which is disseminated through the internet. Further research on this connection must be initiated.

There is a clear correlation between the rise in reports and the declaration of the reporting platform in the public. However, the awareness level can only rise through middle and long term measures as opposed to short term and punctual activities. It is therefore essential to equip respective organisations with sufficient capacities in order to ensure an efficient and professional handling of the reports.