

Statement UPR Pre-session – 25 March 2013 - Geneva



Protection of Children against Sexual Exploitation and Sexual Abuse

1. **ECPAT Germany** is an alliance of 28 groups and institutions working on child rights issues. It operates in the political, legal, economic and educational sectors, in cooperation with government and non-governmental organisations. ECPAT Germany's work focuses on lobbying and advocacy work, public education and awareness-raising on the issues of commercial sexual exploitation of children, the development of prevention strategies, the protection of child victims, as well as the implementation of the Code of Conduct to protect children from sexual exploitation in travel and tourism. ECPAT Germany is a member organisation of the international network of ECPAT International, based in Bangkok.
2. A public hearing on the draft **UPR report prepared by the government of Germany** was held in Berlin on 5 December 2012. ECPAT Germany was not invited to that event.
3. In the following statement we will identify gaps and provide recommendations regarding **child sexual exploitation and trafficking**. This contribution aims to provide a review of the status of implementation of international obligations and commitments regarding protection against the commercial sexual exploitation of children (CSEC) in Germany.

Recommendations from the 11th Session of the Universal Periodic Review (UPR):

- *"Withdraw reservations and declarations to the Convention on the Rights of the Child and to ratify its optional protocol OP-CRC-SC" (Brazil)*
Update: The optional protocol was ratified on 15 August 2009.
Comment: Implementation activities haven't been developed for high risk groups of children (for example refugees, migrants, trafficked children).
- *"Encourage the visit of the Special Rapporteur on trafficking in persons, especially women and children, within the framework of the open and permanent invitation extended to special procedures" (Mexico)*
Update: Germany states that no particular invitation to the Special Rapporteur of the Human Rights Council on Trafficking in Persons is required.
Comment: ECPAT recommends that the German government directly invites the Special Rapporteur on trafficking in persons, especially in women and children, in order to examine the state of protection of individuals, especially children from trafficking. ECPAT also recommends that the German government extend an open invitation to all other thematic UN special procedures.

Concrete Issues of ECPAT

Several gaps and challenges can be identified with regard to the policy and legal frameworks aimed at protecting children from all forms of CSEC:

- The Council of Europe's *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse* (CETS 201, 2007) has not been ratified.

- The offence of “knowingly obtaining access, through information and communication technology, to child pornography” as defined by the Council of Europe’s Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Article 20.1 (f)) is not prohibited by sections 184b and 184c of the German Criminal Code. **There is no comprehensive definition of child trafficking in the national legislation** in line with the definition provided by the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* – As a result, the effective enforcement of the anti-child trafficking legislation is not ensured.
- **The German Criminal Code** section 232(3) does not **provide all children under 18 with equal levels of protection**. There is only witness protection and not general victim protection measures in place for child victims of trafficking.
- **Nationwide, specialised police units** specially mandated and equipped to deal with CSEC related offences have not yet been established.
- **Resources for training** law enforcement officials, prosecutors, judges and other stakeholders, including civil society organisations, on the areas of child trafficking and CSEC **are lacking**.
- **Adequate assistance and support services** specifically tailored to the needs of child victims of all forms of CSEC and trafficking **are not provided**.
- **A nationwide, free-of-charge, anonymous 24-hour helpline** providing specialised assistance and protection services for child victims of trafficking and sexual exploitation is not available.
- **The Residence Act** does not ensure that unaccompanied minors from non-EU states, who are identified as victims of trafficking, have access to adequate assistance and support services.

Recommendations

- **Ratify** the Council of Europe’s *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201)*
- **Include a comprehensive legal definition** of child trafficking in the Criminal Code (consistent with Article 3 (a) of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*) and prohibit “knowingly obtaining access, through information and communication technology, to child pornography”. **Implement victim protection measures and support services for child victims of trafficking**, especially for unaccompanied minors or refugees, who are at high risk of trafficking.
- **Provide** resources for training of relevant stakeholders working in the area of child trafficking and CSEC (e.g. law enforcement, social workers, medical personnel, etc.).

Questions

- **What are the reasons that the German government has not yet ratified the Council of Europe’s *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201, 2007)*?**
- **When will the German government establish training measures for relevant stakeholders (e.g. law enforcement, social workers, medical personnel, etc.) working in the area of child trafficking?**
- **How is the German government planning to improve the protection and services for unaccompanied minors who are victims of trafficking?**

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