

ECPAT International - UPR submission – Belgium – November 2010
Comments on the status of children’s right to protection against sexual exploitation in BELGIUM. Session 11 (May 2011).

1. Background of the country

Belgium has ratified almost all international and regional standards providing children with protection against sexual exploitation. The government of Belgium approved *the Rio Declaration and Call for action to prevent and stop sexual exploitation of children and adolescents* which was adopted during the 2008 Third World Congress against Sexual Exploitation of Children and Adolescents, a major milestone in the fight against commercial sexual exploitation, which was held in November 2008. In order to comply with its international commitments, Belgium authorities have established policies and have enacted laws to protect children from sexual exploitation. However, despite the efforts undertaken to provide a strong protection for children at national level, these frameworks contains shortcomings and loopholes that need to be addressed

The lack of centralized and reliable data on child sexual exploitation at federal level prevents an adequate assessment of CSEC in Belgium and the progress made by the government to protect children from sexual exploitation.

Normative framework:

Policies:

With regard to the policy framework at federal level aiming at implementing the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, Belgium has adopted a *National Plan of Action for Children (2005-2012)* and a comprehensive *National Action Plan to combat trafficking in human beings (2008-2011)*. A *National Plan of Action against the Commercial Sexual Exploitation of Children* was established in 2001. However, this National Plan has not been renewed. Thus, the country lacks a comprehensive policy framework addressing all forms of child sexual exploitation.

Legislation:

Belgium has ratified the *Convention on the Rights of the Child* in 1991 and the *Optional Protocol on the sale of Children, Child prostitution and Child Pornography* in 2006. At regional level, Belgium has ratified the *Council of Europe Convention on action against trafficking in human beings* but has not yet ratified the *Council of Europe Convention on the on the Protection of Children against Sexual Exploitation and Sexual Abuse*. Therefore, ECPAT strongly recommends that Belgium ratifies this Convention.

The Belgian Constitution Article 22 bis recognizes the rights of children to their sexual integrity and Belgium has enacted laws to protect children from sexual exploitation.

Provisions of the Belgian Penal Code which protect children from sexual exploitation are generally in line with the standards set forth in relevant international and regional legal standards. However, several shortcomings have to be highlighted and urgently addressed by Belgian authorities. For instance, under the Penal Code (Article 383bis) the definition of child pornography is limited to visual representations of a child, according to the Optional Protocol Article 2, it should cover any representation by whatever means of a child, including for example written and audio materials. In addition, the Penal Code does not contain any provision criminalizing online solicitation of children for sexual purposes (*grooming*).

With regard to the trafficking of children, ECPAT International is concerned by the fact that, under the Guardianship Act, unaccompanied children from EU countries can not benefit from

the assistance of a legal guardian as these measures are only applicable to unaccompanied children from non EU countries. Furthermore, due to the level of requirements to obtain a “status of victim of human trafficking” (e.g. children have to file a complaint against traffickers) it is extremely difficult for unaccompanied foreign child victims to obtain such a status. This would prevent them from the reflection period under which they are allowed stay on the Belgian territory and access to specific services (e.g. social, medical, legal services) provided under this status. If they plan to stay in Belgium, and thus apply for a residence permit, they will be compelled to cooperate with Belgian law enforcement authorities who are prosecuting their cases. Children victims who cannot obtain the above mentioned status are highly vulnerable and highly at risk of being re-trafficked¹.

2. Implementation of the normative and institutional framework for the promotion and protection of children against sexual exploitation

Despite the establishment, in 2007, of the Belgian National Commission on the Rights of the Child in charge of coordinating and monitoring the policy framework related to children’s rights, the effective implementation of the policies addressing child sexual exploitation related issues appears to be hampered by a lack of specific institution in charge of the implementation of these policies at federal level. Therefore ECPAT calls the Belgian authorities to establish a specific mechanism in charge of coordinating, monitoring and evaluating the implementation by relevant ministries and agencies of policies and programmes aiming at protecting children from sexual exploitation.

The enforcement of the legislation protecting children from sexual exploitation presents some weaknesses. Although specific anti-trafficking police units have been established in both the federal and local Belgian police forces, there is a lack of police units equipped and trained to identify and to provide adequate support to children victims of sexual exploitation or at risk of being sexually exploited.

Furthermore it appears that the enforcement of specific laws prohibiting the various forms of sexual exploitation of children by courts are not effectively implemented as, according to the Committee on the Rights of the child, the number of persons convicted for having sexually exploited children is very low in Belgium.

It has been reported a lack of residential structures to provide specialized assistance to child trafficking victims. In Belgium, there are only three centers where children victims of trafficking can be accommodated and where they can be provided with medical and psychosocial support through specific care and protection programmes. This challenging situation for children should be considered as a priority by the Belgian government.

Children belonging to the Flanders and the French community are able to lodge complaints with ombudspersons established in their respective communities, which is very positive. However, there is no such ombudsperson for children in the German region of Belgium.

3. Good practices that have emerged

In 2007 and in 2010, ECPAT Belgium together with the Ministries of Defense and Foreign Affairs, the Belgian Federal Police, Child Focus, Plan Belgium and partners from the private sector (SNCB) launched campaigns against child prostitution and against child sex tourism². These campaigns were meant to raise awareness about the reality of child sexual exploitation in Belgium and abroad and to encourage Belgian tourists to report child prostitution cases they may witness. It has to be highlighted that the Belgian embassies and consulates abroad were very instrumental in disseminating the campaign messages and materials.

¹ ECPAT International & The Body Shop, *Country Progress Card Belgium*, 2009.

² see the campaign website: www.stopchildprostitution.be

However, despite several initiatives such as the 'stop child prostitution' initiatives, nation-wide State-supported awareness raising programs addressing sexual exploitation of children remain limited.

In 2009, ECPAT International in collaboration with The Body Shop launched a three-year global campaign against child trafficking in 42 countries including Belgium. Under the framework of this campaign, a specific petition for the protection of children and adolescents from CSEC has been signed by thousands of citizens. The petition and signatures will be sent to the government of Belgium in order to encourage urgent action to be undertaken to protect children from trafficking and at global level these petitions and signatures will be presented to very high level UN authorities.

Following the European Commission decision to reserve 116000 as a common missing children telephone hotline in every European Union Member State (2007), the Belgian government established in April 2009 a national 116000 hotline operated by Child Focus. Any case of missing children or children being sexually exploited can be reported to this hotline 24 hours, 7 days a week.

Child Focus has also established a specific Internet reporting hotline (www.stopchildporno.be) where users can anonymously report any child pornography related material they may found on the Internet. Reports are being sent to the Belgian Federal Computer Crime Unit which can decide to investigate the cases on the basis of the submitted information.

4. Recommendations

- Belgium should ratify the *Council of Europe Convention on the on the Protection of Children against Sexual Exploitation and Sexual Abuse*
- An official mechanism specifically mandated to coordinate, monitor and assess the implementation of the policies addressing sexual exploitation of children.
- The Belgian Penal Code should be amended to include a definition of child pornography which covers all kind of representations of children engaged in sexual. It should also incorporate specific provisions addressing the solicitation of children, including online solicitation, for sexual purposes (*grooming*) as required under section 5 of the Rio call for Action.
- The Belgian legislation should be aligned with section 26 of the Rio call for Action which requires that a guardian is appointed without delay to every unaccompanied child. In addition, the procedure to obtain the status of victim of human trafficking should be reviewed to ensure that children victims of trafficking obtain systematically such a status. The residence permit for children victims of trafficking should not be conditioned to their cooperation with law enforcement authorities.
- The government of Belgium should ensure that, according to sections 48 and 49 of the Rio call for Action, children victims of sexual exploitation have access to adequate services which provide them with the necessary economic and psycho-social support for their recovery and social reintegration.
- Gender sensitive police units specializing on identification of unaccompanied minors and child victims of sexual exploitation should be established (and supported with the necessary financial resources).