

# **Supplementary Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)**

**in the context of the Combined 5th and  
6th Periodic State Reports of the Federal  
Republic of Germany on the United Nations  
Convention on the Rights of the Child  
to the Committee on the Rights of the Child**

**Submitted by ECPAT Deutschland e.V.**



# Ending the sexual exploitation of children

ECPAT Germany is a child protection organization with a strong focus on lobby and advocacy work, as well as training. It acts as a driving force for the formation of strong professional networks to better protect children from sexual exploitation.

ECPAT Germany's recommendations evolve in dialogue with its member organizations. ECPAT Germany is part of the global ECPAT International network with more than 100 members worldwide. Together we work at all levels to end sexual violence and exploitation of children.

## Imprint

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# Supplementary Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)

## the context of the Combined 5th and 6th Periodic State Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child

the Committee on the Rights of the Child, submitted by ECPAT Deutschland e.V.

ECPAT Germany has consulted its member organizations, key experts and additional active networks working for the protection of children against sexual violence and exploitation. In particular, the following organisations have contributed to this report:

- Federation of Child Protection Centres (Bundesarbeitsgemeinschaft der Kinderschutz-Zentren e.V.)
- Federal Coordination of Specialised Counselling Centres Against Sexual Offences in Childhood and Youth (BKSF)
- Innocence in Danger e.V.
- Terre des Hommes Germany e.V.
- Wildwasser Freiburg e.V.

This report supplements the following reports submitted by the Federal Republic of Germany to the Committee on the Rights of the Child in April 2019, and refers to the Committee's concluding observations issued in 2014:

- Federal Government of Germany, Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, CRC/C/DEU/5–6, 2019. [hereafter referenced as CRC/C/DEU/5–6].
- Federal Government of Germany, Annex 1 to the Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, 2019. [Hereafter referenced as CRC/C/DEU/5–6, Annex 1].
- Federal Government of Germany, Annex 2 to the Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, 2019. [Hereafter referenced as CRC/C/DEU/5–6, Annex 2].
- Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Germany, CRC/C/DEU/CO/3–4, 25 February 2014. [Hereafter referenced as CRC/C/DEU/CO/3–4].

# Table of Contents

German Terminology and Abbreviations [page 4](#)

## 1.

### Introduction to the supplementary OPSC report

[page 5](#)

## 2.

### General coordination and measures of implementation

[page 5–12](#)

2.1 Coordination and national strategy (UN CRC art. 4) [page 5](#)

2.2 Cooperation and multi-professional approaches in the federal system (UN CRC art. 4) [page 6](#)

2.3 Law reform to address sexual exploitation of children (OPSC arts. 1 and 3) [page 7](#)

2.4 Training of officials and professionals (OPSC arts. 8.4 and 9.2) [page 8](#)

2.5 Data collection and research (UN CRC art. 4) [page 9](#)

2.6 Cooperate with the private sector: with attention to corporate social responsibility and accountability (UN CRC art. 4, OPSC Preamble) [page 10](#)

2.7 International cooperation (OPSC art. 10) [page 12](#)

## 3.

### Prevention of sexual exploitation of children

[page 13–15](#)

3.1 A continuum of services in the digital and analogue world (OPSC art. 9.1) [page 13](#)

3.2 Prevention activities (OPSC art. 9.2) [page 13](#)

3.3 Promoting ethical and rights-based terminology (OPSC art. 9.2) [page 14](#)

3.4 Reducing demand through therapy programmes for potential and convicted perpetrators (OPSC art. 9.1) [page 14](#)

Preventive programmes for potential perpetrators [page 14](#)

Preventing recidivism: Risk assessments of defendants and convicted perpetrators [page 14](#)

## 4.

### Effective law enforcement

[page 15–16](#)

4.1 Strengthening the effective enforcement of laws in Germany (OPSC arts. 1 and 3) [page 15](#)

4.2 International law enforcement cooperation and extraterritorial jurisdiction (OPSC arts. 4–6) [page 16](#)

## 5.

### Assistance, remedies and child-sensitive justice for child victims of sexual exploitation

[page 17–18](#)

5.1 Assistance for child victims of sexual exploitation (OPSC art. 9.3) [page 17](#)

5.2 Remedies and child-sensitive justice (OPSC arts. 8 and 9.4) [page 18](#)

## Annex

[page 19–25](#)



Overview on ECPAT's recommendation on the implementation of the Optional Protocol OPSC [page 19](#)

Endnotes [page 23](#)

## German Terminology and Abbreviations

Bundeskinderschutzgesetz	Federal Child Protection Law
Bundeskooperationskonzept »Schutz und Hilfen bei Handel mit und Ausbeutung von Kindern«	Federal Cooperation Model »Protecting and supporting child victims of trafficking and exploitation«
Bundeskoordinierung Spezialisierter Fachberatung gegen Sexualisierte Gewalt in Kindheit und Jugend (BKSF)	Federal Coordination of Specialised Counselling Centres Against Sexual Offences in Childhood and Youth
Bundeskriminalamt	Federal Criminal Office
Bund-Länder-NGO Arbeitsgruppe »Schutz von Kindern und Jugendlichen vor sexualisierter Gewalt und Ausbeutung«	Federation-Länder NGO Working Group »Protection of Children and Adolescents Against Sexual Violence and Exploitation«
Bundesweite Fortbildungsoffensive zur Stärkung der Handlungsfähigkeit von Mitarbeitenden der Kinder- und Jugendhilfe zur Verhinderung sexualisierter Gewalt, 2010–2014	Federal Training Initiative to Empower Staff in Child and Youth Services to Prevent Sexual Violence, 2010–2014
Fonds Sexueller Missbrauch	Fund Sexual Abuse
Gesetz zu Stärkung der Opferrechte im Strafverfahren	Act Strengthening Victims' Rights in Criminal Procedures
Koalitionsvertrag	Coalition Contract
Länder	Federal States: The Federal Republic of Germany is made up of 16 federal states, the Länder.
Landkreise	Counties, administrative districts
Nationaler Aktionsplan Umsetzung der VN-Leitprinzipien für Wirtschaft und Menschenrechte	National Action Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights
Netzwerkdurchsetzungsgesetz	Act to enhance the assertion of legal rights in social media networks
OPSC	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
Psychosoziale Prozessbegleitung	Psychosocial support for victims of crime during court proceedings
The Committee	Committee on the Rights of the Child
UN CRC	UN Convention on the Rights of the Child
Unabhängiger Beauftragter für Fragen des Sexuellen Kindesmissbrauchs (UBSKM)	Independent Commissioner for Matters Concerning Sexual Abuse of Children

## 1. Introduction to the supplementary OPSC report

This report supplements the combined 5th and 6th Periodic Reports submitted by the Federal Government of Germany to the Committee on the Rights of the Child in April 2019.<sup>1</sup> It relates to the Committee's concluding observations of 2014 and offers a civil society perspective on the progress made since then.<sup>2</sup>

This report presents a focused review of the implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) by the Federal Government. As the leading civil society actor in the field, ECPAT points out weaknesses and gaps in the responses to the sexual exploitation of children in Germany and invites the Committee to urge the Federal Government to take action for the effective implementation of its commitments under the OPSC.

The review and recommendations presented in this report are based on ECPAT's expertise and consultations with key civil society actors in the field.<sup>3</sup>

## 2. General coordination and measures of implementation

### 2.1 Coordination and national strategy (UN CRC art. 4)

In its 2014 concluding observations, the Committee on the Rights of the Child (hereafter »the Committee«) recommended that the Federal Government develop a comprehensive national strategy to address all forms of violence against children and adopt a national coordinating framework to this end.<sup>4</sup> The Committee noted that its previous recommendation calling for more effective coordination had not yet been implemented.<sup>5</sup>

The State Party Report provides information about significant developments during the reporting period. In response, ECPAT strongly welcomes the institutionalisation of the Independent Commissioner for matters concerning sexual abuse of children (UBSKM) as a permanent body in 2018, as recommended by the Committee<sup>6</sup>. However, as the mandate of the Independent Commissioner focuses on sexual abuse, there is no central national body responsible

for matters concerning the exploitation of children, and there remains a notable gap with regard to coordination of activities under the scope of the OPSC.

ECPAT also welcomes the establishment of the Federal Coordination of Specialised Counselling Centres Against Sexual Offences in Childhood and Youth (BKSF) on a project base.<sup>7</sup> However, this measure remains limited in scope and reach, as counselling services are not available in all parts of the country and not all centres are specialised on matters of sexual exploitation of children. The establishment of the BKSF does not respond to the need for coordinated long-term support for children at risk and child victims. ECPAT continues to see a strong need for a national strategy to coordinate prevention measures and provide qualified support for children. The wide differences between the Federal States (hereafter »Länder«) and between urban and rural areas must be redressed.

ECPAT Germany welcomes the decision of the Federal Ministry for Families, Senior Citizens, Women and Youth to set up a National Council on Sexual Violence Against Children and Adolescents, which is tasked to collaborate closely with the Independent Commissioner for matters concerning sexual abuse of children (UBSKM). ECPAT underlines, however, that it will be essential for the National Council to address the sexual exploitation of children, in addition to other forms of sexual violence against children.

During the reporting period, the Federal Government has made initial efforts to recognise the need for enhanced coordination to protect children against sexual exploitation in the digital environment, and specific objectives have been introduced into the current Government's coalition contract for the protection of children and youth in the media<sup>8</sup>.

Although law reform and numerous projects were carried out<sup>9</sup>, a comprehensive strategy to promote the rights and safety of children in the digital environment is not yet in place. As a member of the Council of Europe, in 2018 the Federal Government participated in the development and adoption of the Committee of Ministers' Guidelines on the Rights of the Child in the Digital Environment, thereby demonstrating a commitment towards the progressive promotion and implementation of the guidelines in Germany and internationally.<sup>10</sup>

## ECPAT Germany recommends to

1. Draw up a national strategy or a new action plan to coordinate measures against sexual violence and exploitation of children also taking into account the issues of risks, protection and support in the analogue and digital environments and to ensure all children are reached effectively by prevention and response measures in all parts of the country, equipped with sufficient funding and effective monitoring.

2. Develop a coordinated national approach to safeguard and promote the human rights and fundamental freedoms of children in the digital environment, in accordance with the Council of Europe guidelines and the commitments under the Coalition Contract, with specific measures to protect children against sexual exploitation. Children should be engaged actively and ethically in the development and implementation of policies and programmes in this field.

3. Set up a national / federal coordination body to oversee the implementation of measures to prevent and respond to sexual violence against children and sexual exploitation, in accordance with the UN Convention on the Rights of the Child and its Optional Protocols. Such a coordination body should provide a forum for interagency and multi-disciplinary exchange, including the participation of relevant state agencies at the federal and the *Länder* levels, representations of municipalities, specialised institutions, organisations and service providers, academia, and the business sector.

## **2.2 Cooperation and multi-professional approaches in the federal system (UN CRC art. 4)**

In the federal system, a unified national child protection system for the 16 *Länder* and all municipalities does not exist. The organisation and funding of child protection services and multi-professional referral mechanisms falls under the competence of cities and counties (*Landkreise*) with their independent local Youth Offices. The resulting consequence is that the local availability of services and children's access vary in each location. The Youth Offices struggle with limited resources and the working conditions and

salaries of Youth Office staff are not proportionate to their demanding mandates and social responsibility. Professional experience from the field shows that it is therefore particularly important for Youth Office staff to rely on the cooperation with other state and private service providers.<sup>11</sup>

In this highly fragmented system, certain key safeguards are required to ensure consistent quality standards are maintained in the provision of service for children at risk of sexual exploitation in all parts of the country, including: the regulation of decentralised services, the cooperation and coordination between service providers, the provision of easily accessible child-sensitive mechanisms for reporting and complaint, and monitoring of these services. However, these essential safeguards are not guaranteed. Despite the entry into force of the Federal Child Protection Law in 2012 and the lessons learned from its evaluation in 2015<sup>12</sup>, local child protection systems are neither clearly regulated nor monitored. Although the State Party report describes important initiatives at the federal, *Länder* and local levels<sup>13</sup>, it is practically impossible for the Federal Government to gain an overview of the scope and quality of local service provision for child victims of sexual exploitation and children at risk.

Noting the absence of a unified referral mechanism for cases of child trafficking, the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) urged the Federal Government to redress this gap in its first evaluation round of 2015.<sup>14</sup> In 2018, the Federal Ministry for Families, Senior Citizens, Women and Youth adopted the Federal Cooperation Model on Protecting and Supporting Child Victims of Trafficking and Exploitation, which had been developed by ECPAT Germany in cooperation with the German NGO Network against Trafficking in Human Beings (KOK e.V.) and through a broad-based consultation with experts and practitioners at the federal and *Länder* levels.<sup>15</sup> As noted by GRETA and leading civil society experts in Germany, the progressive implementation of the Federal Cooperation Model offers opportunities to strengthen local and regional referral mechanisms for child victims of sexual exploitation and trafficking and children at risk and to guide their development where they do not yet exist.<sup>16</sup>

## **ECPAT Germany recommends to**

4. Ensure effective multi-professional referral mechanisms are in place at the local level to identify children at risk of sexual exploitation, as well as child victims, and enable the child's reliable referral to meaningful assistance and support. Reporting and referral mechanisms must be child-sensitive, known and accessible to children and adults in the analogue and digital environments, as recommended by the Council of Europe Guidelines on the Rights of the Child in the Digital Environment and the European Commission Principles for Integrated Child Protection Systems.<sup>17</sup> Referral mechanisms should promote, operationalise and regularly update guidance and quality standards, as well as indicators for the identification of children at risk and child victims of sexual violence and exploitation.

5. Promote the progressive implementation of the Federal Cooperation Model on protecting and supporting child victims of trafficking and exploitation. In accordance with the recommendations issued by GRETA, continued support is required from the Federal and *Länder* governments and the municipalities to put in place the necessary framework for its implementation, as outlined by the Federal Cooperation Model.<sup>18</sup> Its implementation should be closely monitored and evaluated.

### **2.3 Law reform to address sexual exploitation of children (OPSC arts. 1 and 3)**

During the reporting period, the transposition of the 2011 EU Anti-trafficking Directive (2011/36/EU) into federal law, extended the forms of exploitation criminalised under the human trafficking offence. This law reform expands the group of children who can be formally recognised as victims of human trafficking.<sup>19</sup> Despite this improvement, the status of child victims of trafficking remains insufficiently protected. The Committee's recommendation to remove the conditionality of the provision of residence permits for non-national child victims of trafficking has therefore not yet been addressed.<sup>20</sup> The Residence Act provides for the possibility to regularise the status of victims

of trafficking who do not have a valid permit to stay in Germany. However, this remains conditional on the person's collaboration in criminal investigations and proceedings and his or her consent to testify as a witness or as a hardship case.<sup>21</sup> As the issuing of a permit of stay under the Residence Act, which applies to adults and children without distinction, is subject to the discretion of the competent authority, child victims of trafficking can still not rely on having their status regularised.<sup>22</sup>

ECPAT is further concerned that the Residence Act does not refer to the best interests of the child in determining the most appropriate place of stay and durable solution for a child victim of trafficking whose status in Germany has not been regularised.<sup>23</sup> In accordance with Article 3 of the UN Convention on the Rights of the Child and relevant international guidance<sup>24</sup>, decisions over a non-national child's stay in Germany, their return to the country of origin or their transfer to a third country within or outside the European Union, should apply a determination procedure which is based on an individual's best interests.

In June 2019, a package of asylum and migration laws was adopted with the aim to regulate immigration to Germany, facilitate and speed up the deportation of rejected asylum seekers and to adjust the asylum reception conditions. In particular, the law on the return of rejected asylum seekers has been criticised for its tightened provisions. It does not provide special safeguards for persons with special protection needs, such as children and victims of sexual violence, whose asylum claims have been rejected. The law does not include reference to the best interests of the child.<sup>25</sup>

### ***Law reform to prevent sexual exploitation in the digital environment***

The Act to Enhance the Assertion of Legal Rights in Social Media Networks (*Netzwerkdurchsetzungsgesetz*), which entered into force in January 2018, defines illegal content in social media. It holds social media companies accountable for following-up on notifications by users and deleting illegal content in due time. The law has helped to facilitate the reporting of illegal content to social media providers. However, leading experts and associations in the field, as well as the media, have criticised the law for its ineffective implementation and limited scope, especially as illegal content defined under the Act includes the sexual

exploitation in pornography of children up to the age of 14 years old without applying also to adolescents aged between 14 and 17 years old. In addition, the Act leaves the decision as to what constitutes illegal content to social media providers rather than to the competent state agencies.<sup>26</sup> It does not cover messaging services, chatrooms or the online gaming industry, and providers of networks with less than 2 million users in Germany are exempted. This constitutes a serious shortcoming as the use of online gaming has been evidenced to increase the risks of children to receive unwanted sexual solicitations.<sup>27</sup>

#### **ECPAT Germany recommends to**

6. Revise the Residence Act to ensure that, where a child victim of exploitation or trafficking is a non-national and does not possess a valid permit of stay, the issuing of a residence permit is not conditional on the child's collaboration in criminal investigations and proceedings, and the best interests of the child are the primary consideration in decisions about the child's place of stay and durable solution, irrespective of the child's national origin or status.

7. Expand the application of the Act to enhance the assertion of legal rights in social media networks to all online applications and services where children are active, including messaging services, chatrooms and online games, and include the production of sexual abuse material of adolescents (14–17 years) in the definition of illegal content under the Act.

## 2.4 Training of officials and professionals (OPSC arts. 8.4 and 9.2)

In 2014, the Committee reiterated its concern about inadequate training activities in relation to the Convention.<sup>28</sup> The Committee recommended that systematic and ongoing training programmes be developed for all professional groups working with and for children.<sup>29</sup>

The State Party report provides information about training activities for officials and professionals in different fields, such as the justice sector, social services, education and health.<sup>30</sup> As the provision of academic and vocational training falls under the competence

of the *Länder*, the availability, content and scope of training is highly fragmented. The State Party report does not clarify to what extent participation in the enlisted academic and continuous training courses is mandatory or voluntary.

The federal training initiative to empower staff in child and youth services to prevent sexual violence (2010–2014) was an important investment in this field, however it is not been sustained.<sup>31</sup> The State Party report does not provide information about the evaluated impact of this federal initiative and how the lessons learned might be considered for mainstreaming and institutionalisation.

Experts consulted for this report note that multi-professional training, for instance the training provided by ECPAT and mentioned in the State Party report<sup>32</sup>, is perceived as particularly useful because participants learn to understand the complex dimensions of the phenomenon of sexual exploitation of children, as well as the roles, mandates and working methods of different sectors as a precondition for engaging in more effective and trusted collaboration.

ECPAT states the provision of systematic and mandatory training remains one of the most pertinent measures required to protect children against sexual exploitation. Academic and vocational training must provide basic knowledge on the rights of the child across all relevant professions. Specialised and advanced training is required for officials and professionals working in direct contact with children and families. This training should include child safeguarding procedures and methods, such as best interest determinations, child-sensitive communication, interviewing and hearing of children.<sup>33</sup>

#### **ECPAT Germany recommends to**

8. Collaborate with the *Länder*, the representation of municipalities, academia, relevant institutions and civil society to develop a training strategy for officials and professionals working with and for children. The objective shall be to provide for systematic and mandatory inclusion of child rights and child development themes in the academic and vocational training curricula for all professions working with and for children and families, as well as measures for targeted continuous and on the job training, with due

consideration to the rights of the child in the analogue and digital environments. The training strategy shall further aim to advance inter-disciplinary child protection training as a standard component of academic training curricula, as well as joint multi-professional child protection training with mandatory participation of all relevant sectors, including specific training on the theme of sexual violence and exploitation of children. The strategy shall provide for measures to evaluate and enhance the effectiveness of the training, such as longer-term supervision and peer support to enhance training impact, skills training to use evaluated evidence-based evaluation methods, and hands-on guidance for practice.

## 2.5 Data collection and research (UN CRC art. 4)

The Committee urged the Federal Government to establish a comprehensive and integrated data collection system on all areas covered by the Convention and its Optional Protocols as a necessary precondition for measuring progress in the realisation of the rights of the child. The Committee expressed concern that the absence of such a system in Germany constituted a major obstacle for the effective planning, monitoring and evaluation of policies, programmes and projects.<sup>34</sup>

In the State Party Report, Annex Two presents official statistics and data on a range of child rights indicators, including data on different forms of sexual violence and exploitation of children.<sup>35</sup> With the entry into force of the Federal Child Protection Law in 2012, Youth Offices started generating statistics on their case assessments that identified risks of sexual violence against children.<sup>36</sup>

The reported data described in Annex two represent merely fragments of the real prevalence of sexual violence and exploitation of children. Criminal statistics reflect only the number of registered cases of Child Sexual Abuse Material, the completed police investigations of sexual exploitation in prostitution and trafficking, the child victims identified in these cases, as well as sexual offences against children under 14 years of age. Surveys provide information on prevalence rates among school-going children. The data remains inconclusive with regard to the degree of

overlap between different data sources and children who are not captured by the various statistics, such as child victims of sexual exploitation seeking advice from specialised counselling centres or assisted by social outreach services, as well as children who are not in school.

Research has identified groups of children that have a disproportionate risk of sexual exploitation. While the specific risks of unaccompanied asylum-seeking children have been evidenced and recognised, other risk groups have received less attention in programming and policymaking, such as children who have been exposed to violence and neglect in their home or in institutions, children living or working on the streets, children with substance abuse problems, children involved in illegal or criminal activities, missing children, and accompanied migrant and asylum-seeking children (including Roma children from other EU Member States). Poverty and a street-based life have been evidenced to increase the risk of children's sexual exploitation in prostitution for income generation.<sup>37</sup>

ECPAT continues to see a need to strengthen the database through more systematic data gathering and analysis, including attention to poly-victimisation and the provision and effectiveness of services. In the absence of a comprehensive and disaggregated set of data, policymakers are missing the evidence base required to measure progress and conduct forward planning.

### **ECPAT Germany recommends to**

9. Establish a comprehensive and integrated data collection system on sexual violence and exploitation of children in all contexts, such as an independent national rapporteur or knowledge centre on all forms of violence and exploitation of children in the analogue and digital environments.

## **2.6 Cooperate with the private sector: with attention to corporate social responsibility and accountability (UN CRC art. 4, OPSC Preamble)**

In 2014, the Committee expressed its concern that German companies conducting business abroad reportedly violated the rights of the child. It called upon the Federal Government to establish a regulatory framework for industries operating on or from German territory to ensure that their activities do not negatively affect the rights of the child and to strengthen private sector accountability, including through law reform where required and by implementing relevant international standards and guidance.<sup>38</sup>

The Federal Government considers the existing legal framework as sufficient to prevent and respond to infringements against the rights of the child by business companies and continues to rely on the voluntary self-commitment of the private sector rather than imposing a binding regulatory framework.<sup>39</sup> The Federal Government has announced need to continue monitoring progress in this area and to undertake law reform in case the voluntary self-commitment of business companies remains insufficient by 2020 when the current National Action Plan on business and human rights expires.<sup>40</sup> In this case, the Federal Government envisages supporting an EU-wide regulation.<sup>41</sup>

ECPAT is concerned that these measures do not sufficiently cover the scope of the OPSC. The National Action Plan on Business and Human Rights does not explicitly address corporate social responsibility for the protection of children against sexual offences and considers the rights of the child primarily with regard to the prevention of child labour in global trade. While the Section 8b (2) SGB VIII of the Federal Child Protection Act (*Bundeskinderschutzgesetz*) provides mandatory child protection standards for the owners of institutions, there are no comparable regulations for companies at suitable place. As a consequence, there are no child protection standards or concept in place for activities organised by private companies, including animation programmes in hotels, and child-care facilities and playrooms in shopping centres or fitness studios.

## ***Internet service providers and associated business enterprises***

With regard to the prevention of sexual exploitation of children in the digital environment, the Federal Government reports progress made with the network »No Grey-Zones on the Internet«, which was established in 2014 to identify images or video material used for the purpose of sexual exploitation of children, including material with non-explicit sexual content used for this purpose. The network, which was dissolved in 2018, aimed to enhance the referral of illegal and grey-zone content to law enforcement authorities within Germany and across borders. It also aimed to contact internet service providers to effect the deletion of the material.<sup>42</sup>

The State Party Report does not provide any information on the effectiveness and impact of the network, such as data on the number of incidents identified and referred, the deletion of content, or the effectiveness of the law enforcement and child protection responses to identified material. It remains silent on the need to re-establish, sustain and expand the network with the participation of relevant state agencies, NGOs and other non-state actors, as well as business companies.

After the adoption of the »General Comment on Children's Rights in Relation to the Digital Environment«<sup>43</sup> it will be necessary to monitor how the Federal Government and the governments of the Federal States will realise their obligations to children's rights in the digital environment.

ECPAT sees a need for more comprehensive and systematic measures to regulate private sector activities in the digital environment. Modern technology offers a wealth of possibilities to identify and investigate users of illegal content on the internet, to protect children, and to track and delete illegal content effectively. Leading civil society experts and associations in the field underline the need for further law and policy reform to ensure the effective use of existing technology and support its continued development. This includes measures to establish mandatory child protection standards such as age verification and network access filters of internet service providers, age limitations and obligatory age verification of users, protected online rooms for children, automatic replacement of sexually explicit language and automatic notification of law enforcement authorities of crimi-

nally relevant conduct. In addition, there is a need to regulate mandatory storing of ISP records and their accessibility for criminal investigations, improve automatic identification of illegal content and its users, regulate anonymous remailers to prevent the forwarding of illegal content and regulate the use of hash values or other automatic identification means to locate known illegal material for law enforcement and child protection purposes. Associated companies may be required to block credit card transactions related to illegal content and to stop advertising on websites displaying illegal content.<sup>44</sup>

### ***The travel, tourism and transportation sector***

Although the Federal Government sustains several initiatives to prevent the sexual exploitation of children in the context of travel and tourism<sup>45</sup>, the measures taken during the reporting period are insufficient to strengthen corporate social responsibility and accountability in this sector. The low threshold campaign and reporting mechanism both support efforts to expand the protective network for children but will remain insufficient unless the necessary regulation of the private sector and an accountability mechanism are in place. Information on the impact of these measures is not reported.

ECPAT notes that there is an increasing sensitisation to the corporate social responsibility of the travel and tourism sector, in particular with regard to the protection of children in long-distance destinations. However, sexual exploitation of children in the context of travel and tourism also takes place within Germany and in neighbouring countries, by persons travelling for work and volunteerism and by expats and tourists. Sharing economy platforms and companies operating online booking systems have a significant facilitating role in the mobility of perpetrators, yet these businesses have not yet been regulated to the same extent as the traditional travel and tourism sector.<sup>46</sup> Organisations and companies placing volunteers on short- or longer-term assignments in institutions or other services for children around the world have to be regulated by law with appropriate safeguards for children. Overall, the Berlin Declaration on »Transforming Tourism« provides valuable guidance for the development of adequate governance structures in tourism, with a human rights-based approach in tour-

ism policy and effective accountability mechanisms, including specific consideration to the prevention of sexual exploitation of children.<sup>47</sup>

### **ECPAT Germany recommends to**

10. Ensure that a comprehensive regulatory framework is in place that requires business companies operating on or from German territory to respect the rights of the child in the analogue and digital environments, with effective accountability mechanisms to prevent impunity in the case of infringements, in accordance with the UN Guiding Principles on Business and Human Rights. The regulatory framework should further require business enterprises and other commercial actors who provide services to children or have children as clients to draw up child protection policies, publicise them and review and update them regularly.<sup>48</sup>

11. Ensure that child protection standards in the digital business sector are mandatory and incorporate state-of-the-art technology safeguards for children. Internet service providers shall be required to employ child protection contact persons, as well as moderators for online games, chat rooms and other applications used by children. These contact persons must be trained, competent and supervised to assume child safeguarding tasks. Restrictions for child protection purposes shall be mandatory in all social media, internet services and applications used by children. Child and adult users, as well as parents and service providers working with children, have to be duly informed of relevant restrictions and filters. Users shall be informed and asked to agree to these safeguards when accepting the terms of use.

12. Legislate for business companies and other commercial actors, including in the travel and tourism sector, to carry out and publicise mandatory social impact assessments for their operations in a specific location for the entire value-chain, with due consideration to the human rights of the child and the protection of children against sexual exploitation. Ensure that mechanisms are in place to prevent and mitigate adverse impacts on the human rights of

the child, in accordance with the UN Principles on Human Rights and Business, relevant international standards and the Berlin Declaration on »Transforming Tourism«.49

13. Undertake law reform to regulate travel policies of state agencies and private actors collaborating in public private partnership agreements to the effect that official travel is purchased only from accredited companies that have a child protection policy in place.

## 2.7 International cooperation (OPSC art. 10)

The Federal Government's 2017 Action Plan »Agents of Change – Children and Youth Rights in German Development Cooperation Activities« promotes the rights of the child in bi- and multi-lateral cooperation.50

ECPAT notes that the Action Plan marks potentially the beginning of a process of change towards a stronger consideration for the rights of the child in Germany's development cooperation, which merits to be sustained and expanded beyond the action plan's envisaged two-year period. The current focus of integrating the rights of the child into different fields of development cooperation and promoting the participation of children and the partnership with specialised organisations, creates a useful foundation. In follow-up, more targeted attention will be required to support the effective implementation of the rights of the child in and through German development cooperation, including by supporting partner countries in the development of national and local child protection systems, as part of broader efforts in support of the implementation of the UN Convention on the Rights of the Child and its Optional Protocols.

The Action Plan's objective to examine the possibility of introducing a child protection policy to protect children within the sphere of influence of German development cooperation policy and in its institutions by 2019 constitutes a necessary first step. But, this will remain insufficient unless and until a child protection policy is introduced and operational.51 ECPAT Germany sees an urgent need to ensure child protection policies are in place and effective.

The objective to promote the rights and the participation of children in bi- and multilateral development cooperation is also highly relevant for the cooperation

with state and civil society actors in fragile contexts, in support of peacebuilding and state-building processes. It will therefore be essential to ensure that the experience with the implementation of the Action Plan, including the monitoring and evaluation findings, inform the follow-up in development cooperation, as well as the continued work with the Federal Government's guidelines for engagement with fragile states and contexts.52

### ECPAT Germany recommends to

14. Ensure child protection policies are in place and effective for all actors in the German development cooperation and those engaged in fragile contexts.

15. Sustain and expand the promotion of the rights of the child, including the protection of children from sexual violence and exploitation, in German development cooperation and during engagement in fragile states and contexts, by moving on from integrating the rights of the child to promoting their effective implementation in practice.

## 3. Prevention of sexual exploitation of children

### 3.1 A continuum of services in the digital and analogue world (OPSC art. 9.1)

The Federal Government recognises the risks of sexual exploitation in the digital environment (see chapters 2.1 and 2.3 of this report). The State Party Report falls short, however, of explaining how child protection services in the digital and analogue environments are effectively connected and coordinated and how they succeed to provide a continuum of services in practice.

Whenever perpetrators use photographs or video to record an act of sexual violence against a child in the analogue environment, there is a risk that this material is subsequently shared or sold on the internet, which results in a prolonged act of exploitation. In consequence, a distinction between sexual violence and sexual exploitation and between criminal offences committed in the analogue and the digital environment is often neither feasible nor useful.<sup>53</sup> Research further shows that previous experiences of violence, including sexual violence in the home, increase a child's risk to get exposed to sexual solicitations on the internet with an associated risk of sexual exploitation.<sup>54</sup>

Research with a gender-representative sample of adults and children revealed that approximately 8.5 percent of the surveyed participants have had experiences of sexual solicitations or violence online whereas the first incident happened on average at the age of 9.5 years old. Only around one third of the cases identified had been disclosed, and only one percent had been reported to law enforcement authorities or Youth Offices.<sup>55</sup>

This data indicates the need to promote the rights of the child in the digital environment, including protection against sexual exploitation, as a cross-cutting issue in all dimensions of child and youth policy, starting from early childhood education and care, as laid out in the Council of Europe Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment.<sup>56</sup> Across all social sectors, prevention and response projects should include, as a general rule, considerations for addressing the digital environment.

### ECPAT Germany recommends to

16. Ensure that the promotion of the rights of the child in the digital environment is recognised as a cross-cutting issue and mainstreamed into all policies and programmes concerning children and families, the media, the business sector and other relevant fields.

17. Require all organisations, institutions, associations and services who are working with children, are in contact with children or have children as clients, to have child protection policies in place, with due consideration to the risks of sexual violence and exploitation in the digital and the analogue environments. Having a child protection policy in place should be mandatory for the issuing and renewal of licenses, as recommended also by the Independent Commissioner for Matters of Child Sexual Abuse.<sup>57</sup> Child protection policies are considered to be stronger when developed or reviewed in consultation with children and should be subject to periodic review.

### 3.2 Prevention activities (OPSC art. 9.2)

The State Party Report informs about numerous prevention projects rolled-out in schools and other institutions for children to raise awareness and sensitise children and adults to the risks of sexual violence.<sup>58</sup> There is however no national overview of these activities and their impact, nor is there evidence-informed planning and coordination at the federal level.<sup>59</sup> In the specific scope of the OPSC, the preventive approach and the activities in the frame of the Federal Cooperation Model on Protecting and Supporting Child Victims of Trafficking and Exploitation is a good example.<sup>60</sup> Regarding the protection of children from sexual exploitation in travel and tourism, the multi-country child protection campaign »Don't Look Away!« is understood as a positive example that merits to be sustained. It aims to prevent the sexual exploitation of children in the context of travel and tourism and facilitate the reporting of cases and suspicions. Beyond these activities, ECPAT and its partners would like to see a more comprehensive and coordinated approach to the prevention of sexual exploitation of children by the Federal Government.

### **ECPAT Germany recommends to**

18. Promote and coordinate a comprehensive set of activities for the prevention of sexual exploitation of children specifically, in addition to the prevention of sexual violence against children. Prevention activities should include awareness raising and sensitisation campaigns for different target groups, such as officials and professionals working with children, the general population, parents and children on sexual exploitation.

### **3.3 Promoting ethical and rights-based terminology (OPSC art. 9.2)**

In 2019 the Terminology Guidelines for the protection of children from sexual violence and exploitation were adopted into German language in consultation with state agencies, service providers and civil society organisations led by ECPAT Germany.<sup>61</sup> Inspired by the 2016 international Terminology Guidelines, the German adaptation aims to influence attitudes towards child victims of sexual offences, to protect their dignity and enhance the recognition of the child as a rights holder. The guidelines were considered necessary as the sensitivity towards terminology in the child protection field has evolved with the progressive implementation of the UN Convention on the Rights of the Child and its Optional Protocols. Rather than »child prostitution«, »child pornography« and »child sex tourism«, for instance, which used to be common terminology when the Optional Protocol was adopted, the guidelines promote more rights-based terms such as »sexual exploitation of children in prostitution«, »child sexual abuse images« and »sexual exploitation of children in the context of travel and tourism«.<sup>62</sup>

### **ECPAT Germany recommends to**

19. Promote the consistent use of the terms and concepts agreed upon under the German Terminology Guidelines in the operations and communication of state agencies and their official partners, and promote their use in the legislative process, in the academia, in education and training, and among the private actors working with and for children and families, as well as the media.

### **3.4 Reducing demand through therapy programmes for potential and convicted perpetrators (OPSC art. 9.1)**

#### ***Preventive programmes for potential perpetrators***

As noted by the State Party Report<sup>63</sup>, the network »Kein Täter werden« [»Don't Offend«] offers preventive therapy for persons who are sexually attracted to children, who perceive their sexual preferences as distressing and who are seeking help to not commit a criminal offence. Participants are enrolled on the condition that they have not committed any sexual offences.<sup>64</sup> The evidence-based programme is supported by a scientific committee. It was launched in 2005 and established as a country-wide network in 2011. In 2016, law reform enabled free of charge participation in the therapy, which is covered by public health insurance.<sup>65</sup>

The programme is closing a protection gap, as preventive therapy for potential perpetrators is complementing prevention measures targeting children, parents and professionals working with and for them. Evaluations demonstrate that the programme succeeds in reducing risk factors as it achieved a sustainable behaviour change by preventing 98% of the participants from becoming perpetrators.<sup>66</sup>

The demand for preventive therapy is high. By the end of December 2018, 10,499 persons throughout Germany had contacted the prevention network »Don't Offend«. 3,672 persons had presented themselves at one of the eleven locations for diagnosis and consultation, of whom 1,783 were eligible to receive a therapy offer. Persons who cannot easily access one of the therapy locations due to long travel distances, have the possibility to enrol in the online self-help programme »Troubled Desire«.<sup>67</sup> The prevention network offers also a special programme targeting adolescents. The results suggest that prevention measures targeting adolescents appear to be more efficient.<sup>68</sup>

#### ***Preventing recidivism: Risk assessments of defendants and convicted perpetrators***

The State Party Report does not report on measures taken to prevent recidivism of sexual offenders. At present, there are no legal regulations to ensure that

defendants accused of sexual offences are subject to psychopathological risk assessments. Research by the University of Kiel revealed that only around 12 % of the defendants in sexual offence cases were assessed by a professional psychiatrist during the investigations or proceedings. Where psychopathological assessments are done, they typically remain limited to establishing whether the defendant can be considered criminally responsible. The risk of re-offending is typically assessed when a sentenced perpetrator is prepared to be released from prison. During the prison term, therapy and treatment of perpetrators of sexual offences against children are not provided as a standard measure. In consequence, the risk of a perpetrator to reoffend after release from prison is high.<sup>69</sup> Evidence from other countries demonstrates that risk assessments during criminal proceedings and prison terms as well as treatment for the prevention of recidivism succeed in reducing the rate of reoffending significantly and thereby enhance the prevention of sexual offences against children.<sup>70</sup>

#### **ECPAT Germany recommends to**

20. Institutionalise the therapy programme for potential perpetrators permanently and step up therapy places country-wide to reduce waiting times, while facilitating access in rural areas.

21. Develop evidence-informed therapy programmes for perpetrators of sexual offences against children, with due consideration to the characteristics and needs of different typologies of perpetrators, in particular with a view to secondary and tertiary prevention. Ensure that sentences issued by courts of law in cases of sexual offences against children provide for mandatory therapy of convicted perpetrators from the beginning of the prison term.

22. Train psychologists and psychiatrists working with defendants and sentenced perpetrators of sexual offences against children in conducting recidivism risk assessments. Support academic research and teaching in specialised faculties for sexual medicine in order to expand the availability of specialised forensic expertise, therapy and treatment for potential and convicted perpetrators of sexual offences throughout the country.

## 4. Effective law enforcement

### 4.1 Strengthening the effective enforcement of laws in Germany (OPSC arts. 1 and 3)

As described in the State Party Report<sup>71</sup>, the Federal Criminal Code prohibits the sexual exploitation of children in prostitution and pornography, as well as in the contexts of child trafficking, sale, travel and tourism. Whereas criminal law offers a sufficient margin of action to prosecute perpetrators and protect victims, challenges continue to prevail mainly with regard to the effective enforcement of these laws.

German law enforcement authorities are successfully investigating and prosecuting cases of sexual exploitation of children in prostitution and in the context of child trafficking. They have recognised the possession of illegal content and its distribution on the internet as a common criminal offence, which is identified and investigated due to increased resources, specialisation and technology. However, in many cases, the investigations lag behind the vast amount of criminal activity, especially in the digital environment. The backlog can only be addressed through more specialised officers, an increased use of technology and the allocation of the necessary budgets, as well as collaboration with law enforcement agencies of other countries (see Chapter 2.7 of this report).

The State Party Report does not include information about the presence of law enforcement and prosecution units throughout the country which are specialised on sexual offences against children. The annual trafficking statistics published by the Federal Criminal Office (BKA) indicate a disproportionately high number of successful investigations of trafficking of children in Berlin, which is considered to be related to the specialised law enforcement unit operating in the Berlin Criminal Office.<sup>72</sup>

ECPAT Germany and the specialized counselling centres on trafficking are concerned that despite the progress made, there remain numerous situations where girls or boys are known to be sexually exploited in prostitution on the streets, in private apartments or other contexts where law enforcement services do not succeed to end the exploitation and apprehend the perpetrators. Many children in situations of exploitation are subject to high levels of pressure, control or threat. Children may also refuse to accept services as they do not trust to receive meaningful

help.<sup>73</sup> Some children refuse to collaborate with law enforcement authorities or other service providers due to serious health impacts and traumatisation as a result of the violence exerted by exploiters and traffickers.<sup>74</sup> Low threshold and social outreach services are often the only service providers in contact with children in situations of sexual exploitation.

#### **ECPAT Germany recommends to**

23. Ensure specialised law enforcement and prosecution services are in place at the federal level to investigate sexual offences against children. Ensure that, in the course of criminal investigations, interviews of child victims of sexual violence, sexual exploitation or trafficking are conducted as a general rule by specifically trained staff (police officers or child psychologists).

24. Require business enterprises and other relevant stakeholders to collaborate with law enforcement agencies for the purpose of criminal investigations, in particular to secure the availability of metadata concerning illegal content identified on local servers, as recommended by the relevant Council of Europe guidelines.<sup>75</sup>

## **4.2 International law enforcement cooperation and extraterritorial jurisdiction (OPSC arts. 4–6)**

Since 1993, the Criminal Code has enabled the application of extraterritorial jurisdiction in cases of sexual offences against children committed abroad.<sup>76</sup> The legal framework required for enforcing criminal laws in relation to sexual offences against children committed abroad or in transnational situations is therefore in place and could be applied in cases of sexual exploitation of children in the context of travel and tourism, in child trafficking and in the digital environment. The provisions apply irrespectively of whether the conduct is criminalised also in the country where it was committed.<sup>77</sup>

ECPAT underlines the need for disaggregated data on extraterritorial prosecutions of sexual offences against children in the criminal police statistics. A survey conducted by ECPAT Germany among courts and the Criminal Offices of the Länder identified 38 extraterritorial cases over a ten year period (2005–2015)

out of a total caseload that is known to be higher. None of the child victims identified in the cases that resulted in the conviction of a perpetrator received victim compensation.<sup>78</sup>

Increased resources, specialisation and technology have enabled law enforcement authorities to identify and investigate criminal offences related to the possession of illegal content and its distribution on the internet, including in transnational contexts.<sup>79</sup> However, the State Party Report does not comment on the immense workload and the inadequate personnel and technical resources of the investigating authorities.

ECPAT notes that sustainable solutions to reduce the backlog and to enhance the effectiveness of law enforcement in relation to the digital environment require bi- and multilateral collaboration with law enforcement agencies of other countries, including in the contexts of Europol and Interpol regarding the green notices.<sup>80</sup>

#### **ECPAT Germany recommends to**

25. Enhance data collection and analysis with regard to the application of extraterritorial jurisdiction in cases of sexual violence and exploitation of children, with a view to assessing the current practice and to guide and monitor progress in this field.

26. Ensure the centralised register of persons who have been convicted of sexual offences against children is screened effectively in vetting procedures for employees and volunteers recruited for activities where they are in contact with children, in Germany or abroad. The register should be connected with a travel notification system, and enable the sharing of the data and appropriate notifications through bi- and multilateral law enforcement cooperation mechanisms such as Interpol and Europol.

## 5. Assistance, remedies and child-sensitive justice for child victims of sexual exploitation

### 5.1 Assistance for child victims of sexual exploitation (OPSC art. 9.3)

In its 2014 concluding observations, the Committee expressed concern about insufficient measures to provide help and support to victims of sexual exploitation, in particular concerning insufficient and unequal access to counselling services and treatment units for child victims, as well as insufficient funding of specialised services. The Committee noted that boys, children with disabilities and migrant children with poor knowledge of German language are facing particular difficulties in accessing assistance.<sup>81</sup>

The State Party Report includes information about the measures taken by the federal and Länder governments, in cooperation with partners, to strengthen the assistance and support services for children who are victims of sexual exploitation.<sup>82</sup> Measures were taken to enhance the provision of information to persons who are victims of crime, as the Federal Government recognised that many do not apply for compensation and support services because they are unaware of their legal entitlements.<sup>83</sup> However, the Federal Government recognises the difficulties of guaranteeing access to specialised counselling and advice for persons who were victims of sexual offences during childhood, especially for certain groups including those in rural areas (see Chapter 2.1 of this report).

ECPAT Germany recognises the increased awareness of the Federal and *Länder* governments of the need to lower the threshold for child victims of sexual offences to access assistance and support. However, the measures taken thus far remain insufficient. Although a range of service providers, counselling centres, child protection centres and outpatient clinics are in place, child victims of sexual offences cannot rely on getting access to child-friendly information and counselling and lack assistance and support services targeted to their individual needs in the place where they live.<sup>84</sup>

It is not uncommon that service providers working with children fail to identify signs of sexual violence, exploitation and trafficking even among the children they work with, mainly due to limited awareness and

knowledge.<sup>85</sup> Experts are concerned about gender-related stereotypes, which continue to prevent the effective identification and referral of child victims of sexual violence and exploitation. The fact that women commit sexual offences against children is only scarcely known and researched. Service providers tend to have a limited understanding of the patterns and scope of sexual exploitation of boys.<sup>86</sup> Shelter services for boys or transgender children are almost not available.<sup>87</sup>

Research reveals that 60 percent of the children who received services in response to a sexual offence had symptoms of a psychological disorder as a result of sexual violence, such as post-traumatic stress and depression. Due to feelings of shame, many children disclosed only one year after the incident happened. 20 percent felt they did not receive sufficient support. Although children showed symptoms that required treatment, 62 percent did not receive specialised therapy. A third of the children didn't consider the services of the Youth Welfare Offices to be really helpful.<sup>88</sup>

ECPAT Germany recognises the need to continue enhancing the quality of service provision for children and to promote the use of standardised methods for case assessment, diagnosis and therapy.<sup>89</sup> The recommendations issued by the Committee on the Rights of the Child in 2014 continue to be highly relevant.<sup>90</sup>

As noted also by the Council of Europe monitoring body GRETA, the scope of Victim Protection Law and the correlated entitlements of victims of crime to apply for compensation remain limited to children and adults who have their permanent residence in Germany. This protection gap has to be closed to ensure child victims of sexual exploitation are fully protected and receive appropriate support for recovery and rehabilitation, irrespective of their nationality or residence status.<sup>91</sup>

#### **ECPAT Germany recommends to**

27. Guarantee the unrestricted access of child victims of sexual offences to assistance and support services, including child-friendly information, specialised counselling with child-sensitive communication and interviewing, treatment, shelter services and therapy.

28. Provide systematic training for child psychologists and psychiatrists on the diagnosis, impact and treatment of sexual violence and exploitation of children, including the identification and treatment of traumatisation and dissociation as a result of particularly cruel and prolonged situations of exploitation, as well as meaningful support for children who continue to be exploited in the digital environment.

29. Expand the scope of the Fund Sexual Abuse<sup>92</sup> to accomplish the victim's entitlement to apply for compensation to children and adults who do not have their permanent residence in Germany.

## 5.2 Remedies and child-sensitive justice (OPSC arts. 8 and 9.4)

With the entry into force in 2015 of the revised Act strengthening victims' rights in criminal procedures, the legal entitlements of child victims of sexual offences to receive support during criminal proceedings have been strengthened.<sup>93</sup> Persons who are victims of sexual offences are entitled to receive psychosocial support during the court proceedings. This service aims to offer better support for young victims of sexual offences.<sup>94</sup> Experts observe that the quality of the service varies, as the training and qualification of providers of psychosocial support is not regulated.<sup>95</sup>

Experience has shown that a child's participation as a witness in civil and criminal proceedings still often stands in conflict with prompt access to therapy, as therapy is considered to alter the child's statement. Admitting video-recorded hearings of child victims as a general rule would resolve the potential conflict of interests and enable child victims to initiate therapy while the proceedings are still in course.

The Civil Code obliges Family Judges to make the best interests of the child a primary consideration. However, the concept of 'best interests' is not defined and there are no binding regulations on how judges determine the best interests of the child and ensure it is a primary consideration in their decision-making processes.<sup>96</sup> As a consequence, professionals report on court decisions under child welfare laws that do not give adequate weight to the protection of the child.

## ECPAT Germany recommends to

30. Guarantee child victims of sexual exploitation have access to child-sensitive remedies and justice, in accordance with relevant recommendations adopted by the Council of Europe Committee of Ministers.<sup>97</sup> The setting up of child-centred service models under one roof, inspired by the Nordic Barnahus and comparable service models, has to be further promoted. The relevant pilot projects testing the model in Germany should be evaluated and debated with a view to identifying the most appropriate model for the federal context.

31. The hearing of the child should be mandatory from a young age in all court proceedings concerning them, in accordance with the principle of the best interests of the child, ensuring that child-friendly conditions and a qualified interviewer guarantee a child-sensitive hearing. In criminal proceedings, the standardised use of video-recorded forensic interviews or hearings of child victims or witnesses in court should be provided for, in accordance with the principles of the rule of law and due process.

32. Judges handling proceedings under administrative, civil or criminal law that involve children as victims or witnesses, and in particular judges of the Family Courts, as well as the jury have to undergo mandatory training on the rights of the child, best interests determination procedures in the judicial context, child-sensitive hearing, the use of evidence-based interviewing protocols for child victims and witnesses, the child's evolving capacities to make reliable and accurate statements, as well as the health impact of sexual violence and exploitation, including the impact of traumatisation and dissociation. Training should be provided as a standard component of academic curricula and through continuous on-the-job training.

33. The writing of opinions for court proceedings assessing the best interests or other matters concerning child victims of sexual exploitation should be regulated and guided by a set of binding quality standards, as well as training, as is also recommended by the German Thematic Expert Group on sexual violence against children in organised and ritual structures.<sup>98</sup>

## Overview on ECPATs recommendation on the implementation of the Optional Protocol (OPSC)

### General coordination and measures of implementation

#### ECPAT Deutschland recommends to

1. Draw up a **national strategy** or a new action plan to coordinate measures against sexual violence and exploitation of children also taking into account the issues of risks, protection and support in the analogue and digital environments and to ensure all children are reached effectively by prevention and response measures in all parts of the country, equipped with sufficient funding and effective monitoring.
2. Develop a **coordinated national approach** to safeguard and promote the human rights and fundamental freedoms of children in the digital environment, in accordance with the Council of Europe guidelines and the commitments under the Coalition Contract, with specific measures to protect children against sexual exploitation. Children should be engaged actively and ethically in the development and implementation of policies and programmes in this field.
3. Set up a **national / federal coordination body** to oversee the implementation of measures to prevent and respond to sexual violence against children and sexual exploitation, in accordance with the UN Convention on the Rights of the Child and its Optional Protocols. Such a coordination body should provide a forum for interagency and multi-disciplinary exchange, including the participation of relevant state agencies at the federal and the Länder levels, representations of municipalities, specialised institutions, organisations and service providers, academia, and the business sector.
4. Ensure effective **multi-professional referral mechanisms** are in place at the local level to identify children at risk of sexual exploitation, as well as child victims, and enable the child's reliable referral to meaningful assistance and support. Reporting and referral mechanisms must be child-sensitive, known and accessible to children and adults in the analogue and digital environments, as recommended by the Council of Europe

Guidelines on the Rights of the Child in the Digital Environment and the European Commission Principles for Integrated Child Protection Systems.<sup>17</sup> Referral mechanisms should promote, operationalise and regularly update guidance and quality standards, as well as indicators for the identification of children at risk and child victims of sexual violence and exploitation.

5. Promote the **progressive implementation of the Federal Cooperation Model** on protecting and supporting child victims of trafficking and exploitation. In accordance with the recommendations issued by GRETA, continued support is required from the Federal and *Länder* governments and the municipalities to put in place the necessary framework for its implementation, as outlined by the Federal Cooperation Model.<sup>99</sup> Its implementation should be closely monitored and evaluated.
6. Revise the **Residence Act** to ensure that, where a child victim of exploitation or trafficking is a non-national and does not possess a valid permit of stay, the issuing of a residence permit is not conditional on the child's collaboration in criminal investigations and proceedings, and the best interests of the child are the primary consideration in decisions about the child's place of stay and durable solution, irrespective of the child's national origin or status.
7. Expand the **application of the Act to enhance the assertion of legal rights in social media networks** to all online applications and services where children are active, including messaging services, chatrooms and online games, and include the production of sexual abuse material of adolescents (14–17 years) in the definition of illegal content under the Act.
8. Collaborate with the Länder, the representation of municipalities, academia, relevant institutions and civil society to develop a **training strategy for officials and professionals working with and for children**. The objective shall be to provide for systematic and mandatory inclusion of child rights and child development themes in the academic and vocational training curricula for all professions working with and for children and families, as well as measures for targeted continuous and on the job training, with due consideration to the rights of the child in the analogue and digital environments. The training strategy shall further aim to advance inter-disciplinary child protection training as a standard component of academic

training curricula, as well as joint multi-professional child protection training with mandatory participation of all relevant sectors, including specific training on the theme of sexual violence and exploitation of children. The strategy shall provide for measures to evaluate and enhance the effectiveness of the training, such as longer-term supervision and peer support to enhance training impact, skills training to use evaluated evidence-based evaluation methods, and hands-on guidance for practice.

9. Establish a **comprehensive and integrated data collection system** on sexual violence and exploitation of children in all contexts, such as an independent national rapporteur or knowledge centre on all forms of violence and exploitation of children in the analogue and digital environments.

10. Ensure that a **comprehensive regulatory framework** is in place that requires business companies operating on or from German territory to respect the rights of the child in the analogue and digital environments, with effective accountability mechanisms to prevent impunity in the case of infringements, in accordance with the UN Guiding Principles on Business and Human Rights. The regulatory framework should further require business enterprises and other commercial actors who provide services to children or have children as clients to draw up child protection policies, publicise them and review and update them regularly.<sup>48</sup>

11. Ensure that **child protection standards in the digital business sector are mandatory** and incorporate state-of-the-art technology safeguards for children. Internet service providers shall be required to employ child protection contact persons, as well as moderators for online games, chat rooms and other applications used by children. These contact persons must be trained, competent and supervised to assume child safeguarding tasks. Restrictions for child protection purposes shall be mandatory in all social media, internet services and applications used by children. Child and adult users, as well as parents and service providers working with children, have to be duly informed of relevant restrictions and filters. Users shall be informed and asked to agree to these safeguards when accepting the terms of use.

12. Legislate for business companies and other commercial actors, including in the travel and tourism sector, to carry out and publicise mandatory **social**

**impact assessments** for their operations in a specific location for the entire value-chain, with due consideration to the human rights of the child and the protection of children against sexual exploitation. Ensure that mechanisms are in place to prevent and mitigate adverse impacts on the human rights of the child, in accordance with the UN Principles on Human Rights and Business, relevant international standards and the Berlin Declaration on »Transforming Tourism«. <sup>49</sup>

14. Ensure **child protection policies** are in place and effective for all actors in the German development cooperation and those engaged in fragile contexts.

15. Sustain and expand the promotion of the rights of the child, including the **protection of children from sexual violence and exploitation, in German development cooperation** and during engagement in fragile states and contexts, by moving on from integrating the rights of the child to promoting their effective implementation in practice.

## Prevention of sexual exploitation of children

### ECPAT Deutschland recommends to

16. Ensure that the promotion of the rights of the child in the digital environment is recognised as a **cross-cutting issue** and mainstreamed into all policies and programmes concerning children and families, the media, the business sector and other relevant fields.

17. Require all organisations, institutions, associations and services who are working with children, are in contact with children or have children as clients, to have **child protection policies** in place, with due consideration to the risks of sexual violence and exploitation in the digital and the analogue environments. Having a child protection policy in place should be mandatory for the issuing and renewal of licenses, as recommended also by the Independent Commissioner for Matters of Child Sexual Abuse.<sup>57</sup> Child protection policies are considered to be stronger when developed or reviewed in consultation with children and should be subject to periodic review.

18. Promote and coordinate a comprehensive set of activities for the **prevention of sexual exploitation of children** specifically, in addition to the prevention of

sexual violence against children. Prevention activities should include awareness raising and sensitisation campaigns for different target groups, such as officials and professionals working with children, the general population, parents and children on sexual exploitation.

19. Promote the consistent use of the terms and concepts agreed upon under the **German Terminology Guidelines** in the operations and communication of state agencies and their official partners, and promote their use in the legislative process, in the academia, in education and training, and among the private actors working with and for children and families, as well as the media.

20. Institutionalise the **therapy programme for potential perpetrators** permanently and step up therapy places country-wide to reduce waiting times, while facilitating access in rural areas.

21. Develop **evidence-informed therapy programmes** for perpetrators of sexual offences against children, with due consideration to the characteristics and needs of different typologies of perpetrators, in particular with a view to secondary and tertiary prevention. Ensure that sentences issued by courts of law in cases of sexual offences against children provide for mandatory therapy of convicted perpetrators from the beginning of the prison term.

22. Train psychologists and psychiatrists working with defendants and sentenced perpetrators of sexual offences against children in conducting recidivism risk assessments. Support **academic research and teaching** in specialised faculties for sexual medicine in order to expand the availability of specialised forensic expertise, therapy and treatment for potential and convicted perpetrators of sexual offences throughout the country.

## Effective law enforcement

 **ECPAT Deutschland recommends to**

23. Ensure **specialised law enforcement and prosecution services** are in place at the federal level to investigate sexual offences against children. Ensure that, in the course of criminal investigations, interviews of child victims of sexual violence, sexual exploitation or trafficking are conducted as a general rule by specifically trained staff (police officers or child psychologists).

24. Require business enterprises and other relevant stakeholders to **collaborate with law enforcement agencies** for the purpose of criminal investigations, in particular to secure the availability of metadata concerning illegal content identified on local servers, as recommended by the relevant Council of Europe guidelines.<sup>75</sup>

25. Enhance **data collection and analysis** with regard to the application of extraterritorial jurisdiction in cases of sexual violence and exploitation of children, with a view to assessing the current practice and to guide and monitor progress in this field.

26. Ensure the **centralised register of persons who have been convicted of sexual offences against children** is screened effectively in vetting procedures for employees and volunteers recruited for activities where they are in contact with children, in Germany or abroad. The register should be connected with a travel notification system, and enable the sharing of the data and appropriate notifications through bi- and multilateral law enforcement cooperation mechanisms such as Interpol and Europol.

27. Guarantee the unrestricted **access of child victims of sexual offences to assistance and support services**, including child-friendly information, specialised counselling with child-sensitive communication and interviewing, treatment, shelter services and therapy.

28. Provide **systematic training for child psychologists and psychiatrists** on the diagnosis, impact and treatment of sexual violence and exploitation of children, including the identification and treatment of traumatisation and dissociation as a result of particularly cruel and prolonged situations of exploitation, as well as meaningful support for children who continue to be exploited in the digital environment.

## Assistance, remedies and child-sensitive justice for child victims of sexual exploitation

### ECPAT Deutschland recommends to

29. Expand the scope of the **Fund Sexual Abuse**<sup>92</sup> to accomplish the victim's entitlement to apply for compensation to children and adults who do not have their permanent residence in Germany.

30. Guarantee child victims of sexual exploitation have access to **child-sensitive remedies and justice**, in accordance with relevant recommendations adopted by the Council of Europe Committee of Ministers.<sup>97</sup> The setting up of child-centred service models under one roof, inspired by the Nordic Barnahus and comparable service models, has to be further promoted. The relevant pilot projects testing the model in Germany should be evaluated and debated with a view to identifying the most appropriate model for the federal context.

31. The **hearing of the child** should be mandatory from a young age in all court proceedings concerning them, in accordance with the principle of the best interests of the child, ensuring that child-friendly conditions and a qualified interviewer guarantee a child-sensitive hearing. In criminal proceedings, the standardised use of video-recorded forensic interviews or hearings of child victims or witnesses in court should be provided for, in accordance with the principles of the rule of law and due process.

32. Judges handling proceedings under administrative, civil or criminal law that involve children as victims or witnesses, and in particular judges of the Family Courts, as well as the jury have to undergo **mandatory training** on the rights of the child, best interests determination procedures in the judicial context, child-sensitive hearing, the use of evidence-based interviewing protocols for child victims and witnesses, the child's evolving capacities to make reliable and accurate statements, as well as the health impact of sexual violence and exploitation, including the impact of traumatisation and dissociation. Training should be provided as a standard component of academic curricula and through continuous on-the-job training.

33. The writing of opinions for court proceedings assessing the best interests or other matters concerning child victims of sexual exploitation should be regulated

and guided by a set of binding **quality standards**, as well as training, as is also recommended by the German Thematic Expert Group on sexual violence against children in organised and ritual structures.<sup>98</sup>

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