



Submission for the General Comment on the Rights of Adolescents

ECPAT Sweden

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MOT BARNSEXHANDEL

ECPAT Sweden

1. Recommendations

ECPAT Sweden welcomes The Committee on the Rights of the Child (The Committee) decision to develop the General Comment on the Rights of Adolescents (the GC).

The combat against commercial sexual exploitation of children is facing challenges that demand greater efforts and focus, the access to Internet expands globally, existing technology constantly develops, new commercial services are offered to erase electronic traces on the Internet (facilitating both perpetrators and profiteers) and increase use of the hidden Internet.

ECPAT Sweden would like the Committee to highlight the specific challenges that face adolescents and their full protection from commercial sexual exploitation through the following recommendations:

- To highlight the specific challenges for children who are adolescents and their right to full protection from all forms of sexual exploitation and sexual abuse irrespectively of the applicable law for the age of sexual consent.
- To include a section on special protective measures for the rights of adolescents. The special protective measures need to be strengthened to ensure equal rights and availability of services for all children, irrespectively of where they live or reside. The child rights perspective is especially necessary when it comes to the prevention, repatriation, care, rehabilitation of victims of trafficking.
- To comment on the need for a child rights perspective and the need for special protective measures when identifying risks for the adolescent children in the migration system to ensure the full protection of their rights.
- To encourage parents or, legal guardians, to be as actively involved in the adolescent life online as offline. The parents and the care givers are responsible for making sure that the adolescent is protected as an active participant when exploring the digital environments.
- To ensure regular and compulsory training on the Convention on the Rights of the Child (the Convention) and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (the OP) for professionals working with or for children.

1. Introduction

1.1 ECPAT Sweden

ECPAT Sweden was established in 1996 and its mandate covers commercial sexual exploitation of children; as described in article 34 and 35 of the Convention and in the OP. ECPAT Sweden advocates to ensure that the Swedish Government fully implements the Convention and its Optional Protocol. .

1.2 ECPAT Sweden's methodology

ECPAT Sweden gathers information on the situation relating to commercial sexual exploitation of children in Sweden, and situations that are linked to Sweden. ECPAT Sweden acquires its facts and figures of situations through firsthand information, reviewing reports, research, dialogue with experts, foremost individuals working directly with the issues such as law enforcement representatives, decision-makers at various levels (local, regional, national, global), private sector representatives in the tourism-, transportation-, IT- and finance industries, and through direct information as acquired by the ECPAT Hotline.

2.1 Definition of adolescence

Adolescence in the GC defined as a special group of children, commencing from puberty until 18 years.¹

In article 1 of the Convention the child is defined as “every human being below the age of eighteen years unless the law applicable to the child, majority is attained earlier”. The age for sexual consent varies in different State Parties which may infringe on the child’s right to protection.

ECPAT Sweden encourages the Committee to be cautious of using the term “puberty” to define adolescence, since the example below states that, in Sweden, children’s protection from sexual exploitation is dependent on when the child enters puberty.

In Sweden a serious amount of child sexual abuse material is not identified as illegal, since the definition of a ‘child’ in the Child Pornography Act is dependent on the child’s pubertal development. One exception can be found for the crime of producing child pornography (Penal Code chapter 16, article 10a). For the remaining crimes (distributing, disseminating, offering, selling, possession, accessing etc.) a child is defined as a person whose *pubertal development* is not complete or, if it is apparent from the material and its attendant circumstances, the victim is below the age of 18 years.

The children whom are not defined as ‘children’ in accordance with the Child Pornography Act are treated as adults when it comes to sexual abuse and commercial sexual exploitation of children. The argument from the perpetrator that he/she believed the child was above the age limit of consent, 15 years old or 18 years old (when it comes to purchase of a sexual act of a minor) are in general

¹ Outline Scoping Document for the General Comment on the Rights of Adolescents p.1 *Introduction*

accepted by the Court. The closer the child is to 18 years of age, the easier a consent to sexual exploitation is accepted by the Courts. It is possible to say that in practice, the actual protection against commercial sexual exploitation exists for children up to 12 years of age.

In many cases when the perpetrators are prosecuted for attempt or purchase of a sexual act of minor they claim that they had no knowledge of the child's actual age. In these situations, courts often find that the defendant's objection regarding the child's age cannot be refuted and they are sentenced to "purchase of sexual services", a crime which results in a shorter sanction.²

ECPAT Sweden would like the Committee to consider commenting on whether the State Parties should strive for a strict age liability of the perpetrator for all crimes of sexual exploitation so that the child's protection from these crimes is not dependent on when the child enters puberty.

2.2 Child-specific forms of persecution

ECPAT Sweden urges the Committee to include a section on special protective measures for the rights of adolescents. The special protective measures need to be strengthened to ensure equal rights and availability of services for all children, irrespectively of where they live or reside. The child rights perspective is especially necessary when it comes to the prevention, repatriation, care, rehabilitation of victims of trafficking.

ECPAT Sweden also encourages the Committee to comment on the need for a child rights perspective and the need for special protective measures when identifying risks for the adolescent children in the migration system to ensure the full protection of their rights. The understanding of which groups of children who are at risk of becoming victims of trafficking for sexual purposes or any other purpose is still very limited, even outside the migration system. As an example of groups of children at risk for commercial sexual exploitation, ECPAT Sweden wants to highlight the vulnerable situation that asylum-seeking children are facing in general and in particular adolescent unaccompanied children. Other groups who are at risk are children arriving after supposed custodians *including* those who are placed individuals who are claiming to be relatives or their family, accompanied children - *including* children arriving with adults falsely acting as legal custodians, undocumented children, children of irregular immigrants and children who are entering the country with the use of look-alike-passports.

Victims of travelling child sex offenders

ECPAT Sweden encourages the Committee to comment on the need for the State Parties to improve its efforts to combat travelling child sex offenders (child sex tourism) and strengthen its international cooperation by multilateral, regional and bilateral arrangements for the prevention and elimination of the crimes. The State Parties need to increase the knowledge about travelling child sex offenders in general and knowledge and collection of data regarding their national perpetrators going abroad. The respective Government should work closer with the tourism industry, disseminate the UNWTO

² The National Police Board, *Human trafficking for sexual and other purposes*, report 14, 2014, p.27

Global Code of Ethics for Tourism and become a member of the UNWTO and its task force, World Tourism Network on Child Protection.

The lack of collection of data

ECPAT Sweden would like the Committee to echo the recommendation given to the Swedish Government in its recent Concluding Observations and encourage that all State Parties: *strengthen its efforts to eliminate sexual exploitation and abuse and to:*

- a) Establish a mechanism of systematic data collection disaggregated by age, sex, ethnic origin, national origin, geographic location, and socioeconomic status; and
- b) Increase the development of programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children.³

2.3 The right to information

The growing gulf between the experiences of adolescents and that of their parents or caregivers is clear when it comes to the use of new media in general and specifically on children becoming victims of sexual exploitation on the Internet. The State Parties are responsible of making sure that adults and children have knowledge of the Convention and its Optional Protocols. In order for children to be safe on- and offline they are entitled to information about their basic human rights. The right to information is established in the Convention and requires that adults who work for and with children and parents and other care givers are as actively engaged in the adolescent life on- and offline. For adolescents, who manage their relationships on- and offline, using smartphones, mobile applications, chats, social media etcetera, it is vital that the child is aware of his or her rights. The child has the right to protection *while* participating *in* online activities and should not to be protected *from* participating based on the adult inability to adapt to the rapidly changing ways of using the internet.

ECPAT Sweden would like the Committee to include an encouragement to parents and/or legal guardians, to be as actively involved in the adolescent life online as offline. The parents and the care givers are responsible for making sure that the adolescent is protected as an active participant when exploring the digital environments. They should provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

ECPAT Sweden encourages the Committee to recommend that State Parties take on responsibility for their obligation to strengthening the mechanisms to monitor and prosecute ICT related violations of children rights while remaining techni-neutral to crimes and to children's rights.

Teachers as well as psychologists, nurses and all personnel employed in school need compulsory training on the risks in connection with the use of new media, highlighting the risks of children

³ CRC/C/SWE/CO/4 p. 30 a-b.

becoming victims of commercial sexual exploitation when using the Internet. Since a large number of adolescents are online either on school equipment such as computers, reading tablets and smartphones in school, the training for the children needs to be compulsory in the school curriculum.

Knowledge and treatment of sexual offenders

Another important aspect is the need for knowledge of sexual offenders. In the Concluding Observation on the fifth periodic report to the Swedish Government, the Committee recommends the State Party to:

Increase its efforts to develop regulations to protect the privacy of children and adequately train children, teachers and families on the safe use of ICTs, in particular on how children can protect themselves from paedophiles, from being exposed to information and material harmful to their wellbeing and from online bullying.

ECPAT Sweden urges the Committee to include a comment on the obligation for the State Parties to ensure regular and compulsory training on the Convention and its Optional Protocols for professionals working with or for children. The training on commercial sexual exploitation of children, needs to include victim and *perpetrator psychology*, and must urgently be included in the compulsory education for all students whom in the future will work directly with children or to safeguard the rights of children, as well as for the same group of professionals. The training must be regular and compulsory and not made on ad hoc basis.

ECPAT Sweden wants to stress the urgency of assuring that the training on *perpetrator psychology* challenges and broadens the images of the sex offender since not all sex offenders are per definition 'paedophiles'. The lack of knowledge of the complexity of commercial sexual exploitation of children becomes highly visible when it comes to tackle the demand side of the problem which includes more research on offenders that does not exclude female and young offenders.

ECPAT Sweden has encountered the word *paedophilia* as being used to describe to any individual that has a sexual interest in children below the age of eighteen and thus wishes to stress the fact that not all sexual offenders are paedophiles and that not all paedophiles sexually exploit children. There are sexual offenders who exploit prepubescent, pubescent or post-pubescent children below the age of eighteen without having intense or recurrent sexual urges towards prepubescent children.

The knowledge of the sexual offender is of importance when the State is developing preventive programs that are addressed to potential offenders and to prevent new crimes for sentenced offenders. For instance, in Sweden, many sex offenders are only sanctioned with a fine when found guilty of commercial sexual exploitation of a child.