

Crimes without borders?!

An exploratory study on the policy instruments available for use in relation to convicted and other perpetrators of transnational child sexual abuse

Bureau Beke
Joy Wolsink
Hester de Boer
Anton van Wijk

Ecorys
Linette de Swart
Gabriëlle op 't Hoog

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Joey Wolsink, Hester de Boer, Anton van Wijk, Linette de Swart en Gabriëlle op 't Hoog

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Preface

This exploratory study on transnational child sexual abuse and the instruments available to combat it was commissioned by the Research and Documentation Centre (WODC), on behalf of the Dutch Law Enforcement and Crime Fighting Department. Transnational child sexual abuse is a phenomenon that, to date, has received relatively little attention in academic literature. This study focuses on the instruments available in the Netherlands that are intended to prevent the sexual abuse of children abroad, and on whether other countries employ measures that could be instructive to the Netherlands.

This report commences with an overview of transnational child sexual abuse as a phenomenon in terms of offender profiles, *modi operandi*, victim profiles and countries of destination. The overview is followed by a review of the instruments available in the Netherlands: judicial measures, policy instruments, and other measures intended to improve national and international cooperation in prevention, detection and prosecution. Lastly, five other countries are discussed by examining the scope of transnational child sexual abuse, legislation and policy, strategy, offender profiles, and the information available on offenders.

Various sources were consulted for this study. Desk research was carried out, which looked at academic literature, policy documents by the police, the Public Prosecution Service and NGOs, laws, evaluative studies, government documents, news articles and opinion pieces, and court decisions. Subsequently, to analyse the situation in the Netherlands, interviews were conducted with thirteen representatives of organisations involved either directly or indirectly in dealing with or combating transnational child sexual abuse. The findings of the desk research and interviews were presented to a total of sixteen experts over the course of three separate focus groups. To examine the situation abroad, first a 'quick scan' was carried out: desk research was used to identify five countries meriting further research. These five countries are Sweden, Germany, Ireland, Australia and the United States. In-depth desk research was carried out on the selected countries, and a total of 25 interviews conducted. We are very grateful to all respondents for their input, and extend our sincere thanks to them. Their names are given in Appendix 1.

We are also grateful to the members of the Supervisory Committee for their feedback: Corine van Ginkel (WODC), Kai Lindenberg (chair, University of Groningen), Astrid Matthijssen (Ministry of Security and Justice), Linda Dubbelman (Public Prosecution Service), Anneke Koning (Leiden University) and Bart Swier (Vink Veldman & Swier Advocaten). Lastly, we would like to thank Caroline Monster (Police) for her participation as an external expert.

Joey Wolsink, Hester de Boer, Anton van Wijk,
Linette de Swart and Gabriëlle op 't Hoog

Terminology

For terminology surrounding the sexual exploitation and sexual abuse of children, this study uses the international recommendations established in the Luxembourg Terminology Guidelines* by ECPAT International. First of all, we use the term 'transnational child sexual abuse' instead of 'child sex tourism.' Although 'child sex tourism' is the most well-known term in the Netherlands, it has been the subject of much criticism, as presenting it as a form of tourism actually limits the scope of the phenomenon and normalises it (ECPAT, 2016). Secondly, we use the term 'images portraying the sexual abuse of minors' (in accordance with the terminology used by the Online Child Abuse Expertise Agency, EOKM) instead of 'child pornography', as 'child pornography' insinuates that the sexual images were produced with the consent of the child (ECPAT, 2016). However, because this term is frequently used in legal documents, it still appears in citations and summaries.

* There is, as yet, no Dutch translation of the Luxembourg Terminology Guidelines. The Netherlands is working on producing one in 2021, under the supervision of ECPAT.

Summary

Preface

Following an article in the Dutch newspaper *De Telegraaf* about the case of the Dutchman Hans V. in March 2019, parliamentary questions were asked about the legal instruments or measures available for convicted transnational child sexual offenders. Two parliamentary motions were submitted requesting the government to investigate how international movements of offenders could be further restricted. In his response, the Minister of Legal Protection concluded that the available instruments and measures could be put to better use. In addition, he promised the House of Representatives to have the Dutch Research and Documentation Centre (WODC) conduct an international comparative study to learn from the experiences of other countries with regard to the available legal instruments and measures for convicted transnational child sexual offenders.

The aim of this study is twofold: 1) to gain more insight into the profiles of transnational child sexual offenders and 2) to examine whether other countries have legal instruments or measures in place to prevent transnational child sexual abuse that could also be valuable for the Netherlands. This objective translates into the following research questions:

1. What are the profiles/types of transnational child sexual offenders in the literature?
2. Is there an overlap between profiles/types of transnational child sexual offenders and those of child sexual offenders, child sexual exploitation and downloaders and distributors of child sexual abuse images?
3. Which legal and practical, national and international measures, including collaborative arrangements, are currently in place in the Netherlands to a) prevent (convicted) transnational child sexual offenders from reoffending and to b) reduce the risk of repeat offending and victimisation both in the Netherlands and abroad?
4. What legal and practical measures, national and international, including partnerships do the other to be researched countries take to a) prevent (convicted) transnational child sexual offenders from reoffending and to b) reduce the risk of repeat offending and victimisation, both in their own country and abroad? For example, are blacklists maintained on child sexual offenders, are they registered or are stamps or annotations placed in passports?
5. How is risk assessment carried out in these countries to prevent recidivism and to impose measures?
6. How do other countries use (police) information about (convictions of) sex offenders abroad in their national screening system in their approach to combat transnational child sexual abuse?
7. Are profiles/types of incoming and outgoing child sexual offenders in the Netherlands and/or in the countries to be researched kept?
8. What is the policy theory behind these measures, in other words, what are the goals of the measures, how should those goals be achieved and on which profiles/types of offenders are they geared?
9. Also, as part of the policy theory, what is the reasoning behind those measures, based on which social views and backgrounds in that country were those measures developed?
10. Are the measures applied in practice and what is being done to promote their application?
11. What can be said about the effects of the measures in practice? Are they successful, are there bottlenecks, or are there side effects?
12. Would the measures discussed be of added value in the Netherlands? Why or why not?

Methodology

The current study focuses on the Netherlands as well as a selection of five other countries. Various research activities were carried out to map the Dutch state of affairs regarding transnational child sexual abuse. First, desk research was carried out consisting of a literature study into 1) the profiles of transnational child sexual offenders and 2) the Dutch approach to combat transnational child

sexual abuse. Subsequently, thirteen representatives of the Ministry of Justice and Security, a non-governmental organisation (NGO), the Public Prosecution.

Service, and the police were interviewed individually to gain more insight into their experiences. Finally, the findings from the desk research and the interviews were presented in three separate focus groups to sixteen experts (working in/at the legal profession, social services, the Royal Netherlands Marechaussee, the Ministry of Justice and Security, NGOs, the Public Prosecution Service, the police, and academia) to deepen these findings.

To select five additional foreign countries for an international comparison, a quick scan of eleven selected shortlisted countries¹ was carried out. Based on this quick scan, Sweden, Germany, Ireland, Australia, and the United States were selected. The selection was made based on the differences between these countries regarding the preventive or repressive nature of their approach to combat transnational child sexual abuse to allow the selected countries to offer insights into a wide range of available legal measures and instruments. Desk research was carried out for each country study to gain insight 1) into the national situation regarding transnational child sexual abuse in the respective country, 2) into the way (government) organisations deal with this issue and 3) into the available legal framework to address this issue. In addition, 25 interviews were conducted with various national experts from the police, NGOs, ministries, and academia. The interviews were used to gain insight into the experiences of the other countries regarding profiles of transnational child sexual offenders, the available measures to deal with offenders and how these measures are applied in practice.

When reading the study, some limitations and caveats should be considered. In general, due to the lack of scientific literature on transnational child sexual offenders, the present study may have sketched an incomplete picture of the problem in terms of size, background, working method and organisation. In addition, the effectiveness of the measures in the Netherlands could not be tested, because they have not yet been implemented much in practice. It is, therefore, too early to assess whether the measures are effective. During the research, tension was regularly felt between the measures 'on paper' and their implementation in practice. Finally, the scope of this research did not allow an analysis of the five other countries in the same, extensive manner as was done for the Netherlands. Although we have collected as much written information for each country and talked to as many experts as possible, the results remain tentative. Because of the aforementioned caveats, we have labelled this study as 'exploratory'. Completeness was not an aim of this study. The lessons we draw from the collected data should, therefore, be considered in that way.

The offender profiles

Transnational child sexual abuse is a worldwide problem with an estimated one to two million underage victims each year. However, little scientific research has been conducted internationally into the phenomenon, resulting in a knowledge gap. Much information about the phenomenon is based on observations of experts working in the field. In the limited Dutch and international scientific literature on offender profiles, a distinction is made between **preferential offenders** who prepare and actively seek out minors abroad and **situational offenders** who commit abuse when the opportunity arises. This theoretical distinction between preferential and situational offenders appears to be more fluid in practice.

The literature offers few recurring characteristics of offenders of transnational child sexual abuse. The offenders seem to be mostly male. A small number of publications state transnational child sexual offenders have been victims of sexual abuse themselves more often than 'general' child sexual offenders and that they display more pedosexual and antisocial behaviour. However, more research is needed to verify these findings. The modus operandi of the offenders of transnational child sexual abuse is influenced by 1) the length of stay in

the destination country (short or long-term), 2) the motivation to offend (situational or preferential), and 3) the location (hands-off - including the online environment - or hands-on) of the offenders. Both girls and boys are victims of transnational sexual abuse. Several risk categories for destination countries can be distinguished, namely: economic factors, socio-cultural factors, governance, and

political-legal factors. The level of wealth in a country seems to be the most important factor, with countries experiencing high levels of poverty being more vulnerable to attract offenders of transnational child sexual abuse.

The before-mentioned observations arise from literature and are partly recognised by experts in the field. The experts recognise the two offender groups, yet they believe the dichotomy has limitations and some argue a third group of offenders should be added: the crossovers. According to them, the distinction between the two offender groups is more fluid in nature and the groups should be placed on a continuum. It is argued that situational offenders can eventually develop and use a motivation and modus operandi that is more oriented towards preferential offending. This would argue for more early, preventive measures. In addition, experts indicate that in practice, they encounter older preferential offenders more often and they see that situational offenders are mostly rather young. According to experts in the Netherlands, there is an overlap between 'general' sexual abuse offenders and transnational child sexual offenders. The difference between the two groups, according to the experts, lies in the absence of social life and having the opportunity to go abroad for transnational offenders. Regarding the modus operandi of the offenders, the experts emphasise the role of facilitators of the abuse and indicate that offenders have become more organised: the offenders seem to increasingly operate in networks. In practice, experts more often encounter boys than girls as victims. Finally, experts see that countries are more vulnerable to transnational child sexual abuse that have a well-established Internet infrastructure and countries where the legal age of consent for sexual contact is relatively low.

Instruments to combat transnational child sexual abuse

Part 1: Dutch instruments

To inventory the legal instruments available to combat transnational child sexual abuse, international treaties and national laws and regulations, instruments, (inter)national cooperation and instruments regarding the online environment were examined.

International treaties and national laws and regulations

In the Netherlands, the available legal instruments and measures to combat transnational child sexual abuse fall within the framework of international treaties and national laws and regulations. The international treaties offer minors protection against child sexual abuse. In addition, the Dutch *Long-Term Supervision, Influencing Behaviour and Freedom Restriction Act (WLT)* and the Passport Act can contribute to combating transnational child sexual abuse. The WLT has been fully implemented since 2018 and enables monitoring of long-term (child) sexual abuse offenders who are at risk of recidivism. The WLT and specifically the measure that influences behaviour and restricts freedom (in Dutch called *GVM*) was imposed five times in 2018 and 2019 on offenders who committed one or more sex offences with victims under the age of 18. To prevent transnational child sexual offenders from reoffending, judges can impose various special conditions based on the WLT, such as a reporting obligation, location ban, location order and travel ban. A duty to report cannot in itself prevent convicted sexual abuse offenders from travelling, therefore, the effect of the conditions remains limited. Little research has been done into the effects of the location ban and location order. The limited available research does not specifically focus on the application for transnational child sexual abuse but shows that monitoring compliance with the location ban and order is difficult without additional measures and/or special conditions. Additional measures might refer to the application of electronic monitoring, such as an ankle bracelet, for example.

The travel ban is hardly ever imposed, a study of case law shows. The Passport Act offers possibilities to revoke a passport or to refuse an application for a passport, which makes it more difficult to travel from the Netherlands to a non-Schengen country. The Act thus constitutes an important barrier for transnational child sexual abuse offenders. To the knowledge of the researchers, the Act (Article 18 and Article 24 of the Passport Act) is hardly used, if at all. An important reason for this is that a qualitatively good risk assessment is a crucial condition for the application of the Act. However, thus far this risk assessment has sometimes been lacking (see below). A second reason is the lack of a clear policy framework regarding the Passport Act. Policy-

wise, there is still no agreement about which criteria should apply and how those criteria should be established to arrive at a substantiated, well-founded suspicion of the risk of recidivism or whether the offender wishes to evade his sentence. A third reason – and this applies in fact to all possible measures – is that the problem of transnational child sexual abuse may have been known for some time, but it only recently came to light to the appropriate authorities and has to ‘compete’ with other priorities like combating online child abuse.

In conclusion, in theory, there seem to be sufficient legal options in the Netherlands to combat transnational child sexual abuse. However, in practice, these legal options have not yet been fully put into practice. Solid conclusions about the application and effects of the legal options cannot be drawn at this stage.

Instruments

Various risk assessment instruments have been developed to gain insight into the risk of recidivism of convicted sexual abuse offenders. The Dutch Probation Service usually carries out the risk assessments, because they are requested to do so by the Public Prosecution Service in relation to sentencing. As a result, the Probation Service only carries out risk assessments if there is a criminal case in a judicial process. From 2018 onwards, the Probation Service uses the updated RISC. This is a risk assessment tool that can be used for all types of suspects. The RISC contains various risk assessment instruments, allowing for a structured mapping of the risk of recidivism and the protective factors of a suspect. Based on this, the Probation Service formulates advice concerning the risk of recidivism and any special condition(s) to be applied. The new RISC has been designed in such a way that the SSA (Static-99R, Stable-2007 and Acute-2007) must be completed when the suspect is a (suspected) sexual abuse offender. The Static-99R uses static data such as age, gender and criminal history, while the Stable-2007 and Acute-2007 look at dynamic risk factors and determine the risk of recidivism more accurately. According to some experts, the Dutch Probation Service does not always have sufficient capacity to conduct risk assessments for the purpose described above. In some cases, the police, therefore, carry out risk assessments. However, the police also do not (or to a lesser extent) have the necessary capacity to properly carry out risk assessments. In addition, the police only use the Static-99R, as they do not have the necessary capabilities and information to use the other two instruments.

The result is that risk assessments are not always carried out or are not carried out by organisations or persons that are adequately equipped for this. In addition, experts further note that when the applicability of the Static-99 to the target group of transnational child sexual offenders is limited. The Static-99R assigns a lower risk of recidivism to older offenders (often the group of transnational child sexual abuse offenders) than the risk they actually pose. The required information (such as convictions abroad) is also not always available or the quality of the information is insufficient to arrive at a correct estimate of the risk of recidivism. This complicates the imposition of judicial measures, as they can only be imposed if there is a high risk of recidivism.

A second instrument is *Green Notices*. These Notices are international warning messages about convicted offenders who are known to have an increased risk of recidivism. The Notices are available to all Interpol Member States. A Notice does not prevent convicted sexual abuse offenders from travelling out, but a Member State can notify another Member State of the imminent arrival issuing a *Green Notice* through Interpol. This allows the destination country to take measures based on its own laws and regulations. Previous criminal convictions are not automatically added to a *Green Notice*. According to experts, if the convictions are added, this can be of added value as these convictions can be used during the screenings for a Certificate of Conduct (VOG in Dutch). In the Netherlands, according to experts, a limited number of *Green Notices* (fewer than ten) have been issued against Dutch transnational child sexual abuse offenders since the introduction of the *Green Notices*. In practice, little use is made of *Green Notices* because of the possible infringement of privacy, insufficient knowledge of operational services abroad about the use of the warning messages and the possible freedom restricting consequences of the Notices. In addition, a high risk of recidivism must be revealed through a risk assessment. All of the above means that, according to experts, only a very limited number of *Green Notices* have been issued in relation to transnational child sexual abuse.

Since 2012, the *European Criminal Record System* (ECRIS) has been the third instrument used in the Netherlands. Before that time, in the Netherlands only national convictions were used in the context of, for example, Certificate of Conduct (VOG) screenings. All convictions abroad were left out, allowing (child) sexual offenders convicted to work with children in the Netherlands. In addition, past behaviour did not influence getting a visa or emigrating abroad, so the VOG screening could not prevent sexual abuse offenders from committing transnational child sexual abuse. Since 2012, it has been mandatory that judicial data be exchanged if requested to do so by one of the central authorities in the Member States. In practice, this means that Europeans who apply for a Certificate of Conduct (VOG) from the Justis service in the Netherlands to be able to work with children are not only screened based on any Dutch judicial documentation but based on documentation from their country of nationality. In 2016, the European Commission concluded that ECRIS works efficiently concerning citizens from the EU Member States, but that there is no insight into European convictions regarding persons with a nationality from a third country, persons with previous nationalities or persons who are stateless. This information is crucial for combating transnational child sexual abuse because, according to scientific literature and experts, this abuse usually takes place in non-EU countries. As a result, experts are reluctant about the applicability of ECRIS in the combat against transnational child sexual abuse. To improve this matter, the *European Criminal Record Information System Third Country Nationals* (ECRIS-TCN) is expected to be operational in 2022. ECRIS-TCN contains a list with the identifying data of third-country nationals (being non-EU citizens) and EU citizens who also have the nationality of a third country (being a non-EU Member State).

(Inter)national cooperation

To prevent potential and convicted sexual abuse offenders from committing transnational child sexual abuse (again) and to improve investigation and prosecution, initiatives have been launched to improve the intelligence position of the National Police, the Royal Netherlands Marechaussee and the judiciary.

For example, the National Police deploys Liaison Officers (LOs) and Flexible Liaison Officers (FILOs) abroad. In Asia and specifically the Philippines, the LOs are in charge of international cooperation on criminal phenomena, such as transnational child sexual abuse. The aim is to promote cooperation and mediation in the execution of Dutch police and judicial requests for legal assistance abroad. The presence of LOs and FILOs leads to several dozen reports annually, some of which result in local investigations into and prosecutions of transnational child sexual abuse offenders. In addition, the LOs and FILOs ensure a smoother and more dynamic international information exchange, better initiation of local investigations and more local attention and awareness for combating child sexual abuse. A caveat about the role of the LOs is that the capacity for the Dutch LOs is limited. The areas in which the LOs work are too large for the available LOs, who also perform other tasks in addition to combating transnational child sexual abuse.

Non-governmental organisations (NGOs) also play an important role in combating transnational child sexual abuse. These NGOs work for and with the local population in destination countries, so they know the local context and possibly information about (potential) child sexual abuse offenders. For example, an NGO (ECPAT) has been in charge of the Dutch Child Sex Tourism Reporting Centre since 2018 (since 2020, this name has changed to the *Don't Look Away* Reporting Centre), where citizens can report suspected cases of transnational child sexual abuse. The Reporting Centre is affiliated with the European awareness campaign *Don't Look Away*; a collaboration between Germany, Austria, Switzerland, the travel industry, and Interpol. The aim of *Don't Look Away* is to collect as much useful information as possible about (potential) offenders and victims for the purpose of a criminal investigation. The information collected is transferred to the Dutch police, who can start an investigation if the offender is not yet being prosecuted in another country. The police and the Public Prosecution Service have criticised the fact that in certain cases the NGOs are too involved in "investigation activities". The NGOs criticise the fact that they receive little or no information from the police and the Public Prosecution Service after they have passed on information on potential transnational child sexual abuse offenders. The police and the Public Prosecution Service are bound by legal rules regarding the exchange of information. Experts argue in favour of making clearer agreements about the exchange of information, to streamline expectations.

Prevention

Specifically, for (potential) child abuse offenders, there is - besides the *Don't Look Away* reporting centre and the *Don't Look Away* awareness campaign - a helpline *Stop it Now!* in the Netherlands. This is an anonymous, confidential and free- of-charge telephone helpline that aims to prevent child abuse through advice and referrals to appropriate assistance. Third parties (parents, family, partner) can also call the helpline for questions. The helpline is not specifically set up for transnational child sexual abuse. It is not therefore possible to deduce how many potential transnational child sexual offenders have made use of the helpline. However, it is evident from interviews that this does happen. It is unclear whether this preventive helpline prevents Dutch people from travelling abroad to abuse children. The experts do think the helpline is a valuable initiative.

Scope of the instruments

Thus far, the Dutch legal possibilities and instruments have been little used to prevent transnational child sexual abuse offenders from leaving the Netherlands. As a result, it is impossible to assess their effectiveness. Nevertheless, it has become clear that the legal possibilities and instruments can, in practice, only be applied to offenders who have already been convicted and who are, therefore, already known to the authorities. There is a need for more preventive measures to combat transnational child sexual abuse by *first offenders*. Future measures could distinguish between short-term and long-term offenders so that the approach is more in line with the offenders' *modus operandi*.

Part two: an international comparison

Country study on Sweden

The Swedish approach to combat (transnational) child sexual abuse is characterised as one in which the care and treatment of offenders are paramount. The approach focuses strongly on the prevention of transnational child sexual abuse. Few repressive measures are available. There is, however, an increasing desire in Swedish society and authorities for an extension and tightening of the available measures. This has been partially addressed in recent years. Due to a lack of available information, it is virtually impossible to estimate the number of Swedish transnational child sexual abuse offenders.

Under Swedish criminal law, it is possible to impose a fine or imprisonment on an offender of sexual child abuse. Imposing other measures, such as a passport related measure, is not possible. The value that Swedish society attaches to freedom of the individual and the strict privacy legislation are the underlying reasons for this.

Care is the central component of the Swedish approach to combat transnational child sexual abuse. The care provided is available for people who fear they will exhibit unwanted sexual behaviour and for those who have already exhibited this unwanted behaviour. In most cases, this care is offered to offenders on a voluntary basis. The initiative to participate lies with the (potential) offender and there are few means available to force an offender to participate in a care program. As a result, only the part of the offender population that is open to treatment and behavioural change gets treated. In addition, many of the care programs have not (yet) been evaluated. This means that no statements can be made regarding the functioning of these care programs.

In Sweden, risk assessment instruments are used in criminal investigations and the prison system. The Swedish prison authority developed their own risk assessment tool because the international risk assessment tools were not considered to be sufficiently useful. The recidivism rates of sex offenders in Sweden appear to be low, however, there is debate about the reliability of these figures. This complicates the estimation of the effectiveness of the Swedish approach. Swedish international cooperation is mainly focused on prevention. Due to Swedish privacy legislation, there are limited opportunities to exchange information about individual offenders or suspects. This also means that Sweden does not participate in several international initiatives, such as the Interpol *Green Notices*. Sweden does participate in the initiative regarding the *Nordic Liaison Officers*. These are LOs that are

deployed abroad through a partnership between Sweden, Denmark, Norway, Finland, and Iceland to promote effective crime-fighting.

Because there is insufficient information about Swedish transnational child sexual abuse offenders and there are no offender profiles, such profiles are hardly used to combat transnational child sexual abuse.

The tracing and prosecution of transnational child sexual abuse offenders face several challenges in Sweden. For example, the investigative capacity of law enforcement authorities is limited: teams within the police indicate that their case load is too high which means they can only deal with a limited part of the cases. In addition, these teams work on both hands-on and hands-off cases of abuse, which means that choices regarding the use of capacity must be made.

Country study on Germany

The German approach to combat offenders of child sexual abuse currently focuses strongly on offences that took place in Germany. The reason for this is several major cases of both hands-on and hands-off abuse in Germany, which have come to light relatively recently. Due to the strong focus on combating abuse in Germany itself, in recent years little attention has been paid to combating transnational child sexual abuse committed by German offenders. In addition, there currently (August 2021) is no policy officer responsible for the topic of transnational child sexual abuse.

The German approach resembles that of the Netherlands. The approach includes both preventive and repressive measures. The preventive measures focus on offering help to potential offenders. Repressive measures include registration of convicted sex offenders in a registry, refusing to issue or revoke passports (the German Passport Act), a reporting obligation and the imposition of obligatory treatment of mental issues (terbeschikkingstelling in Dutch). In part, the repressive measures can be used explicitly for offenders of sexual abuse (such as the obligatory treatment of mental health issues and registration in a registry), while other measures can be applied more indirectly. In the Passport Act, in particular, this indirect function leads to problems. Applying this Act to transnational child sexual abuse offenders is very difficult and rarely happens. It is also difficult to indicate the effectiveness of the repressive measures.

Besides the fact that little attention is paid to the problem of tackling transnational child sexual abuse, little is known about the effect of the available measures. Virtually no data is collected and published on the application of measures. Measures are also not evaluated. On the preventive side, there are several initiatives whereby potential (child) sexual abuse offenders can seek help. It is difficult to determine how effective these initiatives are.

German international cooperation corresponds to that of the Netherlands: LOs have been placed in various countries and Germany is connected to the *Green Notices* system.

In Germany, limited information is available about the use of risk assessment, the use of offender profiles and the overview of German offenders of transnational child sexual abuse.

Country study on Ireland

The Irish approach to combat (transnational) child sexual abuse is mainly repressive and focuses on severely punishing offenders of child sexual abuse. Long prison sentences can be imposed, and offenders can remain under supervision even after their prison sentence has ended. Depending on the severity of the abuse, this supervision can be for a definite or indefinite period. Convicted offenders who have sexually abused minors are usually also included in the register of convicted offenders. Various additional measures also apply, such as an obligation to report when one wants to travel and an obligation to report one's criminal history when an offender encounters minors during their work-related activities.

Such measures can be imposed on all sexual abuse offenders and thus do not specifically apply to transnational sexual abuse offenders. However, it is difficult to indicate the effect of the various measures since little or no data are collected.

Several legislative changes are on the way in Ireland. These will further tighten the existing measures. For example, the period in which people must report that they will be travelling will be shortened and stricter requirements will be imposed upon a convicted offender working with minors. In addition to tightening up the measures, the legislative amendment also provides for a new measure. Convicted offenders should be able to get an exit ban more easily. It is currently unclear to what extent the newly proposed measure will be included in the upcoming law.

There is a strict supervising program for convicted offenders of sexual (child) abuse: The *Sexual Offender Risk Management Program* (SOR AM). The key points at which a risk assessment takes place in the Irish approach is at the start and during the implementation of this SOR AM programme.

At the moment, Irish international cooperation mainly focuses on filing reports on (suspected) offenders. There is a desire to expand and strengthen international cooperation, starting with the countries near Ireland and then expanding outwards.

Little is known in Ireland about offender profiles of (transnational) child sexual abusers. In addition, the Irish authorities have little insight into Irish offenders of transnational child sexual abuse.

Country study on Australia

Australia is characterised by the social and political attention and desire for a firm approach to transnational child sexual abuse. This has translated into a firm set of legal instruments and a wide range of available measures. The approach is often repressive in nature and is aimed at preventing repeated offending. The scope of transnational child sexual abuse committed by Australian citizens is difficult to grasp, partly because of the limited insights into the group of offenders who commit a crime for the first time.

The Australian legal framework allows Australian regional authorities in states and territories to confiscate, cancel or revoke passports of convicted offenders of sexual abuse. These offenders can also be obliged to report their travel movements. These measures aim to restrict the freedom of movement of convicted sexual abuse offenders, who are considered to be at significant risk of recidivism. Restrictions on working with children may also be imposed. The fact that Australia is an island facilitates the enforcement of travel restriction laws and measures through unavoidable border controls when leaving the country. In general, local experts are satisfied with the available legal instruments and the measures that can be imposed. The measures are applied in practice, but their effects are hardly evaluated.

The assessment of the risk of recidivism is carried out by competent authorities in the federal states and territories based on a combination of the Risk Matrix 2000 and an assessment of the criminal history and behaviour of the convicted offender. The known modus operandi of offenders is also considered.

In addition, Australia is characterised by close cooperation with destination countries in the region. This is done on a structural as well as a more ad hoc basis. The LOs of the federal police play a crucial role in this.

Australia's approach to combat transnational child sexual abuse focuses almost entirely on convicted sex offenders. Offenders who have not yet been convicted are able to stay below the radar. Some academics also question the proportionality of the travel restrictive measures.

Country study on the United States

The US policy on transnational child sexual abuse is highly repressive. Convicted offenders of sexual abuse of both minors and adults are severely punished compared to the Dutch approach. The US

policies are based on the idea that offenders of sexual abuse cannot be cured. Severe punishments are therefore perceived as the only solution. It is unclear how many US citizens are committing transnational child sexual abuse.

Legislation in the US to address sexual abuse consists mostly of legislation implemented by states, while legislation on transnational crimes is federal. The federal-state cooperation poses a major challenge in the US. As a result, legislation and implementation are not always fully aligned. Moreover, information sharing between the various parts of the federal government is suboptimal. US laws and policies provide a range of repressive measures. For example, it is not the risk of recidivism of the offender that determines his or her penalty, but the nature of the offence committed. In addition, offenders of sexual abuse can also be convicted in the United States if they have already been tried abroad for the same incident. Offenders can also be monitored for years after serving a prison sentence. The federal *Megan's Law* states that authorities are obliged to disclose and share information about convicted sexual abusers with the public. For convicted offenders, this means that they must register in public registries. In addition, convicted offenders can be obliged to report their travel movements and they can be given a unique marking in their passport, or their passports can be cancelled. It is predominantly unclear to what extent the available measures are imposed and to what extent they are effective. Only limited research has been done on this.

Risk assessment appears to be used only to a limited extent. Moreover, opinions about the risk of recidivism of convicted sexual abusers differ widely. There is a discussion about the risk of recidivism, which is part of a broader discussion regarding convicted offenders of sexual abuse more generally. In this discussion questions are raised about the proportionality and application of the policy in general. From the perspective of transnational child sexual abuse, it can be noted that US policy focuses solely on convicted sex offenders.

The international cooperation by the US is praised. The broad deployment of *Regional Security Officers* (RSOs) is particularly commended. These officials support local authorities in conducting investigations and play an important role in identifying American and other Western offenders abroad.

It is unclear how and whether offender profiles are used in US policies. To gain insight into US offenders of transnational child sexual abuse, the US has bilateral information-sharing agreements with several countries and RSOs sometimes make use of the English-language press in these countries.

Lessons to consider

- In the Netherlands, police capacity is mainly used to combat online child abuse and to a lesser extent to combat transnational child sexual abuse. Given the nature of the problem of online child abuse, this can be understood, however, tackling transnational child sexual abuse also deserves a strong capacity boost. These are known to be time-consuming criminal investigations. Nevertheless, the scale on which child abuse offenders can operate abroad (number of victims) and the seriousness of the offence (prolonged sexual abuse) are sufficient reasons to free up extra capacity for this problem.
- Workable and clear criteria must be set based on which legal options (such as the Passport Act) can be put to practice to prevent transnational abuse offenders from travelling abroad. In theory, these legal options do exist.
- In all the countries studied, risk assessment instruments were criticised, because due to the criteria used in these instruments, offenders with a substantially high risk of recidivism in practice are assigned a low risk of recidivism. In various countries, the idea that the risk assessment instruments in their current form do not apply to female and very young male offenders prevail (including Sweden and Australia). It is therefore important that more scientific research is carried out into offender profiles and modus operandi so that it can be determined whether the criteria of the risk assessment instruments are sufficiently equipped for (potential) transnational child sexual abuse offenders. In doing so, specific attention could be paid to young and female offenders. This can also help to gain an overview of the entire phenomenon and to

strengthen the use and possible development of instruments and measures in the future. The available measures can then be deployed more effectively.

- In the research into the approaches taken in Sweden, Germany, Ireland, Australia and the United States, hardly any new measures were found. For example, the withdrawal or refusal of a passport (US, Australia and Germany), the reporting obligation (the US, Australia and Ireland) and care programs (Germany and Sweden) are also possible in the Netherlands. A measure not yet applied in the Netherlands is an obligation to register in a registry such as in Ireland. This allows convicted transnational sexual child abuse offenders to be better monitored. (Child) sexual abuse offenders must register themselves after their release, so the responsibility lies with the convicted person. In addition, in the United States, an annotation is placed in the passports of sex offenders as travel restricting measure. In practice, this seems to have little added value, because those offenders are punished to such extent that international travel is not possible in the first place. Some experts deem the annotation as too great a violation of the rights of an individual (who has already been convicted). Concerning these measures, it should be noted that disproportionality is lurking.
- A good intelligence position is crucial for combating transnational child sexual abuse. At the national level, it appears to be important that existing confederate information systems are compatible. Concerning international information exchange, it appears to be difficult for all countries studied to systematically share information from high-risk countries. No country has so far found the perfect solution for this.
- That is why, in Australia, the government has concluded bilateral treaties with high-risk countries to be able to exchange such information on an ad hoc basis. As a result, the Australian authorities are therefore more able to implement the measures available to prevent travel. The Netherlands can learn from this by also focussing more on concluding bilateral treaties.
- So far, in the Netherlands, but also the other countries studied, LOs abroad have been specifically appointed as a crucial means of exchanging information. None of the studied countries can station a LO in every destination country. The solution chosen by Sweden (a network of LOs from like-minded countries) may be worthwhile considering. In addition to using LOs, a public-private partnership with NGOs offers a potential solution in tackling transnational child sexual abuse. After all, this also improves the intelligence position. However, clear working agreements must be made between the various parties because so far these agreements are still too much in a grey area.
- In the present study, mostly repressive measures were discussed and to a lesser extent preventive measures. An important lesson concerning preventive measures is that citizens must be more involved in signalling red flags, knowing where they can report these red flags and what happens with their reports. With this, the willingness to report can be increased. As yet, the focus of the preventive measures in the Netherlands has mainly been on the responsibility of citizens to look out for suspicious situations concerning transnational child sexual abuse. That's why more can be invested in care programs where potential offenders get help to resist their sexual desires for minors. Although these care programs already exist in the Netherlands, they can be further developed.

Endnote

1. The eleven selected countries being Australia, Canada, Germany, France, Ireland, New Zealand, Norway, Spain, the United Kingdom, the United States and Sweden.

1 Introduction

This first section outlines the framework within which the comparative analysis on the instruments available for use on convicted and other perpetrators of transnational child sexual abuse was conducted. Section 1.1 commences by describing the reasons for and background to the study; section 1.2 outlines the research goals and questions. Section 1.3 lists the stages of research and associated methods that were used to find answers to the research goals and questions. Section 1.4 concludes with a reading guide.

1.1 Reason for and background to the study

On 28 January 2019, the *De Telegraaf* newspaper published an article on a Dutchman, Hans V. Despite having been convicted for the abuse of underage children, he was still allowed to emigrate to Kenya, where he abused underage girls for years.¹

Intermezzo – The crimes of Hans V.

According to his own testimony, Hans V. began abusing children in November 1994. He was discovered when he had photographs of his actions developed in 1995, which led to an initial abuse case in court. The case revealed that at least three minors had been victims of Hans V., ranging in age from 5 to 14 years. Hans V. was sentenced to 2.5 years imprisonment, and mandatory therapy afterwards. He reoffended during his probation, however, and abused an unknown number of very young girls during a trip to Ethiopia. He was sentenced to 15 months in prison (it is unknown whether he completed this prison time in the Netherlands or in Ethiopia). Not long after this prison sentence, he emigrated to Kenya, where he established an orphanage. Here, too – in 2001 – he was brought before the court following allegations from girls aged 12, 13 and 15. As part of the court case, the police discovered a list with the names of seventy girls, including notes on whether they were still virgins. The police also discovered that Hans V. took orphaned children with him on holiday to the city of Mombasa, where he ‘shared’ them with friends. Despite this evidence, he was not convicted. The court case was described as ‘mysterious,’ and international organisations claimed that witnesses and parents were intimidated and arrested. After his acquittal, Hans V. established another orphanage outside the city. In 2016 the Kenyan police went in search of him once again, following reports of abuse received between 2011 and 2014. One of Hans V.'s apartments in Nairobi reportedly contained up to twenty girls at a time. Hans V. supposedly gave them money in return for sexual acts, while he sent their mothers out to do shopping. It seems as though he did not cease this activity until the autumn of 2018, when he was arrested in the Kenyan capital of Nairobi following allegations from four victims aged 8-14.²

After the article in *De Telegraaf*, questions were asked in the Dutch House of Representatives. In response to the question of whether the Netherlands should do its utmost to prevent convicted transnational child sexual abusers from reoffending, the minister for Legal Protection responded in the affirmative (Annex to Proceedings II, 1619, 2019). On 20 February 2019, in a letter to the Lower House, he outlined the possibilities available at that time for preventing known sexual abusers from travelling abroad (Parliamentary Papers II, 31015, no. 162, 2019). Subsequently, on 13 March 2019, two motions were submitted by two members of parliament. Member Kuiken expressed her belief that convicted pedosexuals should not be permitted to acquire new victims, and that any opportunity to continue committing their crimes outside the jurisdiction of the Dutch authorities should be prevented. She asked the government to examine how the movements of convicted pedosexuals could be further restricted (Parliamentary Papers II, 31015, no. 172, 2019). Member Van Toorenburg stated that the monitoring of sexual abuse offenders who travel abroad was inadequate and inconsistent, and that there were few (or no) options for cancelling or marking the passports of convicted perpetrators of sexual abuse. She therefore asked the government to generate proposals that would allow the passports of convicted offenders to be marked or cancelled (Parliamentary Papers II, 31015, no. 171, 2019).

The above resulted in the Minister for Legal Protection writing a letter to the Lower House, concluding that the existing measures could be put to better use. To this end, he intended to generate greater awareness and clarity with regard to the measures. He also expressed a need for

international research on the profiles of outgoing sexual offenders, and the measures available in other countries to prevent criminal behaviour from continuing while hidden from the authorities (Dekker, 2019). These intentions are in line with the recommendations by Koning & Rijkssen-van Dijke (2016), which say that there is a knowledge gap, both in scholarship and elsewhere, regarding the phenomenon of transnational child sexual abuse, and that a reliable, comprehensive and accurate overview is necessary of Dutch and other perpetrators of transnational child sexual abuse. An international comparative policy study is critical, to enable a survey of what legislation and policy/other measures have been implemented by other countries to combat the phenomenon. Such a survey could contribute to an improved strategy in the Netherlands. Given the diversity in types of offenders, a more tailored approach could also be developed.

1.2 Objective, problem statement and research questions

The aim of the present study is twofold. Firstly, it attempts to generate greater insight into the profiles of transnational child sexual offenders by establishing more facts regarding personal characteristics, motivations, *modi operandi* and other aspects. Secondly, it examines whether the measures taken by other countries to prevent children from becoming victims of transnational sexual abuse might also be valuable in the Netherlands, taking into account not only their nature and impact in practice, but also their practical and legal feasibility in the Netherlands. This objective has led to the following problem statement:

- What is known about the profiles of transnational child sex offenders, and what differences/similarities do they share with perpetrators of child sexual abuse, child sexual exploitation and downloaders or distributors of visual material depicting the sexual abuse of minors?
- What national and international measures are taken in and by other countries (both domestically and abroad) to prevent convicted perpetrators of transnational and other forms of child sexual abuse from abusing new victims?
- What is the social rationale behind these measures, what is the policy theory underpinning them individually, what profiles/offender types do they focus on and what impact do they have in practice?
- In what way could the identified measures and the insight into offender profiles be of use in the Netherlands?

To answer these objectives and problem statement, the following research questions were formulated for this study:

1. What profiles/transnational child sexual offender types are known in the literature?
2. Is there any overlap between profiles of transnational child sex offenders and those of perpetrators of child sexual abuse, child sexual exploitation, and downloaders and distributors of visual materials depicting the sexual abuse of minors?
3. What legal and practical, national and international measures (including partnerships) are there currently in the Netherlands for a) preventing convicted or other perpetrators of transnational child sexual abuse from reoffending, and b) reducing the risk of repeated offences/victimisation either in the Netherlands or abroad?
4. What legal and practical, national and international measures (including partnerships) are taken by the countries under analysis for a) preventing convicted or other perpetrators of transnational child sexual abuse from reoffending, and b) reducing the risk of repeated offences/victimisation either domestically or abroad? Are there blacklists with registered perpetrators of sexual abuse, for example, or are stamps or notes placed in passports?
5. How do other countries make risk assessments in order to prevent reoffending and to impose measures?
6. How do other countries use foreign police and other information on sexual offenders and the prosecution thereof in their national screening systems to combat transnational child sexual abuse?
7. Do the Netherlands and/or the countries under review maintain profiles/categories of incoming and outgoing child sexual offenders?
8. What is the policy theory underpinning these measures? In other words, what is their purpose, how is it meant to be achieved, and what perpetrator profiles/categories do they target?

9. What is the 'why' behind the measures (also as part of policy theory), what social views and contexts formed the basis for their development in the country of origin?
10. Are the measures also actually implemented in practice, and what is done to promote their application?
11. What can be said about the impact of the measures in practice? Are they successful, are there problems, or any unintended side effects?
12. Would these measures be of any benefit to the Netherlands? Why, or why not?

1.3 Research methods

The study looks at both the Netherlands and a number of selected countries. The following research activities were used to examine the Dutch context: desk research, interviews and focus groups.

1.3.1 The Netherlands

The desk research consisted of a literature review of perpetrator profiles – the categories and characteristics of transnational child sexual abuse offenders – as well as an examination of their *modi operandi*, victims and destination countries. Databases used include Google Scholar and Picarta, supplemented by references obtained using 'snowball sampling.'

Other sources examined include policy documents from the police, the Public Prosecution Service (OM) and NGOs, as well as laws, evaluation studies, government documents, news articles and opinion pieces, and judicial rulings pertaining to transnational child sexual abuse and the strategy to combat it.

Next, to research the Dutch context, individual interviews were conducted with representatives of organisations involved either directly or indirectly in dealing with or combating transnational child sexual abuse. A total of thirteen interviews were held (see Table 1.1). The purpose of the interviews was firstly to obtain greater insight into the problem of transnational child sexual abuse, secondly to get an idea of the availability and implementation of the available instruments in practice, and thirdly to examine the role of the various organisations in this process.

Table 1.1 – Overview of individual interviews

Organisation	Number of people
The Ministry of Justice and Security	2
NGO	1
Public Prosecution Service	3
Police	7
Total	13

Lastly, based on the findings from the desk research and individual interviews, provisional findings were drawn up regarding offender profiles, the available instruments, and their implementation in practice. These were then presented to a total of sixteen experts over the course of three separate focus-group sessions (see Table 1.2).³ The purpose of this exercise was for the experts to share their knowledge and experience, and thus refine the provisional findings. The results from the interviews and focus groups are included as text boxes throughout the main text. They are highlighted in light blue, so as to distinguish them from the other text boxes in the report.

Table 1.2 – Overview of expert focus groups

Organisation	Number of people
Legal profession	1

Royal Netherlands Marechaussee (KMar)	1
The Ministry of Justice and Security	4
Social services	1
NGO	2
Public Prosecution Service	2
Police	3
Academia	2
Total	16

1.3.2 Five countries selected based on a 'quick scan'

The following method was employed when investigating the other countries. Firstly a 'quick scan' was carried out among eleven countries⁴ that had been shortlisted as potential subjects of the country studies. These countries were Australia, Canada, Germany, France, Ireland, New Zealand, Norway, Spain, the United Kingdom, the United States and Sweden. Desk research (a review of literature and public sources) was conducted on these countries, producing a reasoned final selection of five countries that are described below.

- **Sweden** focuses its efforts primarily on preventing relapse among perpetrators of transnational and other forms of child sexual abuse. Policy and strategy are strongly preventive in nature, whereby help is offered to offenders on a voluntary basis, with a limited focus on punishment.
- In **Germany**, a heated debate is underway regarding the strategy against child sexual abuse, at national level especially. In June 2021, a change in the law was introduced that both enabled heftier punishments and criminalised the intention to commit child sexual abuse. This legislation also allows for a more aggressive approach to be taken against transnational child sexual abusers.
- In **Ireland**, two legislative proposals were prepared to enable a more rigorous approach to child sexual abuse both within Ireland and elsewhere. Existing measures are being further refined, and several new measures for the strategy against transnational child sexual abuse are under consideration.
- **Australia** has specific legislation aimed at restricting opportunities for convicted child sex offenders to travel either within Australia or abroad. Of particular note is the ability to cancel the passports of convicted offenders. Australia is also known for its participation in various partnerships with countries in the Asiatic region.
- The **United States** focuses primarily on repressive measures, and has extensive legislation applicable to convicted child sex offenders. These include not only options for restricting travel (such as unique passport marking or temporary cancellation), but also other measures for restricting freedom, such as monitoring or residency/location restrictions.

The above selection represents a mix of countries with strategies ranging from prevention-based to more repressive strategies. Some countries have specific legislation targeting transnational child sexual abuse, whereas others do not. The selection also contains some variation in the applicable social and political debate. Lastly, the arsenal of available measures also differs between countries, thus providing insight into a broad spectrum of instruments.

Intermezzo – Countries that were not selected

The other countries were not included for various reasons.⁵ In both France and Spain there seemed to be relatively little attention to transnational child sexual abuse, either in society or in politics. Their range of available measures is also limited, and so these countries offer few potential learning opportunities for the Netherlands. Canada, Norway and New Zealand have developed only limited policy with regard to transnational child sexual abuse. The measures and interventions available to these countries are also already applied elsewhere. Furthermore, social debate in these countries devotes little attention to the problem. Lastly, the United Kingdom's policy on transnational child

sexual abuse greatly resembles that of Australia. But since Australia's has been in force for a longer period, they have more experience in the field. Compared to Australia, the United Kingdom therefore probably offers less experience from which the Netherlands can learn.

For the selected countries, more in-depth desk research was then conducted by reviewing applicable legislation, legislative proposals, policy documents, scholarship, research reports, news articles and other sources. The focus lay on country-specific literature and publications; international sources were consulted to a lesser degree. These publicly available sources were used to try to obtain insight into the nature of the problem of transnational child sexual abuse, the approaches taken by governments and other organisations, and the kinds of legal and other channels that can be employed to facilitate the strategy. The bibliography lists all sources consulted by relevant country.

In addition to the in-depth desk research, multiple interviews were conducted in each country (see Appendix 1). Twenty-five interviews were held in total (see Table 1.3). Their purpose was to ascertain the state of knowledge in these countries regarding transnational child sex offender profiles, the measures that are available in these countries for combating transnational child sexual abuse, and whether they work in practice. The respondents were taken from the police, NGOs, ministries and academia.

Table 1.3 – Overview of international experts

Country	Number of experts
Sweden	6
Germany	4
Republic of Ireland	4
Australia	5
The United States	6
Total	25

Depending on the chosen approach in the relevant country and the willingness of participants to take part in interviews, various parties were invited for online discussions. Each interview was conducted by at least two researchers, and interview reports were issued to the participants to be checked for factual inaccuracies.

The information collected was analysed systematically, and has been presented using the same design framework for each country. The focus of each analysis may differ, however, as the countries have different strategies, as mentioned above.

1.3.3 Methodological limitations

The design of this international comparative analysis is subject to several methodological limitations:

- We have noted that there is little academic literature available specifically on the perpetrators of transnational child sexual abuse. There is, however, an abundance of studies on child sex offenders in general. What this study attempts to ascertain is the extent of any special distinguishing or other features between both groups.
- Experts on transnational child sexual abuse are very scarce, both in the Netherlands and abroad. They have backgrounds either directly in the field itself (detection, prosecution, volunteer work) or in policy development. One of the resulting implications is that our perception of the nature of the problem is likely incomplete, and heavily influenced by experiences in the field. To clarify: a reasonable amount of information is available about preferential offenders, and little to none about situational offenders;⁶ this is partly because investigations by the police and the Public Prosecution Service tend to focus on the former group. The available legal options also only apply to preferential offenders.
- One of the research questions aims to establish the impact of the available measures in practice, mainly by looking at how, and the extent to which, the measures are implemented. To this end, we will focus on success factors, problem areas and side effects. The reason for this focus is

that 'effectiveness' is difficult to determine due to the limited visibility of some offenders, and because there is no information on what things were like prior to the introduction of the measures in question. The offenders' behaviour may also have been affected by other factors (e.g. increased forms of online abuse).

- Analysing of the applicability of elements from legal systems in other countries constitutes an important part of this study. Because the available options differ between legal systems, it is important to consider the type of legal system in each case when examining the applicability of measures. From experience, we know that comparing different legal systems can be detrimental to the potential applicability of elements within the Dutch context. These five countries were selected due to their 'unique' approaches to the problem, and should not be considered representative. Given the time and resources at our disposal, we have attempted to provide as complete an overview of the countries in question as possible, however these overviews were not intended to be as thorough as the analysis of the situation in the Netherlands.

1.4 Document structure

The next section, Section 2, looks at the information available in academic literature and among experts on the phenomenon of transnational child sexual abuse. Section 3 examines the instruments available in the Netherlands. Sections 4-9 are devoted to the five country studies. Section 10 contains the responses to the research questions and the key conclusions. Readers wishing only to acquaint themselves with the broad outline of the results should start at the final chapter. Each section also contains its own summary of the key findings.

Endnotes

1 De Telegraaf, 28 January 2019.

2 Algemeen Dagblad, 13 February 2019.

3 Several experts were also interviewed as individual respondents.

4 Some countries were nominated by the WODC in its introductory memorandum, a list that was supplemented by the researchers with several other potentially relevant countries.

5 The countries falling outside the proposed selection may be appropriate for further research.

6 Put briefly: preferential offenders are those who deliberately travel abroad in order to abuse children, whereas situation offenders do not (see Section 2).

Part 1: The situation in the Netherlands

2 Transnational child sexual abuse in academic literature

This first section provides an introduction to the phenomenon of transnational child sexual abuse, explaining it using the available academic literature, and illustrated with information from interviews and focus groups. Section 2.1 below provides a general outline of the phenomenon. Next, Section 2.2 focuses on offender profiles, including groups of offenders, characteristics and risk factors. The modus operandi of offenders is described in Section 2.3, and Section 2.4 looks at the victims of transnational child sexual abuse. Lastly, destination countries are discussed in 2.5, and Section 2.6 concludes with a summary. The light-blue text boxes illustrate this chapter with practical experiences from experts working for NGOs, the police, the Public Prosecution Service, the Ministry of Justice and Security, or as academics. These practical experiences are influenced by the experts' various backgrounds; some experts may know more about offenders as part of active investigations, while others may know more about them from a prevention context.

2.1 General overview

Transnational child sexual abuse is a worldwide problem that has been gaining in international attention and recognition since the 1990s. As a phenomenon it is difficult to describe, due to its overlap with other forms of crime such as child sexual abuse in general, online child sexual abuse, and human/child trafficking (Koning & Rijksen-van Dijke, 2016).

For the purposes of this study, transnational child sexual abuse is defined as 'the perpetration or aiding or abetting in any way of sexual violence against children abroad, regardless of whether the victim receives or is promised money or goods in return' (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). Because the abuse occurs in a destination country by an offender from a *country of origin*, it is transnational in character. Within transnational child sexual abuse, a distinction is drawn between 'hands-on' and 'hands-off' abuse. The term 'hands-on' is used for offenders who directly abuse children themselves. 'Hands-off' in this context is used for child abuse that is performed at the behest of someone else, such as online child abuse via a webcam or livestream (Bazen & de Blois, 2020).

Intermezzo – Committing both hands-on and hands-off abuse

On 30 December 2015, the police received a report about a 70-year-old man via the Anonymous Crime Reporting Hotline (*Meld Misdaad Anoniem*). He was supposedly in possession of images portraying the sexual abuse of minors, and reportedly planned to travel to Vietnam within the month in order to commit transnational child sexual abuse. Follow-up police investigation revealed that the suspect had lived and worked in Cambodia from 2004 until 2011, during which time he was arrested for abuse of minors in Cambodia and for the possession of images portraying the sexual abuse of minors. His tax and banking records were obtained, which showed that he had made a payment to the website www.vliegtickets.nl (www.planetickets.nl) in late October 2015. Regular ATM withdrawals had also been recorded in Vietnam between December 2013 and 17 March 2014. Much of the report was thus confirmed. Further confirmation of the report also came from the fact that in January 2016, the suspect wrote in open online sources of his plans to spend the winter in Nha Trang in Vietnam.

The court found that this evidence warranted a search of the suspect's home on 14 January 2016. A laptop and two hard drives were seized, which contained a total of 654 photographs, 35 videos and 322 edited photographs that could be classified as child pornography. Of these, 500 photographs, 35 videos and 250 of the edited photographs were accessible by the suspect. The suspect admitted both to the police and in court that he had been in possession of these visual materials, and was convicted of the habitual creation and possession of visual materials portraying the sexual abuse of minors.

In favour of the suspect, when considering evidence the court arrived at a significantly shorter period of offence than was demanded by the public prosecutor. The suspect resided in Cambodia between 2004 and 2011, and there were no indications that he had been in possession of or had edited images portraying the sexual abuse of minors in the Netherlands during that time. When issuing its sentence, the court also took the suspect's character into consideration (in addition to the nature and severity of the crime). In the Netherlands, the suspect had no criminal record. The court wondered to

what extent it should weigh the suspect's prior conviction of a sexual misdemeanour with a minor in Cambodia in 2011 against him when determining the sentence. The public prosecutor believed there was cause to do so, however the court was under no obligation. After a request for legal assistance, a verdict in the Khmer language with an interpreter's translation was added to the case file. The suspect had explained the process of his former conviction to the police, the psychologist, rehabilitation officers and in court, and had consistently denied having committed any sexual offences with minors. In relation to the submissions by and on behalf of the suspect in this regard and with respect to the Cambodian case, the court saw fit to disregard the former conviction when issuing its sentence.

The suspect had also been assessed by a psychologist, who identified a psychiatric disorder in the form of paedophilia, as well as immature personality with narcissistic traits. The suspect was attracted to young boys aged 12-14, and his paedophilia prompted him to go in search of materials that he could use to masturbate, and thus achieve sexual satisfaction. Furthermore, the psychologist believed that the suspect's libido had likely decreased due to his advancing age, reducing the likelihood of reoffending. According to the expert, the suspect would benefit from group therapy which would allow him to discuss his problems and paedophilia openly. The suspect said he would be willing to participate in the therapy.

The suspect was sentenced to 180 days in prison, 177 of which were suspended, and 3 years' probation. Special conditions were applicable to the probation: the suspect was to report to the rehabilitation service as frequently and for as long as the service deemed necessary, and agree to receive treatment by De Waag or a similar ambulant forensic care provider. The suspect was also sentenced to 240 hours of community service.¹

The scale of transnational child sexual abuse is unclear, partly because quite a large 'dark number' is assumed. It is highly probable that the proportion of offenders who are both detected and prosecuted is very small. Possible reasons for this include a lack of international information-sharing, low willingness to report among victims, and corrupt practices in destination countries (Hawke & Raphael, 2016). Very little research has been conducted on the prevalence of transnational child sexual abuse. One exploratory study from Germany reported that from a sample of 8,718 men, 0.4 per cent had committed transnational child sexual abuse (Koops et al., 2017). According to the same study, 1.5 per cent had had sexual contact with a minor, a figure that is commensurate with other studies (see, among others, Ahlers et al., 2011; Williams et al., 2009). The number of victims of transnational child sexual abuse is also difficult to estimate. Conservative estimates range from 1-2 million underage victims per year (Chemin & Mbiekop, 2015; Hall, 2011; Tanielian, 2013).

Little scholarly research has been carried out on transnational child sexual abuse, resulting in a limited understanding of the phenomenon. In 2016, ECPAT International – an NGO that works to combat transnational child sexual abuse – released a worldwide report (Hawke & Raphael, 2016). Nineteen country studies were included, as part of which experts and minors were consulted. The experts in the report say that they have observed a rise in transnational child sexual abuse, which is explained in the report by globalisation and opportunities offered by the internet and mobile communication. Now more than ever, people are able to travel or migrate to countries all over the world, allowing hands-on offenders to travel to destination countries faster and more cheaply. It has also become easier to find like-minded individuals, and to gain access to networks. Hands-off abuse (via live streaming or webcam) has also increased due to digital advancements (Koning & Rijkse-van Dijke, 2016).

In 2020, the travel industry was hit hard by COVID 19, which has had an impact on transnational child sexual abuse. ECPAT International (2020) reported an observed increase in minors who are especially vulnerable to grooming, exploitation and abuse. Families in economically fragile countries suffered even greater financial hardship, and financial difficulty within families is a risk factor. ECPAT therefore expects to see growth in the number of online child sex offenders, a concern that is shared by Interpol (2020). ECPAT also expects offenders to groom vulnerable children online to win their trust, in order to travel to and abuse them once COVID-19 measures permit.

2.2 Offender profiles

Significantly less research has been conducted on perpetrators of transnational child sexual abuse than on those of other sexual offences, restricting the amount of available literature. Offender profiles are outlined below based on the literature that was available. This section will look at perpetrator typology, characteristics and risk factors. Each subsection will outline whether the descriptions from the literature match those from the interviews and focus groups, and whether there are discrepancies.

2.2.1 Perpetrator typology

The literature identifies two groups of offenders: preferential offenders and situational offenders (Moerenhout, 2013; Hawke & Raphael, 2016; Koning & Rijksen-van Dijke, 2016). It is the intent of the offender that forms the basis for this distinction. Preferential offenders prepare for the acts of abuse and actively go in search of victims, whereas situational offenders only engage in the abuse when the opportunity presents. The two types are then described in greater detail. It is important to note, however, that the distinction between preferential and situational offenders is a simplification of reality. The study by Jonas (2016) showed that the distinction between the two groups is more fluid. Situational offenders, for example, can ultimately develop a motivation that is more preferential in nature.

The primary purpose of travel among preferential offenders is described as 'the desire to have sexual contact with minors' (Vogelvang, Van den Braak, Meuwese & Wolthuis, 2002; Moerenhout, 2013). Here, offenders have a sexual preference for minors and deliberately go out actively in search of minors to abuse (Bazen & de Blois, 2020). Offender preferences can range from children who are not sexually mature (prepubescent children) – these offenders are referred to as 'pedophilic'² offenders – or adolescents, who fall under 'regular' preferential offenders (Fredette, 2009; Hall & Hall, 2009; Moerenhout, 2013). Preferential offenders are often in search of an emotional or other ongoing relationship with a minor, in which case the perpetrator does not see sexual contact as harmful, but as an appropriate element of the relationship (Koning & Rijksen-van Dijke, 2016). Preferential offenders are characterised by the preparations they make prior to travelling abroad. According to the literature, the decision to go abroad is motivated by a sense of untouchability and anonymity (Koning & Rijksen-van Dijke, 2016). In many cases, the sexual abuse is premeditated (Jonas, 2016), with offenders making use of online or other networks. They also go in search of destination countries that lend themselves to transnational child sexual abuse. Because of their explicit preference for minors, the likelihood of reoffending among preferential offenders is considered higher than for situational offenders (Seabrook, 2000).

According to the literature, situational offenders exhibit a different pattern of behaviour. Situational offenders do not travel to other countries deliberately to engage in child sexual abuse. Instead, once in the destination country, they engage in child sexual abuse by – either consciously or subconsciously – not allowing the opportunity to pass them by. For these offenders, contextual factors – such as the availability of sexual 'services' by minors – play a more important role than for preferential offenders. Situational offenders have no specific preference for minors, but do commit pedosexual acts (Moerenhout, 2013; Koning & Rijksen-van Dijke, 2016).

Intermezzo – Pedosexuality and pedophilia

The terms 'pedosexuality' and 'pedophilia' are sometimes used interchangeably. However, there is an important difference in meaning between the two terms. 'Pedophilia' implies a sexual preference. A person who feels attracted to prepubescent children is said to have pedophilic feelings. 'Pedosexuality,' on the other hand, involves a sexual act. Pedosexuality describes sexual behaviour towards minors. Child sexual abuse is not always committed by offenders with pedophilic feelings. There may also be other motives for child sexual abuse than sexual preference. Child sexual abuse can also emerge from antisocial behaviour, or because the offender is unaware of the age of the underage victim (Stopitnow, n.b.).

Situational offenders make use of the availability of sexual 'services' offered by minors, a behaviour that could potentially be explained by the indifference or ignorance of the offender (Koning & Rijksen-van Dijke, 2016). In the case of indifference, offenders know but do not care that the victim is underage. In the second case, offenders are unaware that the behaviour is illegal. According to the literature, it is expected that situational offenders do not see themselves as perpetrators of transnational child sexual abuse, partly due to a lack of knowledge (of legislation, the victim's age, or either), and/or through the use of neutralisation techniques.

Little is known about the relationship between these two offender groups within the perpetrators of transnational child sexual abuse. In the ECPAT report, experts express an expectation that most offenders of transnational child sexual abuse are situational offenders (Hawke & Raphael, 2016). The literature itself seems to focus more on preferential offenders. One possible explanation for this is that fact that these offenders are the subject of the investigations by the police and the justice system (Bazen & de Blois, 2020), while the situational group is more elusive.

Experts speak about the offender groups

The experts interviewed partially confirmed the picture presented by the literature. They recognise the distinction between the two groups, and also affirmed that preferential offenders receive greater attention. There are several reasons for the above. Firstly, experts say that the 'stereotypical' preferential offender is taken as the default, which causes selection bias. This fact is evident in the reports of transnational child sexual abuse. In addition, an officer from the Public Prosecution Service stated that investigations concentrate primarily on preferential offenders, since they generally have many victims, who are also very young (prepubescent). Lastly, one expert from the police stated that situational offenders remain far more anonymous; they often stay at a destination for shorter periods, reducing the likelihood of warning signs being reported.

Some aspects described in the literature are less familiar (or not at all) to the experts. The experts see the distinction as a greater problem than the literature would imply. It is a simplification of reality, as one Public Prosecution officer said: *We always want to put everything in a box. But reality is not so black-and-white, there are always crossovers between the groups.* Several experts from the criminal justice and policy sectors propose identifying a third group consisting of crossovers, given that this group receives less attention in practice, and the division into two separate groups also has consequences for policy. Criminal justice experts say that investigation and prosecution primarily target preferential offenders, while preventive policy is also aimed at situational offenders. If the distinction is viewed as less of a dichotomy, it may be possible for policy to be adjusted to cover a wider group of offenders. So while experts see limitations in distinguishing only two groups, they do see the benefits of focusing on the offender's intent. Multiple experts say this approach is more effective than concentrating solely on the crime committed.

The experts' opinions are divided regarding the proportion of preferential to situational offenders. Experts working in investigation and prosecution report greater numbers of preferential offenders – they also said this was because they focus less on situational offenders. Experts working at NGOs believe that more offenders have a situational orientation. All experts agree, however, that the proportion is impossible to estimate, as estimates can only be based on the scarce literature and their own practical experience. In practice, there is only limited visibility of transnational child sexual abuse.

2.2.2 Characteristics

There is a limited amount of literature available on the characteristics of offender profiles. This section discusses the demographic, personality-based and situational characteristics described in the available literature.

Gender

Males seem to be strongly overrepresented among offenders of transnational child sexual abuse. Various studies place the percentage of male offenders at over 90 per cent (Hawke & Raphael, 2016;

Koning & Rijkse- van Dijke, 2016; O'Briain et al., 2008). The same is reflected in the Dutch police statistics. Between January 2009 and November 2012, the police identified 92 offenders, 86 of which were male and 3 of which were female³ (Moerenhout, 2013). It is believed that females more often act as intermediaries, and that their involvement is more often complicit (APLE, 2014). The gender distribution among these offenders seems to be commensurate with the distribution among sex offenders in general. The estimate for general sexual offences is that one per cent of offenders are female (Rijkse, 2017). Research on sex offences is often focused exclusively on men, however, resulting in little available information on female perpetrators of sexual abuse (Wijkman, 2014). The study by Wijkman (2014) shows that female offenders are not as rare as is sometimes believed. More research on female perpetrators of transnational child sexual abuse is necessary in order to arrive at a correct assessment.

Age

Multiple studies show great variation in age (Hawke & Raphael, 2016), which is also reflected in the figures by the Dutch police (Moerenhout, 2013). Of the 92 offenders identified by the Dutch police, the youngest was 25 and the oldest 73. The average age was 56. In a recent study on transnational child sexual abuse that analysed 14 Dutch police cases, all offenders were male with an average age of 60 years (Bazen & de Blois, 2020).

Ethnicity and countries of origin

Although there is no available literature on the ethnicity of offenders, it is clearly evident that Dutch offenders do exist. In 2013, the Dutch police had knowledge of 80 Dutch offenders, which by 2016 had risen to several hundred Dutch subjects (Koning & Rijkse-van Dijke, 2016). In 2002, Vogelvang and colleagues concluded that there were no indications to suggest that Dutch citizens committed transnational child sexual abuse any more or less frequently than other nationalities. The large dark number does make it impossible to determine the proportion of Dutch offenders.

Socioeconomic background

Little is known about the socioeconomic background of offenders (Koning & Rijkse-van Dijke, 2016). The limited number of studies that do mention socio-economic factors show contradictory results (Hall, 2011; Panko & George, 2012). There may be a selection bias. Although perpetrators with a higher socioeconomic status may have more opportunities to commit transnational child sexual abuse, they also have more ways to keep it hidden (through bribery, for example). This may mean that more offenders with lower socio-economic status are detected by investigations. Experts do often see a power difference between perpetrators and victims of transnational child sexual abuse, socioeconomic or otherwise (Hawke & Raphael, 2016).

Criminal record

There is no consensus in the literature regarding the prior criminal record among offenders (Koning & Rijkse-van Dijke, 2016). The 2014 APLE study looked at the criminal record of 44 of the 189 offenders, 40 of whom proved to have previous convictions (91 per cent). On the other hand, the study by Moerenhout (2013) concluded that only one-quarter of the 92 potential suspects had a criminal record. These prior offences included child abuse charges such as rape, molestation and incest (13 counts), possession of images portraying the sexual abuse of minors (five counts), transnational child sexual abuse (two counts) and other prior convictions (five counts). The investigations cited looked only at convictions in the country of origin. Offenders can have records in other countries, however. Investigation into the existence of a domestic or international criminal record is hampered by the fact that foreign convictions are often not communicated to the country of origin.

Personal factors

There is virtually no available literature on the relationship status of people who commit transnational child sexual abuse. One brief analysis of Norwegian police records revealed that multiple offenders were single (Dagbladet Nyheter, 2011 in Hawke & Raphael, 2016).

Experts speak about offender characteristics

The interviews partially confirm the picture presented by the literature. The experts all state encountering mostly male offenders in practice. Whereas offender age varies in the literature, there is a reasonable consensus on age among the experts, who see a distinction between preferential offenders and situational offenders. One expert from the police said: *It was an eye-opener for us: the offenders in the more serious category (preferential offenders) were all old men.* Here, 'old' was defined as 'over sixty.' One Public Prosecution officer said she had never encountered so many elderly suspects in investigations as in the previous few years: *Incredibly often they are 60 and 70-year-olds.* Various experts see the opportunities enjoyed by senior citizens to spend longer periods abroad as an explanation for the large number of elderly offenders. Experts from the police and the Public Prosecution Service say that situational offenders are younger. According to experts, the age of this type of offender varies from 18–40. With regard to ethnicity and countries of origin, an expert from the police added that all convicted perpetrators of transnational child sexual abuse were from Dutch backgrounds. The experts are less unanimous regarding personal characteristics. One police expert said: *They are certainly not socially successful in the Netherlands, but they do have status over there [in the destination country].* According to the officer from the Public Prosecution Service, there are also offenders who have traditionally high-status jobs in the Netherlands, such as doctors.

Lastly, many experts warn against a lack of nuance. The characteristics commonly mentioned contribute to a 'stereotypical' view of offenders, which in turn results in a selection bias. More effort is invested into these 'stereotypical' men, which means they are more easily identified and prosecuted, which confirms the stereotype and contributes to other, less-stereotypical offenders going undetected. Experts from all sectors confirm this trend, which may point to a selection bias by age. Contact between young men and minors is also less conspicuous than between minors and older men, and it is important not to forget about female offenders. One academic said that they do not fall under either the group of preferential or situational offenders. Little is known about female offenders. The academic presumed that female perpetrators are active mainly in East Africa, the Caribbean and in parts of Brazil, and that most are post-menopausal. They travel to the above-mentioned countries to engage in child abuse, and their victims are mainly teenagers and adolescents. More research is necessary in order to gain a more complete picture of female offenders.

2.2.3 Risk factors

Although much research has been conducted on the risk factors for committing sex crimes, little is known about the risk factors for perpetrators of transnational child sexual abuse. Koning & Rijkse-van Dijke (2016) describe several risk factors that do seem to be relevant to this group of offenders. These factors correspond to those for sexual abuse in general, and are: low self-esteem, addiction, being a prior victim of sexual abuse, and/or marriage problems. A German study by Koops and colleagues (2017) compares perpetrators of transnational child sexual abuse with perpetrators of 'general' child abuse in order to identify possible risk factors. From a sample of 8,717 men, 36 (0.4%) stated having committed transnational child sexual abuse, and 96 men (1.1%) admitted to 'general' child sexual abuse. Three differences in risk factors became apparent between the two groups. Firstly, more perpetrators of transnational child sexual abuse seem to have been victims of sexual abuse themselves than in the comparison group. They also report more pedosexual behaviour: compared to 'general' child sexual abusers, they watch materials portraying the abuse of children more often, they make use of sexual 'services' provided by minors more often, have more sexual contact with boys, and estimate a higher likelihood they will abuse minors again. There are no differences in the degree of pedophilic feelings between the two groups. Thirdly, the perpetrators of transnational child sexual abuse score more highly on antisocial behaviours. In addition to these three differences, offenders of transnational child sexual abuse are more frequently interested in boys than 'general' child sex abusers. Lastly, offenders of transnational child sexual abuse more frequently consider seeking help for their sexual interest in minors, and are more often convicted of sexual or other forms of abuse. The lack of any comparable studies means it is not possible to verify these results.

Experts speak about risk factors

The majority of experts interviewed confirm that perpetrators of transnational child sexual abuse often view material depicting the abuse of children, although the experts most commonly reference preferential offenders. One expert working in social services said that nearly all preferential offenders he had encountered in practice are in possession of such materials. Conversely, it is not so that people who do possess such material will all go on to commit transnational child sexual abuse. The expert worded it as follows: *There seems to be a certain threshold, which has to do with whether they still have any kind of social life in the Netherlands, etc. If they do not, and their pedophilic preferences are all that they are occupied with, then they will eventually go abroad. Opportunity, nerve, money, etc. are also all factors too.* The expert also mentioned that those who go abroad are more antisocial, have more problems with intimacy, and have underdeveloped social cognition. Hearing that in certain cultures it is 'normal' to surround oneself with children gives offenders a means to neutralise their behaviour, which motivates them to travel. Multiple experts said that they view preferential offenders as the most serious category of child sex abusers. They have many victims, are often active for extended periods and prepare for their abuse thoroughly: *If you hang around somewhere long enough, in a small village for example, you can do damage to an entire generation.*

2.3 Modus operandi

The literature reveals various methods employed by offenders of transnational child sexual abuse. Jonas (2016) categorises the modi operandi of offenders according to motivation (situational or preferential), length of stay (short or long) and hands-off versus hands-on abuse. This categorisation is commensurate with that of Koning & Rijksen-van Dijke (2016). As an additional factor, they include the intensity of contact with the community surrounding the minor. The various methods are discussed below according to the type of offender according to length of stay. The proportion of short-stay and long-stay offenders within the entire group is not known.

2.3.1 Short stay

Several methods are described below of offenders who remain for a short time in the destination country. These may be offenders who are holidaying, or who have a job that requires a lot of travel, such as businessmen, pilots, or lorry drivers (Thomas & Mathews, 2006).

Sex industry

The easiest and least 'labour-intensive' way of coming into contact with minors is to go via the existing sex industry (Koning & Rijksen-van Dijke, 2016). Minors in this sector can sometimes be approached on the street or at locations where minors are made available for sexual contact, such as brothels (Moerenhout, 2013). In countries where brothels are highly regulated, other locations become more attractive, such as guest houses, hotels, private homes, or more secluded locations in streets or slums (Atwell, 2014; Koning & Rijksen-van Dijke, 2016). Preferential offenders seem to go in search of young (sometimes very young) children, for which a niche exists in the sex industry (O'Connell, 2001). At some locations, offenders do not need to take the initiative themselves. For example, various destination countries⁴ have 'beach boys': a term used to describe underage or adolescent boys who earn their money in the informal tourism industry by offering various services to tourists. In addition to the sale of goods such as drugs, cigarettes and fish, these boys also offer sexual services. Jonas (2016) describes the phenomenon in Sri Lanka, where beach boys of various ages work on the beach in groups. Perpetrators of transnational child sexual abuse can easily avail themselves of these sexual services.

Facilitator

Jonas (2016) underscores the importance of local knowledge and connections with the local population and/or the criminal milieu in order to engage in transnational child sexual abuse. Facilitators play an important role in this regard. Local service providers, such as taxi/motorbike/tuktuk drivers, as well as local residents, hotel owners or others working in the

tourist industry, can all facilitate transnational child sexual abuse. Jonas (2016) defines two criteria that a facilitator must fulfil: the person in question must speak English, and they must appear trustworthy. Facilitators can provide information on the locations where minors are exploited (Terre des Hommes, 2013). Sometimes they are in contact with operators in the sector, which may be human traffickers or the parents of the child in question (Koning & Rijkse - van Dijke, 2016). There are also facilitators who organise minors for offenders directly (Jonas, 2016). The extent of the role played by organised criminal networks in facilitating transnational child sexual abuse is unknown (Moerenhout, 2013). Using facilitators is an easy way for offenders to gain access that also comes across as informal and legal.

Experts speak about facilitators

In the interviews, the experts emphasise the role of facilitators. Women and parents of underage children in particular are cited as facilitators. Two experts – working for the police and at an NGO – said that some facilitators were also former victims of transnational child sexual abuse, who are now of age and recruit minors themselves. One expert, a journalist who also works at an NGO, said that he had encountered ‘situational’ and more permanent facilitators over the course of his investigations. The former group are in need of fast money. They need to feed their children and pay for school, and so they take on a facilitating role. They can, however, receive instructions from offenders and become more permanent facilitators. One expert from the police also noted underage facilitators: *There are 14-year-olds who do this work. Once they find a relationship and are settled, they stop doing it. It's only for a limited time, and then lots of them move on. Lots of girls and boys live this way.*

Online

Another way to engage in sexual abuse of minors is by making use of online networks and forums during a short stay somewhere. Technological developments have made it easier for offenders to establish contact with one another, and to exchange information relatively easily about locations and minors who are abused. This method allows for a high degree of organisation among offenders. Technological developments have also enabled offenders to make contact with victims directly and to maintain it afterwards (Beech, Elliott, Birgden & Findlater, 2008; Hawke & Raphael, 2016). Jonas and Guadamuz (2016) conducted research on the role of smartphone apps in transnational child sexual abuse, focusing on apps that use geospatial location technology. These apps give the location of the user as soon as they log in, and have made it easier for perpetrators of transnational child sexual abuse to conduct targeted searches of victims in the vicinity. Minors can also use these apps to offer their services more easily.

Intermezzo – Online child sexual abuse

Due to technological developments, new, hands-off variants of transnational child sexual abuse have emerged via live streams and webcams. Offenders thus no longer need to cross international borders in order to abuse minors (Koning & Rijkse - van Dijke, 2016). Offenders can make contact with minors abroad in order to convince them to take part in sexual acts, or offenders may be online viewers of sexual abuse (Beech et al., 2008; Moerenhout, 2013). Offenders may give the order to perform the sexual abuse themselves, or watch a pre-ordered act. The use of live streams and webcams is a method being used more and more frequently to abuse minors. At any time of the day, around 750,000 people are online worldwide searching for sex with minors (Koning & Rijkse - van Dijke, 2016). Hands-off offenders are probably not active exclusively online. Van Wijk, Nieuwenhuis & Smeltink (2009) assume that offenders – where the means and the opportunity are available – also travel abroad to commit hands-on abuse. The experts assume that online transnational child sexual abuse has increased in recent years. An NGO employee spoke of ‘factories’ that he has witnessed himself in the Philippines, where 30-35 children are shown on a ‘production line’ to hundreds of international viewers. One investigative officer said that although there is now greater attention to the role of livestreaming in transnational child sexual abuse, to date it has not led to any additional cases.

Family support

Some offenders can create long-term access to minors by offering financial support to families. Since that they can do this from their country of origin, this modus operandi is categorised under short-stay, although the same strategy can be applied by offenders who remain in a destination country for longer periods. Perpetrators can support families by sending money every month, by paying for the minor's education, or by buying the family a house. Families thus become dependent on a perpetrator, allowing them to threaten withdrawal of the financial support should the family wish to break contact or speak out (Koning & Rijksen-van Dijke, 2016).

Intermezzo – Grooming

One method that seems to be commonly employed by many offenders is grooming. Grooming involves building up relationships with minors for the purposes of initiating or increasing the likelihood of sexual contact (Koning & Rijksen-van Dijke, 2016). There is a wide variety of grooming processes, which can vary from several hours to months in duration. Time seems to be an important factor when building up a long-term relationship with local minors in a destination country (ECPAT, 2008; Jonas, 2016). Grooming processes do not always follow the same pattern, though there do seem to be some common steps. The first is to make contact with the underage person, and show an affinity with their interests. After that, work can begin on a kind of special friendship, which may involve giving presents or going on outings together. As a third step, offenders may gradually introduce sexual aspects, so that they can later be normalised and pave the way for abuse (Koning & Rijksen-van Dijke, 2016).

Networks

As described above, technological developments have made it easier for offenders to establish contact with one another. The dark web plays an important part in this regard. Whenever like-minded offenders gather together in a network, they can help one another with preparations or by warning each other about police and NGO activities in destination countries (Jonas, 2016). Online social networks can also support and facilitate a pedophilic subculture (Holt et al., 2010). Lastly, offenders can use networks to exchange their own materials portraying the abuse of minors (Jonas, 2016).

Experts speak about organisation

Experts from the police and the Public Prosecution Service have the impression that offenders of transnational child sexual abuse – both long and short-stay – are showing higher levels of collaboration and organisation, enabling them to evade detection more effectively. The organised offenders prepare thoroughly for their journeys, meeting other offenders on dark-web forums and sharing tips and experiences. They then arrange to meet one another abroad, sharing houses and victims in destination countries, and making use of the same cash flows. One Public Prosecution officer encounters more and more offenders who film their abuse and bring the material back home to the Netherlands in order to view it with other offenders. She says she sees these organised offenders with increasing frequency: *We still have little experience with this group and they do not yet appear in academic literature.* This picture was confirmed by other police experts, and experts working at NGOs state that this development has already been underway for some time.

Intermezzo – An international pedosexual network

On 17 October 2019, the police connected a 70-year-old man with pedosexual offences. He was known to the police due to former prosecutions. In 2002 the man had been charged with the sexual abuse of a 7-year-old boy, and in 2012 for being in possession of child pornography. He was also brought before the court in 2003 for possession of child pornography, however he was acquitted. The case did lead to dismissal by his employer, for which the suspect received an€80,000 severance payment. He later used this payment to travel abroad. Based on the reports, the police launched investigation 26Crapo on the 70-year-old man. The police searched the suspect's home on three occasions, and seized various encrypted data carriers that the man had wrapped in black foil and hidden behind the radiator. On 3 February 2020 he was arrested and taken into custody. On 30 September 2021, the man appeared before the court. In line with the Public Prosecution Service, the court ruled that the man was part of an international pedosexual network. Between 2004 and 2010, the man had committed sexual offences with thirteen separate underage boys in five different countries: Vietnam, Sri Lanka, Crimea/Ukraine, Moldova and India. Several of these instances involved sexual penetration of the

body, and the creation and exchange of images displaying child pornography. The pedosexuals communicated regularly via encrypted PGP messages, and kept detailed travel diaries.

The man also ensured that multiple families became financially dependent on him, lending them money in exchange for accommodation in their homes. He also offered his victims gifts, such as T-shirts or electronic gadgets, allowed the boys to play games on mobile devices that he brought with him, and took them on outings to the beach, amusement parks or swimming pools. In this way, he thus 'cornered' the minors.

The court agreed with the experts' conclusions that the man had pedophilic disorder. Because of the danger of reoffending, society had to be protected: *He has shown no awareness whatsoever that his behaviour is harmful to the young children who have become the victims of his actions. He justifies his own behaviour under the guise of cultural differences, and places responsibility for any harm to the victims on their social surroundings.* The court sentenced the man to ten years imprisonment less pre-trial detention, and detention under hospital order with compulsory treatment.

Investigation of the seized data carriers is still underway, and may lead to additional punishable offences. Investigation is also underway in the source countries, however international COVID measures have caused severe delays.⁵

2.3.2 Long stay

Examples of offenders who remain in destination countries for longer periods are those who live there as expats, volunteers, emigrants, retirees, or because their partner comes from the local population (Moerenhout, 2013). Long-stay offenders seem to modify their modus operandi somewhat. The length of their stay makes it possible for them to cultivate relationships with the local community and maintain contact with minors, families, facilitators and like-minded individuals. Various perpetrator types described in the literature are given below.

The 'good man'

This type of offender tries to gain access to minors by winning the trust of the community, such as by donating money or providing assistance (Jonas, 2016). This may involve paying for a well or a house, for example. Offenders are therefore seen as the 'good man,' creating a position that grants more freedom to sexually abuse minors. The 'good man' status is also useful when an offender is accused. There are examples of local communities coming to the defence of an offender following accusations of abuse (Jonas, 2016). Communities can sometimes also become so dependent on the financial support that they turn a blind eye to the abuse (Koning & Rijksen-van Dijke, 2016), hindering the prosecution of the offenders.

The 'voluntourist'

'Voluntourists' are offenders who work as volunteers (or in other positions) for organisations dedicated to protecting vulnerable children. This type of offender – often also referred to in the literature as a 'benefactor' – abuses minors via a charity or other civil-social organisation (Koning & Rijksen-van Dijke, 2016). Minors in an institutional environment are usually more vulnerable to various types of violence and abuse than those in a family setting are not. Organisations do not always take the trouble to obtain references or a certificate of conduct (VOG) from volunteers or to supervise the volunteer's work (Koning & Rijksen-van Dijke, 2016), partly due to the unequal power dynamic between the 'rich' volunteer and the generally less-prosperous community receiving the aid. Via this route, reoffending perpetrators can gain access to vulnerable minors. The investigation by Slot et al. (2020) into orphanage tourism reports the same problem. Police statistics show that of the 85 convictions of Dutch perpetrators of transnational child sexual abuse, 13 gained access to minors via a residential institution (National Police, 2013).

Intermezzo – Sexual abuse of minors in shelters

In 2000, a suspect travelled from the Netherlands to Bangladesh in order to help children living on the streets. He launched a foundation to do so, whose aim was to provide funding for the support and care of disabled and orphaned children in Bangladesh. Initially the suspect set up a single orphanage in a village on the fringes of the capital, Dhaka. After several years, the number of shelters in the village had grown to five. The suspect was the general manager of the project and the shelters. Around 2003, serious rumours emerged in Bangladesh that the suspect was involved in the sexual abuse of minors from the shelters. In December 2003, a theologian working in the village spoke to a manager and a boy from one of the suspect's shelters. During their conversation, it was revealed that the suspect had had sex with various minors. The suspect was asked about it, but denied having sexually abused any minors. To suppress the rumours of sexual abuse in the shelters and also to prevent social unrest among the local population, a manager from one of the shelters paid money to a local 'commissioner,' a sort of local council member.

Around May 2005, more rumours began circulating regarding sexual abuse of minors by the suspect. Several minors and managers from the shelters told a volunteer working in one of the suspect's shelters that he was abusing children. The volunteer received several reports from other children and a colleague. The suspect once again denied having sexually abused any minors. Ultimately the volunteer told the board of the foundation about the rumours and her own observations. Along with another witness who also worked in Bangladesh, she then launched a local investigation at the request of the board. During this investigation, they spoke with various minors regarding the purported sexual abuse by the suspect. They drew up a report of these interviews, which was then sent by e-mail to the foundation board. Among other things, the report stated that the suspect had performed illicit sexual acts with several Bangladeshi minors. Based on the findings in the report, the foundation called the suspect back to the Netherlands.

After his return, on 16 August 2005 he was interrogated thoroughly for one-and-a-half hours by one of the foundation board members. On 19 August 2005, the suspect asked the informant to accompany him to the police station, as he wished to turn himself in. The suspect then issued a statement to an officer, saying that he had engaged in illicit sexual acts with around 5-6 boys aged 8-17 years who were residing in one of the shelters. According to his report, the acts consisted of touching and performing acts of oral sex on the minors. Partly because the suspect had no similar prior convictions, he received a suspended prison sentence of fifteen months, with a two-year probation and 240 hours of community service.⁶

The married offender

Lastly, there are also offenders who gain access by marrying either the minor themselves (Koning & Rijkssen-van Dijke, 2016) or the minor's mother (Moerenhout, 2013). Marrying the victim directly lays the basis for long-term sexual contact, and in some countries can also prevent prosecution due to abuse (Johnson, 2011). The literature does describe a case in which the offender married the victim's mother (he had abused her child) in order to avoid prosecution (Johnson, 2011).

Experts speak about modi operandi

Although the experts can generally confirm the modi operandi mentioned in the literature, they do emphasise the importance of a more nuanced picture, and that methods can vary from country to country. One NGO employee affirmed this stance, and talked about the modi operandi used in three different countries. In the Philippines, the NGO employee noted that offenders make use of apps where sexual services are exchanged. They then ask using coded language whether there is anything 'younger' available. In Cambodia, they note a modus operandi that involves approaching minors on the street, while in Kenya contact seems to be sought with minors primarily online via their Facebook pages. The modi operandi are affected by how well minors can speak English, and internet availability. One academic adds: *The offender, the country and the modus operandi all influence one another. It is not so that method A is always used in country B.* He went on to say that he has encountered offenders in his investigations who know how to modify their modus operandi according to country and location. For example they know that in some areas they need to travel alone, while in others they need to visit a particular bar. The academic explains: *Offenders do not have a single modus operandi: their methods change according to the country of destination. Nor do offenders only*

visit a single destination country. Their choice of country is also influenced by the availability of cheap tickets. The country itself is of lesser importance.

2.3.2 Victim profiles

Due to the impact on victims and the global character of transnational child sexual abuse, the phenomenon has been characterised as a worldwide humanitarian crisis (Fredette, 2009).

Intermezzo – Victims of child sexual abuse

Being a victim of sexual abuse as a child can have far-reaching physical, psychological and social effects (Koning & Rijkse-van Dijke, 2016). Some effects are of short duration, such as physical injuries or sexually transmissible infections (STIs). There can also be long-term effects, such as the development of psychological problems – including PTSD, anxiety and depression (Hawke & Raphael, 2016) – as well as behavioural problems, including risky sexual behaviour, substance abuse and suicide attempts (Fergusson, McLeod, & Horwood, 2013). Child sexual abuse also has a lasting impact on the quality of relationships, education, work and income (Currie & Widom, 2010; De Jong, Alink, Bijleveld, Finkenauer & Hendriks, 2015). The shame and stigma associated with sexual abuse can also exacerbate the consequences of sexual abuse (United Nations Children's Fund [UNICEF], 2014). Victims of transnational child sexual abuse can become victims more than once, and can also become victims of online child abuse.

Very little research has been conducted on victims of transnational child sexual abuse, however. Below, victim profiles are discussed in greater detail based on the available literature and with reference to characteristics and risk factors.

2.4.1 Characteristics

Gender

Both male and female children can become victims of transnational child sexual abuse. There is no consensus in the literature regarding the proportion of one gender to the other. In an analysis of fourteen Dutch police case files from 2020 (Bazen & de Blois), the majority of suspects preferred underage boys. In ten of the cases, the victims were boys.⁷

Age

Little research has been carried out on the age of victims. In the study by Bazen & de Blois (2020) that analysed police case files, most of the fourteen suspects' victims were aged 9–14. The prevalence of more younger victims known to the police may be attributable to selection bias. As children get older and approach the age of 18, it becomes more difficult to estimate whether they are underage or not. Experts in the ECPAT report (Hawke & Raphael, 2016) stated that in practice, they encountered more younger children – under the age of twelve – than they thought they would.

Socioeconomic background

Many minors who are abused live in poverty and have access to few opportunities. As discussed above, experts from the ECPAT report often note a power difference between the offender and the victim (Hawke & Raphael, 2016).

Intermezzo – Agency

In addition to the victimisation of minors in the sex industry, academic literature also addresses another aspect: the question of agency. In many cases, the victimhood of many sexually abused minors is uncontested. However there are some minors, adolescent boys in particular, who can make an autonomous decision to work in the sex industry (Davidson, 2005) and earn money by offering tourists sexual services. The above-mentioned 'beach boys' are one example. Davidson (2005) indicates that western notions of children and childhood are not universal. In many western countries, childhood is characterised as a period of innocence and dependence. In other cultures, however, children are viewed as autonomous persons from a younger age. There is no consensus on

the attribution of agency to minors in the sex industry. Some academics also argue that while some young people may not be victims of sexual abuse, they are victims of the economic climate in a country (Miller, 2011).

2.4.2 Risk factors

Minors are generally more vulnerable, as they are often in a position of greater vulnerability relative to adults (National Rapporteur, 2017). This applies to younger minors in particular. Minors are also more easily influenced and are less able to assess the severity or consequences of a situation (Koning & Rijkse-van Dijke, 2016). Little research has been conducted on the risk factors that apply to victims of transnational child sexual abuse. The experts in the ECPAT report list two potential risk factors that they note in practice: living in poverty, and a disadvantaged position in society. The report lists minors from minority groups (such as young members of the Roma community in Europe, and minors from the indigenous population in Australia) as a specific risk group. Several risk factors are given, such as the loss of parental support, homelessness, discrimination or exclusion due to race, ethnicity, disability, sexual orientation or gender identity, lack of access to education, living near a tourist attraction, and working in the hospitality or entertainment sector (Hawke & Raphael, 2016). These risk factors are not based on academic research, however, but rather on observations in practice.

Experts speak about victims

According to one Public Prosecution officer, the number of victims per offender has increased in recent cases. Multiple police experts have confirmed this trend. The experts state having no information on the number of victims of situational offenders. Experts working for NGOs state seeing more prepubescent boys than girls as victims. According to experts from all sectors, the motivation of the offender has an impact on the age and gender of their victims. One academic describes this influence using the Tanner scale, which divides puberty into various stages that describe the physical development of children, adolescents and adults. The subdivision within the scale is based on visible, external primary and secondary sex characteristics, such as the size of the breasts, genitalia and the appearance of pubic hair. The academic says that the potential victims of preferential offenders usually fall within stages 1 and 2: prepubescent. The potential victims of situational offenders fall within Tanner stages 3 and 4, when children have recognisable sex characteristics. The experts say that in practice they most often encounter younger (prepubescent) victims. One NGO employee qualified this statement somewhat, saying that because it becomes more difficult to ascertain whether children are underage – and therefore whether child abuse is at play – as they get older, cases involving younger children are reported more often, skewing our perception of the situation in practice.

Looking at the gender of the victims, the academic says that situational offenders tend to have a clear gender preference, whereas preferential offenders are more flexible.

2.5 Destination countries

Little research has been conducted on destination countries of Dutch offenders and their decision-making in this regard (Terre des Hommes, 2013). According to the experts in the ECPAT report, the most common destination countries are in Asia⁸, Central and South America⁹, Africa¹⁰ and Eastern Europe¹¹ (Hawke & Raphael, 2016). In 2019, the Public Prosecution Service's Child Pornography and Child Sex Tourism Centre of Expertise (*Expertisecentrum Kinderporno en Kindersekstoerisme*) and the National Police conducted a literature review, collecting academic studies on the destination countries of Dutch perpetrators. The analysis produced a list of 62 destination countries (see the blue countries in figure 2.1).

Figure 2.1 – Destination countries where Dutch offenders are or have been known to be active¹²

Based on an analysis of police documents, Koning & Rijkse-van Dijke (2016) showed in 2016 that subjects tracked by the police were most active in South and South-East Asian countries (over 80%), followed by countries in Eastern Europe (around 10%), Africa (5%) and South America (5%). According

to them, it would seem that countries in four regions of the world (South/South-East Asia, Africa, Eastern Europe and South America) are commonly listed as destination countries for Dutch offenders. However, the researchers also state that this does not necessarily mean that Dutch offenders visit these countries most often – it could also be the case that investigative bodies and NGOs are more vigilant in these regions, and have thus identified more offenders there.

2.5.1 Risk factors

The literature lists several risk factors that could potentially make countries more susceptible to transnational child sexual abuse. These factors are not based on quantitative research, however, but rather on assumptions (Koning & Van Wilsem, 2021). The proposed risk factors can be subdivided into four categories: economic factors, sociocultural factors, governance, and political/legal factors (*Expertisecentrum Kinderporno en Kindersekstoerisme*, 2019). These categories are briefly explained below. According to Beddoe (2006) and Terre des Hommes (2007), a country's economic position can influence the prevalence of transnational child sexual abuse. Countries with high levels of poverty present various risks to minors. Those from families living in serious poverty can go into the sex industry in order to earn money for the family (Beddoe, 2006).

According to Moerenhout (2013), cultural factors in destination countries can contribute to the prevalence of transnational child sexual abuse. One example of a cultural factor is the age at which minors are considered to be sexually mature. In Asian countries, this minimum age ranges from thirteen to eighteen years, and in African countries from twelve to twenty years. Gender norms, such as views pertaining to the role of women in society and strict expectations of masculinity in certain countries are also posited as factors by experts in the ECPAT report (Hawke & Raphael, 2016). Offenders' views regarding the local population in a destination country can also be of relevance. Offenders can view the local population in a destination country as 'inferior,' for example, which can influence the way in which they justify their abuse.

Under the 'governance' category, the literature points to the presence of corruption as a possible risk factor, which may mean that suspects see opportunities to bribe government officials in order to avoid persecution. Victims and witnesses can also be bribed in this manner (Terre des Hommes, 2007).

Intermezzo - Two sisters in court

In 2020 a special case came before the court in which two sisters aged 80 and 81 stood accused of coercion and influencing a witness/witnesses.¹³ The sisters' brother, a child psychologist, had been suspected of child abuse in Nepal. The sisters attempted to thwart their brother's criminal proceedings by offering the victim money to withdraw their statement. Along with two Nepalese lawyers, they travelled to see the victim's family and offered them thousands of euros. The child psychologist was ultimately convicted of child sexual abuse in Nepal, and received an initial sentence of seven years' imprisonment in 2018. After appeal, the sentence was reduced as incorrect sections of the law had been applied. He was therefore released in 2020. Based on evidence in the form of app/e-mail interactions and telephone conversations, on 24 November 2020 the full court sentenced the two sisters to six months in prison. There had never before been a ruling on a comparable topic in the Dutch legal system. At the time of writing, the appeal lodged by the sisters was still underway.

Political/legal factors include those such as a lack of adequate legislation (*Expertisecentrum Kinderporno en Kindersekstoerisme*, 2019).¹⁴ The prioritisation of and the capacity to combat child sexual abuse can differ between countries, and an ineffective approach to child sexual abuse can make a country more attractive to potential offenders. Introduction of a more rigorous strategy (such as stricter laws or a greater focus on the problem among NGOs) can merely shift the problem, however (*Expertisecentrum Kinderporno en Kindersekstoerisme*, 2019), and cause offenders to switch countries. For example, Cambodia and Vietnam saw an increase in the number of incoming offenders when the Thai government began combating transnational child sexual abuse more actively (ECPAT, 2017).

Koning en Van Wilsem (2021) tested four risk factors as part of their study. They looked at 1) the number of tourists visiting a country, 2) the living conditions of children and the protection of children's rights, 3) the quality of public governance, and 4) economic factors. By classifying countries as destination countries according to information from the American Trafficking in Persons (TIP) reports, they were able to determine the extent to which these factors apply to destination countries. Of the four factors under consideration, the most important proved to be the prosperity of a country measured by GDP, where poorer countries were more likely to be destination countries for transnational child sexual abuse.

Experts speak about destination countries

The experts stress that any country in the world can be a destination country for perpetrators of transnational child sexual abuse. According to NGO employees, the phenomenon is also present in the Netherlands. In the interviews, the experts further explained offenders' choice for certain countries. Firstly, several police experts noted that offenders travel specifically to countries where a natural disaster has just taken place, as the ensuing years always see an increase in the number of vulnerable minors. One expert from the police cited the example of offenders who travelled to Sri Lanka after the 2004 tsunami, in order to abuse the local children. This was confirmed by NGO employees and one academic. Secondly, the experts note avoidance behaviour among offenders. When countries invest in their strategy against transnational child sexual abuse, the experts note a shift towards other, surrounding countries. One police expert said that whenever a destination country becomes stricter in areas such as border control, offenders will fly to a neighbouring country and then travel to the destination country by bus. Thirdly, a police expert reported that offenders also base their choice of country on the seasons: *At the start of the year they go to Thailand or Cambodia, and they leave in the rainy season.* Lastly, several NGO experts said that some qualification is necessary when listing the names of destination countries. It is important not to lump together destination countries that are from the same part of the world. Some believe that this does seem to happen in practice with counties in South-East Asia, even though legislation and cultural practices can vary significantly from country to country. The sight of two boys walking hand-in-hand is not immediately suspicious in Nepal, for example, since that behaviour is also common among friends. The same sight in the Philippines attracts greater attention, however. This fact has an effect on offenders, as they know where they can operate most safely. The experts affirm the risk factors discussed in 2.5.1, and add three of their own. Firstly, countries whose justice system requires witness testimony for a criminal case to be heard in court are more vulnerable. In the Netherlands, statements are issued in advance, and evidence must be collected prior to the court session. Because victims and witnesses in these countries do not issue statements until the day in court, they can be more easily persuaded and/or bribed not to do so. Secondly, countries where many minors have access to high-quality, fast internet are more vulnerable to transnational child sexual abuse. One NGO employee said that he had seen an increase in transnational child sexual abuse in countries where internet access had improved. Lastly, countries with a low age of consent are especially vulnerable, one academic noted. Appendix 2 contains an overview of the age of consent in various countries.

2.6 Summary

This section shows that although transnational child sexual abuse is a global problem, little scholarly research has been carried out on the phenomenon, resulting in a knowledge gap. Much of the available information is based on observations by experts working in the field. The limited academic literature that is available paints the following picture. The literature draws a distinction between preferential offenders who make preparations and actively go in search of minors abroad, and situational offenders who commit abuse as the opportunity presents. In practice, this distinction is not so clear-cut. Most perpetrators of transnational child sexual abuse seem to be men. The extremely scarce literature reveals that, compared to 'general' child sexual abusers, perpetrators of transnational child sexual abuse are themselves more often prior victims of sexual abuse, and exhibit more pedosexual and antisocial behaviours. The literature also suggests that offenders of transnational child sexual abuse seek help more readily, and believe that their own likelihood of reoffending is higher. More research into these tentative findings is necessary, however. The modus operandi of transnational child sexual abusers is influenced by the length of the perpetrator's stay

(short or long), their motivation (situational or preferential) and location (hands-off – which also includes the online environment – or hands-on). Both girls and boys are victims of transnational child sexual abuse. Risk factors of destination countries can be divided into the following categories: economic factors, sociocultural factors, governance, and political/legal factors. The prosperity of a country seems to be one of the most important factors, whereby countries with high levels of poverty are more susceptible to transnational child sexual abuse. The experts agree partially with the assessment from the literature. They recognise the two groups of offenders and the associated characteristics and risk factors. They do believe that the dichotomy has limitations, and some argue for the inclusion of a potential third group: the crossovers. They also indicate that preferential offenders tend to be older, whereas situational offenders are younger. According to experts in the Netherlands, there is an overlap between 'general' sexual abusers and perpetrators of transnational child sexual abuse. They believe the difference between these two groups lies in the lack of a social life, and the presence of an opportunity. The experts also believe that there is an overlap between perpetrators of transnational child sexual abuse, and downloaders and distributors of visual materials portraying the sexual abuse of minors. Regarding the modus operandi of offenders, the experts emphasise the role of facilitators and indicate that offenders have become more organised; the offenders seek each other out and collaborate more often. In practice, experts see more male than female victims. Lastly, experts note that countries with well-developed internet and a low age of consent are more susceptible to transnational child sexual abuse.

Endnotes

- 1 Rechtbank Midden-Nederland, ECLI:NL:RBMNE:2017:1117, 16/705035-16 (P), 8 March 2017.
- 2 Pedophilia is a disorder involving a sexual preference for prepubescent children (aged 13 or younger). This disorder is listed in the DSM-5 as paraphilia: an abnormal sexual desire (Goethals & Cosyns, 2014).
- 3 This information was missing for three of the other subjects.
- 4 In Sri Lanka, Indonesia, the Dominican Republic, Kenya, Gambia and Greece, among others (Samaratunga, 2018).
- 5 Public Prosecution Service, 2021.
- 6 Arnhem District Court, ECLI:NL:GHARN:2012:BX9270, 21-002318-10, 4 October 2012.
- 7 In the other four case files, the victims were girls (2), both girls and boys (1) and of unknown gender (1).
- 8 Cambodia, the Philippines, India, Indonesia, Malaysia, Myanmar/Burma, Nepal, Singapore, Sri Lanka, Thailand, Vietnam and South Korea (Vogelvang et al., 2012).
- 9 Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Guyana, Haiti, Jamaica, Mexico, Peru, Uruguay and Venezuela (Vogelvang et al., 2012).
- 10 Benin, Ethiopia, Gambia, Ivory Coast, Kenya, Madagascar, Mauritania, Mauritius, Niger, Senegal, Tanzania, Zambia and South Africa (Vogelvang et al., 2012).
- 11 Albania, Bulgaria, Romania, Russia and Turkey (Moerenhout, 2013).
- 12 This figure was taken from *Expertisecentrum Kinderporno en Kindersekstoerisme*, 2019.
- 13 Overijssel District Court, ECLI:NL:RBOVE:2020:3942, 24 November 2020.
- 14 According to some members of the supervisory committee, a lack of adequate legislation is only part of the reason why some countries are susceptible. They say that in foreign countries, statements must often be made in court, and victims or witnesses are bribed not to do so. The evidence is thus insufficient and offenders are acquitted. In these cases, although there is adequate legislation in place, justice cannot take its course. The problem lies in the implementation.

3 Available instruments

This section will discuss the instruments available in the Netherlands for combating transnational child sexual abuse. As an introduction, Section 3.1 outlines the frameworks containing the instruments: the international conventions that have been adopted since 1989, and relevant Dutch legislation. Section 3.2 then examines the judicial measures intended to make it difficult for convicted perpetrators of transnational child sexual abuse to do so (or do so again). Section 3.3 presents instruments, such as the risk-assessment instrument, the European Criminal Record System (ECRIS) and the Interpol Green Notices instrument. Section 3.4 outlines initiatives, such as the improvement of available information and intelligence, awareness campaigns, airport checks and the use of Liaison Officers (LOs) and Flexible Liaison Officers (FLOs). Where the information is available, the purpose of each of the instruments above is listed, as well as the underlying policy theory, the bodies and organisations involved in the implementation, and what the effects are in practice. The information is derived from academic literature, parliamentary records, legal texts, 'grey' literature, and input from interviews and focus groups. The second-last subsection looks at measures taken with respect to online child sexual abuse, and Section 3.6 concludes with a review of the available instruments. Because of the length and the amount of information in this section, interim findings are presented in boxes along the way.

3.1 International agreements and national legislation

Since 1989, the Netherlands has signed and adopted various national and international agreements and laws relevant to this topic.

Signing these agreements has required the Netherlands to amend its own laws and regulations in order to attain the objectives outlined therein. Achieving the objectives – which are described in detail in the sections below – means combating transnational child sexual abuse and making it more difficult for people to perpetrate. The same applies to the adoption of certain laws, as these create more opportunities to detect and track perpetrators of transnational child sexual abuse, and to prevent reoffence.

3.1.1 The United Nations Convention on the Rights of the Child

In 1989 the United Nations adopted the International Convention on the Rights of the Child, which included 54 articles outlining agreements on the rights of children and young people under the age of eighteen. It sets out minimum requirements for the treatment and care of children and young people, since they are dependent on others and cannot yet defend or protect themselves. This fact makes them vulnerable to abuse and exploitation. The Netherlands signed the Convention in 1995¹ (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013).² Since that time, the Netherlands (and all of the other signatories to the Convention) has had to issue a report every five years to the Committee on the Rights of the Child outlining the legal, administrative and other measures that have been taken to satisfy the requirements.³

Article 34 of the Convention addresses the protection of children and young people against all forms of sexual exploitation and sexual abuse.⁴ Four forms of commercial sexual exploitation are identified: child prostitution, trafficking in minors for sexual purposes, transnational child sexual abuse, and child pornography.⁵ The Convention states that *States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:*

- a. (a) *The inducement or coercion of a child to engage in any unlawful sexual activity;*
- b. (b) *The exploitative use of children in prostitution or other unlawful sexual practices;*
- c. (c) *The exploitative use of children in pornographic performances and materials.*⁶

In 2000, the United Nations added the Optional Protocol⁷ on the sale of children, child prostitution and child pornography to the

Convention on the Rights of the Child. The Protocol provides additional protection for underage victims of sexual and other exploitation and human trafficking.⁸ The Netherlands adopted the Optional Protocol in 2005, in order to promote⁹ the further realisation of the objectives in the Convention. It was a necessary step due to major concerns regarding the widespread and ongoing practice of transnational child sexual abuse and the consequences thereof. The additional measures are intended to better protect children against economic exploitation, from performing work that is extremely likely to be dangerous, from a detrimental upbringing, and from stunted physical, mental, intellectual, sexual or social development.¹⁰

Intermezzo – Modernising the Optional Protocol

In 2019, the Committee on the Rights of the Child published guidelines for promoting the implementation of the Optional Protocol. It encouraged the protocol signatories to update their laws in order to bring them in line with modern developments and sensibilities. The Optional Protocol was created at a time when ICT and social media were not as fully developed as they are now. These developments mean that today, more children and young people are at risk of being exploited or trafficked. Other developments too, such as globalisation and the mobile world (in which travel has become far easier and more accessible), the development of new forms of online and other exploitation, and the increased exploitation of boys, demand more targeted attention (Liefwaard, 2020).

3.1.2 Convention on Cybercrime

In 2001, in Budapest, the Convention on Cybercrime was adopted by member states of the Council of Europe. The Convention was created in response to the need to pursue a common criminal policy aimed at protecting society from crimes associated with electronic networks, by means such as the introduction of appropriate legislation and the promotion of international cooperation. The need to do so was fuelled by drastic changes brought about by digitisation, convergence, and the ongoing globalisation of computer networks.¹¹

Given that transnational child sexual abuse takes place partly in an online environment – thereby placing some of the offenders of transnational child sexual abuse under this convention – it provides handholds for combating offenders of transnational child sexual abuse. Article 9 of the Convention is of particular relevance, as it addresses offences involving images depicting the sexual abuse of minors: *Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:*

a) producing child pornography for the purpose of its distribution through a computer system;

b) offering or making available child pornography through a computer system;

c) distributing or transmitting child pornography through a computer system;

d) procuring child pornography through a computer system for oneself or for another person;

e) possessing child pornography in a computer system or on a computer-data storage medium.

Here, 'child pornography' is defined as pornographic material that visually depicts a) a minor engaged in sexually explicit conduct, b) a person appearing to be a minor engaged in sexually explicit conduct, and c) realistic images representing a minor engaged in sexually explicit conduct. A 'minor' is considered to be a person under eighteen years of age.¹²

The convention was ratified by the Dutch House of Representatives in 2005, and by the Dutch Senate in 2006. It outlines a number of authorisations that the Netherlands must allocate via legislation to bodies involved with criminal investigation.¹³ The Netherlands already satisfied many of the requirements, but the Cybercrime II bill allowed the existing legislation to be further amended to accommodate the convention requirements. These amendments include harsher punishments for cybercrimes, broader criminalisation of certain offences and more rigorous powers for the police and the justice department. The convention increases the opportunities to combat crimes committed

with the assistance of computer technology, or crimes that target the effectiveness of computer systems and networks.¹⁴

An additional protocol was adopted in 2010 criminalising racist and xenophobic acts committed via computer systems, as the result of concerns regarding the risk of improper use of computer systems to spread racist and xenophobic propaganda.¹⁵

In 2019, it was concluded that in addition to unprecedented opportunities, the development of information and communication technology also presented challenges, including many for the justice system. Cybercrime and other criminal acts that leave electronic traces on computer systems are becoming more and more prevalent, and the proof of these crimes is to be found increasingly on servers in international (i.e., non-EU), multiple, alternating or unknown jurisdictions. This phenomenon is also known as 'the cloud.' The law and enforcement authorities, on the other hand, are still limited by territorial borders. To solve this problem, a second supplementary protocol is necessary (European Commission, 2019). The Commissioner for the Security Union had the following to say: *We cannot allow terrorists or criminals to find refuge online abusing modern technology. We need to close the legal loopholes and together, at the international level, continue to squeeze the space in which they operate.*¹⁶ In 2021, negotiations were still underway regarding the specifics of the second supplementary protocol, however the deadline for the completion of negotiations was the end of May 2021 (*Parliamentary Papers I, 32317, no. LX, 2021*).

3.1.3 The Council of Europe Convention

Many countries found that the Convention on Cybercrime did not address the sexual abuse of minors specifically enough. For this reason, the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse was adopted in Lanzarote in 2007. This convention does more than criminalise the creation and/or distribution of visual materials depicting the sexual abuse of minors (EOKM, 2018). The Lanzarote Convention came into effect in the Netherlands in 2010. The purposes of the convention are to:

- a. prevent and combat sexual exploitation and sexual abuse of
- b. children;
- c. protect the rights of child victims of sexual exploitation and
- d. sexual abuse; and
- e. promote national and international co-operation to combat
- f. sexual exploitation and sexual abuse of children.¹⁷

The convention is marked by a comprehensive and multidisciplinary approach to combating sexual exploitation and sexual abuse of children, that takes technical developments into consideration such as the advancing digitisation of society and the associated increase in internet usage. The convention has led to greater rigour in substantive criminal law, as well as the prescription of preventive measures; prosecution; protection and support for victims; treatment programmes for existing and potential offenders; and international cooperation (*Parliamentary Papers II, 31808 (R1872), no. 3, 2008; Parliamentary Papers II, 33580, no. 3, 2013*).

3.1.4 Directive 2011/93/EU

In 2011, the European Parliament and the European Council drew up Directive 2011/93/EU (referred to below as: the Directive) in order to combat the sexual exploitation of children, the sexual abuse of children, and child pornography (European Union, 2011; Vanhullebus, 2011), as they were not satisfied with the number of countries that had ratified the Convention by the Council of Europe. The Directive forced all European Union member states to take measures against child sexual abuse and visual materials portraying the sexual abuse of minors (EOKM, 2018). Serious crimes of this nature demand an integrated approach that devotes attention to the prosecution of offenders, the protection of victims, and the prevention of the above practices. As a means to do so, Framework Decision 2004/68/JHA (referred to below as: the Decision) was replaced by a new instrument that created the necessary comprehensive legal framework (European Union, 2011).

The Directive expanded the protective scope of the existing Decision on combating sexual exploitation of children and images portraying the sexual abuse of minors to include sexual abuse. This means that new acts were criminalised in the European Union: sexual abuse; the observation of pornographic portrayals; using a computer to access visual materials portraying the sexual abuse of minors; sexual corruption; grooming; distribution of material communicating the opportunity to commit the offences listed under the Directive; and the organisation of sex tours. The maximum penalties for existing crimes were increased, as were the opportunities for cooperation among the member states with regard to prohibiting certain activities involving children following a conviction, such as working with children. New regulations governing investigation, prosecution and the treatment of underage victims during the investigation and prosecution process were also introduced. Extraterritorial jurisdiction was also expanded, as well as the protection of and support for victims. The final additions were the introduction of intervention programmes and measures, and stopping images portraying the sexual abuse of minors from making their way to websites (EU Monitor, n.b.). To summarise: the Directive fills in the gaps left in the Decision (Vanhullebus, 2011).

Although the Directive is primarily a criminal justice instrument, it is based – like the Convention by the Council of Europe – on an integrated approach. Given the global character of sexual exploitation and the sexual abuse of children abroad, combating and prevention is only possible if countries work together closely and effectively. The Directive constitutes the legislative framework that enables the development of European-level policy and operational collaboration on the strategy against perpetrators of sexual exploitation and sexual abuse (*Parliamentary Papers II, 33580, no. 3, 2013*).

The Directive encourages the EU member states to take steps to intensify collaboration with third countries¹⁸ and international organisations through the available national and international instruments, including bilateral or multilateral treaties on extradition, mutual assistance and transfer of procedures. The EU member states must promote open dialogue with countries outside the European Union, to enable the use of relevant national legislation to prosecute offenders who travel outside the borders of the European Union for the purposes of sexual exploitation and sexual abuse (European Union, 2011).

Member states were to have converted the Directive into national legislation by December 2013. In the Netherlands, this process resulted in amendments to several Dutch criminal and other laws in order to improve protections for children against sexual exploitation and sexual abuse (*Parliamentary Papers II, 33580, no. 3, 2013*).

Interim findings

- The strategy against transnational child sexual abuse is based in various international conventions. The overarching goal is for children and young people to be protected against all forms of sexual exploitation and sexual abuse, including transnational child sexual abuse.
- The Netherlands has amended its national laws and regulations in order to comply with these international conventions.

3.1.5 The Barth Amendment

In addition to the international conventions and directives, the Netherlands has its own national legislation that is relevant to the strategy against transnational child abuse. In 2002, the House of Representatives concluded that children and young people were not adequately protected against all forms of sexual exploitation and sexual abuse. Dutch citizens who commit these offences abroad are often not punished, as the international police services in other countries cannot effectively identify and prosecute the offenders (Stöpler, 2007). For this reason, the Dutch House of Representatives adopted the Barth amendment, which did away with the condition of double criminality¹⁹ for sex offence laws (*Parliamentary papers II, 27745, no. 7, 2002*). The above led to extraterritorial jurisdiction, enabling Dutch citizens and aliens with a fixed place of residence in the Netherlands to be persecuted in the Netherlands for committing sexual offences in other countries that are not punishable by law in those countries (*Parliamentary Papers II, 33572, no. 2, 2013*). The Barth amendment also allows the Netherlands to assist foreign authorities with the detection and

prosecution of Dutch citizens who have exploited or abused minors in the relevant country (Stöpler, 2007).²⁰

Intermezzo – Cooperation on international legal assistance

Requests for international legal assistance must always satisfy certain requirements. The legal assistance may not result in a violation of human rights, for example. Requests for assistance must therefore always be checked against international treaties and Dutch legislation. The Interpol member states' National Central Bureaus (NCBs) maintain communication with the Interpol head office and with each other. The Dutch NCB receives police-related legal assistance requests from an International Legal Assistance centre (IRC), and verifies them before forwarding them to the NCB of the country being asked to provide assistance. The NCB then ensures that the request for legal assistance is sent to the right place (Inspectorate of Justice and Security, 2019). Quality varies between the NCBs in various countries, and there are also countries that deliberately refuse to cooperate with requests for legal assistance. In the Netherlands, the International Legal Assistance (Criminal Matters) Division (AIRS) of the Ministry of Justice and Security is the Central Authority on matters of international legal assistance. A distinction is drawn between judicial and police-related requests for legal assistance. The difference is that police-related legal assistance consists of information from police channels that cannot be used as evidence in a criminal case, whereas the information supplied via a judicial enquiry is admissible as evidence.²¹

3.1.6 Long-Term Supervision Act

The year 2013 saw the submission of the proposed Long-Term Supervision (Behavioural Influence and Limitation of Freedoms) Act (*Wet Langdurig Toezicht, gedragsbeïnvloeding en vrijheidsbeperking*, WLT) (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). The proposal was prompted by the fact that much crime (in general) was committed by convicted persons after their release. The return to society of persons placed under a hospital order and perpetrators of sexual offences and serious violence also frequently resulted in much social unrest and a sense of public insecurity (Ministry of Justice and Security, 2017). The WLT was intended to reduce the likelihood of reoffence by monitoring people who are (or were) under a hospital order and perpetrators of sexual offences and serious violence for as long as necessary (Ministry of Justice and Security, 2017; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018; Nagtegaal, 2020). Under the Act, the supervision period would consist of customised treatment by setting personalised conditions, including elements of monitoring, coaching, therapy and support (Ministerie van Veiligheid en Justitie, 2017; Nagtegaal, 2020). The first section of the WLT came into force on 1 January 2017, and the whole Act came into force fully on 1 January 2018 (Ministry of Justice and Security, 2017; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018). The WLT is made up of the following components:

- On 1 January 2017, the maximum statutory duration of the conditional termination of hospital orders with compulsory treatment was nullified, allowing courts to extend the conditional termination repeatedly by one or two years as deemed necessary (Ministry of Justice and Security, 2017);
- On 1 January 2018, the minimum duration of the probationary period of the special conditions was made equal to that of the general conditions for conditional release, i.e. at least one year. At the request of the Public Prosecution Service, the court also introduced the ability to extend the probationary period **once** by a maximum period of two years. The probationary period for sexual and serious violent offenders can be repeatedly extended by a maximum of two years (Ministry of Justice and Security, 2017);
- On 1 January 2018, a new measure was introduced – the Measure on Behavioural Influence (in Dutch *Gedragsbeïnvloedende en Vrijheidsbeperkende Maatregel*, GVM) – which applies to current or former persons under a hospital order and sexual/violent offenders whose prison sentence has ended, or whose conditional release after prison has ended. The measure can be imposed alongside a hospital order or a fully or partially conditional prison sentence (due, in principle, to any hands-on offence and also several hands-off offences²²) (Van Houten, 2015; Ministry of Justice and Security, 2017; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018).²³

When the GVM is invoked, the special conditions are established by the court and rehabilitation must legally be carried out by the supervising authority. The special conditions are tailored specifically to the perpetrator themselves and the nature of their crime (Ministry of Justice and Security, 2017; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018). For the present study, the special conditions pertaining to limitations of freedom under the GVM are of particular importance. Section 3.2 describes four of these.

The GVM is generally invoked for a period of two, three, four or at most five years. At the request of the Public Prosecution Service, the court can extend the measure repeatedly by a period of two, three, four or five years, and in theory it may continue to be invoked for a lifetime. The Public Prosecution Service must submit an extension request no later than 30 days prior to the termination of the currently imposed GVM period (Article 38ac of the Penal Code). Proposed extensions are evaluated based on the latest circumstances and a recommendation by the rehabilitating body using a risk assessment. The results of this evaluation will indicate whether the conditions for monitoring (or extended monitoring) of the person in question are met. This is true when the safety of others must be protected due to a genuine likelihood of relapse, or to prevent serious and distressing behaviour towards victims or witnesses (*Parliamentary Papers II, 33816 no. 3, 2013*). Periodic evaluation ensures that the measure will not last any longer than is necessary or proportional (Ministry of Justice and Security, 2017). A study by Nagtegaal (2021) shows that the WLT, and specifically the GVM, was imposed 16 times in 2018 and 2019. The persons on whom a GVM was imposed included five offenders who had committed one or more sex offences. Of these five, four had been convicted of sexual abuse crimes involving victims aged under 18, and who could potentially have travelled abroad (Nagtegaal, 2021).

Experts speak about the Long-Term Supervision Act

A Probation Services officer and a policy officer from the Ministry of Justice and Security believe the Long-Term Supervision Act to be of great importance, as it provides a means of monitoring sex offenders for as long as possible – including perpetrators of transnational child sexual abuse – who are at high risk of reoffending.

3.1.7 The Passport Act

The Passport Act (PA) regulates all aspects of how travel documents are issued. It includes a flagging procedure that allows for the annulment of a person's passport, or the denial of an application for a new passport. Certain bodies (listed in more detail below) can submit a request to this effect to the Personal Data and Travel Documentation Administration Agency (*Agentschap Basisadministratie Persoonsgegevens en Reisdocumenten*), part of the Ministry of the Interior and Kingdom Relations. An evaluation is used to determine whether such a request is justified. If so, the person in question is added to the Passport Flagging Register (PFR) (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; *Parliamentary Papers II, 31015 no. 162, 2019*; Dekker, 2019; Public Prosecution Service, n.b.).²⁴ Three articles in the Passport Act are of importance to this study: Article 18, Article 23(a) and Article 24(a) of the PA. In each of these three articles, the grounds differ for the denial or annulment of a passport and the body issuing the request.

Intermezzo – Grounds for denial or annulment

Under Article 18 of the Passport Act, *denial or annulment may be effected at the request of the Public Prosecutions Department, if there are valid reasons to suspect that a person a) who is suspected of a criminal offence for which an order for pre-trial detention has been approved, b) who has been finally sentenced to an imprisonment, custodial order or financial penalty, or c) who does not comply with the special conditions²⁵ attached to a suspended sentence, a suspended detention/supervision order or a suspended pardon, shall evade prosecution or the execution of a sentence by residing outside the frontiers of the Kingdom of the Netherlands²⁶* (Public Prosecution Service, n.b.). The Minister for Legal Protection also wishes to add the newer conditional frameworks to Article 18 of the PA: the conditional PIJ measure (placement in an institution for juvenile offenders), the conditional ISD measure (custodial order for repeat offenders) and the GVM. Detainees on conditional

release already belong to this group, as the Passport Act also applies to criminal suspects for whom suspended imprisonment is permitted, and for those with a prison sentence of four months or more (Sections 18(a) and 18(b) of the PA). The addition of these three newer conditional frameworks was effected via a technical amendment passed as a formality by the EK in late 2019: the Remedial Act (Justice and Security) 2019 (*Reparatiewet JenV*) (Nagtegaal, 2020). Under Article 23(a) of the PA, *denial or annulment may be effected at the request of Our Minister in question, if a relevant notification from a competent authority in a power friendly to the Kingdom of the Netherlands gives valid reason to suspect that the person in the relevant country will evade either a criminal procedure instituted against them or a punishment or measure imposed on them due to actions considered to be a criminal offence in any country of the Kingdom of the Netherlands that is punishable by a prison sentence of a year or more.* Under Article 24(a) of the PA, *denial or annulment may be effected at the request of Our Minister in question, or by a relevant authority charged with the implementation of this Act, if there are valid reasons to suspect that the person involved shall be guilty of actions which are crimes according to the laws of the Netherlands, Aruba, Curaçao or St. Martin, whose penalization is required by a binding Treaty to the Kingdom and to which the person involved has been finally sentenced within or outside the Kingdom during the last ten years.*²⁷

If the evaluation reveals a justification for passport flagging or factual evidence for the risk of evasion (Article 18, PA) or reoffending (Article 24a, PA), the personal details of the individual are entered into the Passport Flagging Register maintained by the National Office for Identity Data for a period of two years (Ministry of Justice and Security, 2013; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013).

Experts speak about 'factual evidence'

One expert from the Ministry of Justice and Security said that it is generally difficult to determine what constitutes 'factual evidence.' When trying to establish the risk of evasion among sexual abuse offenders (Article 18, PA), it is not enough to simply find travel guides lying on the table, for example. Limited economic ties with the Netherlands and the prior purchase of a flight, on the other hand, can constitute factual evidence for an evasion risk. Determining the risk of reoffending (Article 24(a), PA) is also difficult, as not all warning signs are always apparent. It is therefore important – the experts believe – to improve information sharing, and to incorporate information from parties that until now have not been involved in determining the risk of reoffending. Much information is available in other countries, for example, requiring capacity improvements for information sharing. According to various experts, significant barriers to the sharing of information include privacy legislation, regulations governing requests for legal assistance, and consular support regulations.²⁸

The person in question cannot lodge an objection or an appeal, as the decision does not qualify under the General Administrative Law Act, and registration with the Passport Flagging Register has no legal consequences for the person involved.²⁹ The registration will be repeated whenever the risk of evasion and/or reoffending is deemed to still be present (Dekker, 2019). The Minister of the Interior will keep records of the persons for whom a request for denial or annulment is in effect, and will inform the authorities charged with granting the denial/annulment. The reason why this kind of passport flagging is useful in valid suspicions of evasion/reoffence risk is that people are, in effect, prohibited from travelling, provided their passport is either denied or revoked (Public Prosecution Service, n.b.) Upon entry into the passport flagging register, the relevant person's details are added to the national detection system. The Royal Marechaussee (KMar) consults this system whenever citizens travel to a non-Schengen country (*Parliamentary Papers II, 34359 no. 4, 2015*). As soon as a person is listed in the Passport Flagging Register, their passport application can be denied or their passport annulled.³⁰ The applicant or passport holder may lodge an objection or appeal, in which case the defendant is the passport-issuing authority (Public Prosecution Service, n.b.). In cases of definitive denial or annulment, on request an ID card must be issued due to the identity requirement (Dekker, 2019).

Passport denial is a rejection of an application for a new passport, or the issuing of a passport with territorial restrictions or limited validity. Under the mandate of the Minister of Foreign Affairs and the mayor, embassies and municipalities (respectively) are authorised to decide on whether a passport is to be issued. When doing so they consult various sources, including the Passport Flagging Register (Public Prosecution Service, n.b.).

Passport annulment is the decision to declare a passport invalid that has already been issued, and is only possible once a passport has been revoked, the basis for which is provided by a notification from the minister (Public Prosecution Service, n.b.). The bodies authorised to revoke passports are those authorised to process applications for travel documents, and authorities charged with border control, the police, and officials charged with the monitoring of aliens (Public Prosecution Service, n.b.). After being revoked, a passport must be sent to the mayor of the municipality or the governor of the public entity where the passport-holder lives. If the holder is not a resident of a municipality or a public entity, the revoked passport must be sent to the mayor of The Hague. The relevant mayor, minister of Foreign Affairs or governor will then make the official decision to annul the passport, following a compulsory check to verify that the flag is still active in the Passport Flagging Register. The mayor may make use of the option not to proceed with annulment, on grounds of disproportionate disadvantage to the passport holder (Public Prosecution Service, n.b.).

Intermezzo – The Enforcement of Criminal Law Decisions (Reform) Act (USB)

The Enforcement of Criminal Law Decisions (Reform) Act came into force in 2020 (Dekker, 2020),³¹ shifting responsibility for the execution of penalties (such as passport measures) from the Public Prosecution Service to the Minister for Legal Protection (Dekker, 2020). The main purpose of the act is to better enable the minister to maintain control over the execution of punishments and measures. Among other things, the Act aims to provide for more rapid and effective execution of punishments, to create a stronger position for victims and their loved ones, to properly inform partners both within and external to the criminal justice system, and enable person-centred implementation.³² Information exchange between the relevant parties is of prime importance in order to strengthen control over implementation. The Central Judicial Collection Agency (CJIB) set up the Administrative Information Centre for the Execution of Judgments (AICE). Following a court ruling, the AICE ensures that the information is sent to the correct parties,³³ such as the CJIB, the Judicial Bodies Service, the Judicial Information Service, the Child Care and Protection Board, rehabilitation providers and the police.³⁴ The Public Prosecution Service also still retains several of its own statutory tasks and powers during the implementation stage, such as the responsibility for issuing decisions to the minister. The Public Prosecution Service can also advise on the method of implementation, and the Public Prosecution Service remains responsible for taking follow-up decisions and/or instigating cases in which the court must take a follow-up decision. The responsibility for informing victims on the progress of cases has also remained with the Public Prosecution Service, as has the responsibility for supervising compliance with conditions under the USB Act (Dekker, 2020).

From the literature consulted (Ministry of Justice and Security, 2013; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Public Prosecution Service, n.b.), there are three limitations to the Passport Act that are relevant to transnational child sexual abuse.

Firstly, Article 46(a) of the PA states that only passports can be denied or annulled. This process cannot apply to ID cards, due to the identity requirement in the Netherlands. People with a Dutch ID card can therefore still travel to the 26 Schengen countries (Ministry of Justice and Security, 2013; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Public Prosecution Service, n.b.).

There are also four non-Schengen countries that also accept Dutch ID cards: Turkey, Tunisia, Jordan and Montserrat (Public Prosecution Service, n.b.). The Schengen Information System (SIS) is relevant in such cases, as whenever individuals present their ID card to travel within the Schengen countries, any submitted 'Green Notices' will be visible in the SIS.³⁵ Green Notices are international warnings of prior criminal activity, indicating individuals who are at high risk of reoffending (Dekker, 2019; Appendix to the Proceedings II, 1619, 2020). See Section 3.3.3 for more information on Green Notices. A second limitation identified by the Public Prosecution Service (n.b.) is the possibility of an annulment not being noticed at the border, since they are not systematically monitored. Entry into the Passport Flagging Register is therefore no guarantee that a person will actually be prevented from leaving the country that they are in (Public Prosecution Service, n.b.). The third limitation is that a passport flag will neither prevent somebody of dual nationality from travelling on a non-Dutch passport, nor stop somebody from travelling beyond the Schengen zone on fake travel documents

(Public Prosecution Service, n.b.). The effectiveness of the Passport Act on preventing transnational child sexual abuse therefore has several limitations. To date, the Passport Act has primarily seen application in combating terrorism, but here, too, there are still several caveats to be observed (Amnesty International, 2017). It is important to note here that terrorism has its own dedicated clauses in the Act, and so the relevant articles are different from those that apply to transnational child sexual abuse.

Experts speak about the Passport Act

The experts were divided regarding the effectiveness of the Passport Act in combating transnational child sexual abuse. One officer from the Public Prosecution Service said that it has the greatest potential compared to all other measures, as it erects an important barrier. It ensures that a person cannot obtain a new passport or that their passport is revoked, making travel to non-EU countries extremely difficult. This is one point that upsets experts who are less positive about the Act, as it still remains possible for offenders to travel outside the EU illegally, or within the EU using an ID card (the Schengen Information System – where Green Notices are reported – could offer a solution in this regard). Those who wish to sexually abuse minors will go in search of other opportunities within these zones, despite having their passport denied or annulled. In this respect, the Passport Act only serves to relocate the problem. Additionally, the Passport Act can only be applied to people who have already been convicted of sex crimes in the past, while some of the targeted perpetrators will be first offenders. The Act will therefore not do anything to hold back this group.³⁶

One expert said that the Passport Act – specifically Section 18, paragraph 3 – can also be invoked for conditional modalities. However, in its current wording, this is only possible once a condition has been breached, which makes it difficult to apply Article 18 preventively or to support a judicial condition. According to the experts, Article 18 of the PA has been applied only rarely to date, and Article 24(a) has never been applied. The reason, according to a policy officer from the Ministry of Justice and Security, is because it is difficult to identify the situations in which Article 24(a) is applicable. Whereas Article 18 can be invoked because a person wishes to evade their punishment or monitoring, Article 24(a) is subject to different conditions: there must be justified suspicions that an individual will commit criminal acts for which they have already been prosecuted over the past ten years. These ‘justified suspicions’ are difficult to establish. Several respondents believe this to be a grey area, and the question is therefore: what kind of ‘factual evidence’ justifies the application of Article 24(a) of the PA? The experts also said that the stigmatising character of the Act must be avoided.

To make it clearer when Articles 18 and 24(a) can be applied, the Ministry of Justice and Security will run a study in 2021 on the possibilities under these articles, to create clear procedural guidelines and a concrete checklist, improving the embedding of these two articles and allowing policy to be pursued.

Interim findings

- Early this century, national legislation proved inadequate to combat transnational child sexual abuse effectively. To effect change, the Barth amendment was adopted in 2002, which enabled Dutch citizens to be prosecuted in the Netherlands if they commit unpunished sex offences abroad. In principle, the Long-Term Supervision Act and the Passport Act can make a contribution to the strategy against transnational child sexual abuse.
- The Passport Act potentially erects an important barrier for perpetrators of transnational child sexual abuse, as it impedes outward travel. According to current information, the Passport Act (Articles 18 and 24(a)) have seen little to no application. One reason is because the Passport Act is invoked when there are justified suspicions that a perpetrator of transnational child sexual abuse intends to evade their punishment, or will reoffend in another country. The criteria for these suspicions are difficult to establish and set out in policy, as the criteria differ from case to case. It is therefore difficult to invoke the Act in practice.
- The WLT, and the GVM in particular, were invoked 16 times in 2018 and 2019. These 16 cases involved five persons who had been convicted of one or more sex offences. Of these five, four had been convicted of sexual abuse crimes involving victims aged under 18, and could potentially have travelled abroad (Nagtegaal, 2021).

3.2 Judicial measures

Courts have a variety of options for preventing repeated instances of transnational child sexual abuse, including the imposition of reporting obligations, and geographic/travel restrictions (Ministry of Justice and Security, 2013; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee (KMar), 2016).

3.2.1 Reporting obligations

The court can impose a reporting obligation as a special condition of a suspended sentence or measure (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). It is a special condition that obliges the person in question to report to a specified body at certain locations periodically, such as the police or the Probation Service, in order to ascertain whether the relevant person is adhering to the special conditions. An obligation to report to a probation service can also add structure to the daily lives of sex offenders. Forms of support like this are intended to help reduce the risk of reoffending. The extent of the risk determines the intensity of the monitoring, or the frequency with which a person must maintain contact (*Parliamentary Papers II, 33816 no. 3*, 2013; Verweij & Weijters, 2020).

Contact frequency varies from one to four times per month (Inspectorate of Justice and Security, 2017).³⁷ Consequently, the reporting obligation as a special condition in and of itself cannot prevent convicted sex offenders from travelling abroad between reporting times. The effect is therefore limited (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). If a sex offender does not comply with their mandatory reporting obligation, the Probation Service will inform the Public Prosecution Service by requesting the implementation of the conditional portion of the sentence. The courts and the Public Prosecution Service will then decide if the request will be granted.³⁸

Experts speak about the limitations of reporting obligations

One Probation Services officer described a reporting obligation as a requirement for an individual to report at certain times. The frequency depends on the level of monitoring. If a person must report every three weeks, for example, then in theory they can travel for two weeks in between. According to a Public Prosecution officer, one purpose of Article 18 of the PA is to prevent problems like this.

3.2.2 Exclusion order

As with a reporting obligation, the court can impose an exclusion order as a special condition associated with a suspended sentence or measure.³⁹ The explanatory memorandum describes an exclusion order as: *A prohibition on being at or in the immediate vicinity of a specific location. The order is intended to prevent the convicted person from returning to locations where they are at risk of committing comparable or other criminal acts again.* The exclusion order may pertain to the neighbourhood where the victim lives, or may prohibit the offender from nearing locations of a certain type. In the case of convicted sex offenders, this may include locations where there are usually lots of minors present, such as school buildings, child-care centres and playgrounds, but can also include airports, for example. In addition to geographic stipulations, an exclusion order can also include a time restriction. The order may be a general order, or one that applies on certain days or at certain times (*Parliamentary Papers II, 33816 no. 3*, 2013).

Fischer, Cleven and Struijk (2019) say that to date, little research has been conducted on the enforcement process for exclusion orders, or the extent to which or the conditions under which an exclusion order genuinely aids the protection of the initial victims. One of the few existing studies was conducted by Aarten, Denkers, Borgers and Van der Laan (2015), who concluded that the imposition of a supervision-oriented special condition (such as an exclusion order) without special conditions aimed at therapy or behavioural change (such as compulsory therapy, participation in a behavioural intervention, or admission to a care institution) leads to a higher risk of reoffending

compared to offenders who are not subjected exclusively to a supervision-oriented special condition and who are therefore not under the supervision of the Probation Service (Aarten, Denkers, Borgers & Van der Laan, 2015). Monitoring compliance with exclusion orders has also proven difficult in the absence of supplementary measures and/or special conditions. The literature primarily discusses the application of electronic monitoring (Spoel, 2012; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; *Parliamentary Papers II, 33816 no. 3*, 2013; Fischer, Cleven & Struijk, 2019). Fischer, Cleven and Struijk (2019) have shown, for example, that exclusion orders in the absence of electronic monitoring are no guarantee against reoffending, partly because there is too little capacity among the police to pro-actively pursue violations of exclusion orders (Fischer, Cleven & Struijk, 2019).

As early as 2006, Jacobs, Van Kalmthout and Von Bergh (2006) issued a recommendation to further investigate the opportunities offered by electronic monitoring in various forms, especially as regards the enforcement of exclusion orders. Van der Aa, Lens, Klerkx, Bosma and Van den Bosch (2013) and Bleichrodt (2018) agree, given that their studies show that electronic monitoring contributes to the effectiveness of monitoring compliance with measures such as exclusion orders.⁴⁰

Intermezzo – The effectiveness of ankle bracelets

In 2019, the then minister for Legal Protection described the effectiveness of an ankle bracelet as a form of electronic monitoring as follows: *Ankle bracelets are expressly intended to monitor compliance with special conditions, in which capacity they have proven effective. Instances include geographic restrictions. It is an efficient tool, as it is better than using officers who must constantly drive past to see if a light is still on. Ankle bracelets also work preventively. The fact that they are secured to the ankles of offenders means that in practice, they change their behaviour accordingly. It is one of the instruments available to us to help manage risks more effectively and offer greater protection to victims (Proceedings II, no. 93, item 3, 2019).*

3.2.3 Location orders

Courts may also impose location orders as a special condition associated with a suspended sentence or measure.⁴¹ A location order is the opposite of an exclusion order, as it imposes an obligation to be present at a certain location at a certain time, or for the duration of a set period (*Parliamentary Papers II, 33816 no. 3*, 2013). Examples include an obligation to remain in the Netherlands, if the person in question has committed one or more sex offences abroad.

Verweij and Weijters (2020) are among the few researchers who have studied the effectiveness of a location order. They looked at the extent to which 10,779 individuals who were placed under supervision by the Probation Service in 2013 reoffended during their period of supervision, compared to the levels of reoffending after supervision. They discovered that the likelihood of reoffending was greater up until the end of the first year of a location order. After the first year, the likelihood decreased (Verweij & Weijters, 2020). As has been shown for exclusion orders, supplementary measures or special conditions – such as electronic means – can also contribute to more effective monitoring of compliance with location orders (Van der Aa, Lens, Klerkx, Bosma & Van den Bosch, 2013; Bleichrodt, 2018). There is no other more recent known literature on location orders.

3.2.4 Travel ban

A travel ban limits people's rights to leave the Netherlands, and can be imposed in three ways: 1) via a suspended sentence, 2) via a condition imposed onto provisional release, or 3) via a restrictive measure. Travel bans are particularly effective on human traffickers and sexual abuse offenders who may also potentially commit sexual abuse abroad (*Parliamentary Papers II, 33816 no. 3*, 2013; Nagtegaal, 2020).⁴² The ban may apply to one or more specific countries, but in exceptional cases can also take the form of a general prohibition from travelling abroad (*Parliamentary Papers II, 33816 no. 3*, 2013; Public Prosecution Service, n.b.).

The adoption of the lifelong supervision bill and its entry into full force on 1 January 2018 has been of value for the travel ban, as the ban can apply for as long as is necessary via a restrictive measure –

theoretically for life. A travel ban as a condition of a suspended sentence may only last as long as the probationary period. As with the imposition of a suspended sentence, the court may decide that the travel ban comes into effect immediately, i.e. before the sentence has become final. This prevents convicted persons from evading punishment by travelling abroad immediately after sentencing (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). The Probation Service monitors whether convicted persons comply with the imposed travel ban. Various means are available to monitor whether sex or other offenders comply with a travel ban, such as reporting obligations or electronic ankle bracelets (*Parliamentary Papers II, 31015 no. 162, 2019*) Because a travel ban impinges on an individual's freedom of movement, it must only be imposed as a last resort and subject to strict conditions (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013). A study of jurisprudence on the website *De Rechtspraak* concluded that to date, travel bans have only been applied in limited measure to offenders of transnational child sexual abuse.

Interim findings

- To prevent perpetrators of transnational child sexual abuse from reoffending, courts have various means at their disposal including the imposition of reporting obligations, geographic restrictions, and travel bans.
- There is little jurisprudence available with regard to travel bans; to date, the application of this measure on offenders of transnational child sexual abuse seems limited.
- Little is known about the efficacy of the remaining options in practice with regard to offenders of transnational child sexual abuse.

3.3 Instruments

In addition to judicial measures, other instruments have been developed that directly and indirectly make it more difficult for convicted sex and other offenders to commit transnational or other forms of child sexual abuse. These include risk-assessment instruments, and registration and other systems that facilitate the ongoing surveillance of convicted sex offenders.

3.3.1 Risk assessment

In 2017, Rijkssen proposed that sex offenders are incurable and frequently reoffend, resulting in a desire to monitor this group and thus protect minors against transnational child sexual abuse (Rijkssen, 2017). However, maintaining supervision of all sex offenders is a complex challenge (Rijkssen, 2017; De Wild & Rijkssen, 2018). Nor is it strictly necessary to monitor all offenders, as the risk of reoffending varies considerably, and only a limited number of sex offenders go on to commit new sex crimes (Nieuwbeerta, Blokland & Bijleveld, 2003; Menenti, 2017; Rijkssen, 2017). In fact, the majority of sex offenders do not reoffend, or do so with offences other than sex offences (Menenti, 2017; Rijkssen, 2017). Among perpetrators of transnational child sexual abuse, too, there are differences in the estimated likelihood of reoffending. The likelihood is seen as greater among preferential offenders than situational offenders (Seabrook, 2000). Because of these differences, the police wish to concentrate on the group of sex offenders who are most likely to go on to commit more sex crimes (Rijkssen, 2017).

In the past, the risk of reoffending was determined based on a professional's opinion, their practical experience and their 'gut feeling.' There are some potential objections to this method (Menenti, 2017; Rijkssen, 2017), as there is a danger that the focus will be directed towards people with a lower risk of reoffending than others, reducing the effectiveness of the limited available capacity (De Wild & Rijkssen, 2018). Various actuarial risk-assessment instruments are now available to help reduce the possibility of an incorrect risk evaluation (Rijkssen, 2017), which make use of static and dynamic risk factors to estimate how likely a person is to commit another serious crime. Static risk factors estimate the likelihood of reoffence based on elements such as an individual's criminal record and demographic characteristics. These factors are unchangeable, and on their own do therefore not constitute a suitable basis for interventions (Menenti, 2017). The dynamic risk factors – such as alcoholism, unemployment or a personality disorder – improve the accuracy of the risk assessment

(Dutch Youth Healthcare Federation (NCJ), 2016a; Mementi, 2017). The dynamic, changeable risk factors give an impression of which risk factors and protective factors are most effective in reducing the likelihood of a person committing another crime (Mementi, 2017). These dynamic factors are most relevant when looking at interventions (Dutch Youth Healthcare Federation, 2016a).

The most oft-used and validated actuarial risk-assessment instruments for sex offenders are the Static-99R, Stable-2007 and Acute-2007 instruments (Rijksen, 2017).⁴³ The police wish to pro-actively monitor suspects with at high risk of reoffending. To do so, it must be established whether a suspect is at high risk of reoffending at an early stage – right from their arrest. At that point in time, the police already have access to a range of static information, such as demographics, criminal history and the types of victims targeted by the suspect. Within this context, the Static-99R instrument is used most by the police, as that form uses statistical information of this type to establish the risk of reoffending. The information systems queried are the Municipal Records Database (*Gemeentelijke Basisadministratie*, GBA), Judicial Documentation (JD-online), Blueview, the Central Shared Information Database for the Comprehensive Searching of Data (*Basisvoorziening Informatie Integraal Bevragen*, BVI-IB) and the National Law Enforcement Database (*Basisvoorziening-handhaving*, BVH). The three latter systems are police systems. Those who have training in the use of Static-99R are able to retrieve information from these systems and complete the form correctly. The reason why the Stable-2007 and Acute-2007 instruments are less useful here is because they look at the presence of dynamic risk factors, which only Probation Service practitioners (psychologists) can use to draw conclusions regarding the extent of the reoffending risk (Rijksen, 2017). The Static-99R form will be discussed first below, followed by the use of risk assessment instruments by the Probation Service.

The Static-99R form can be completed subject to five requirements: 1) the suspect must be male, 2) be over 18 years of age, 3) must have been arrested for and/or convicted of a sex crime in the last ten years, 4) at least one of the arrests/convictions must be a Category-A sex offence⁴⁴ as defined in the Public Prosecution Service's sentencing guidelines, and 5) the information used for the scoring must be credible, complete and reliable (Rijksen, 2017).

To ascertain precisely whether the police had the capacity and resources to use the Static-99R instrument in an effective, reliable and uniform manner, a pilot was launched in 2017 in the National Unit (*Landelijke Eenheid*) and four regional units in The Hague, North Netherlands, East Netherlands and Zeeland-West-Brabant. The pilot concluded that the Static-99R form can be used effectively, reliably and uniformly by the police. All information that is useful for providing an indication of the risk as early as possible is both available and helpful for fleshing out the assessment later by the Probation Service. This method makes optimum use of the knowledge and expertise of all partners in the chain, in order to correctly identify people who require monitoring. Rijksen (2017) makes the following recommendations to ensure effectiveness, reliability and uniformity:

- Depending on the size of the police unit, at least two individuals must be trained to recognise the risk factors of reoffending and to use the risk-assessment instrument, in order to be able to assess the risk of reoffending;
- Complete a Static-99R form for every arrested sex-offence suspect, including the arrests that did not result in convictions, as well as any sex offences committed abroad, if known;
- Create a national point of contact to ensure a uniform approach to the risk assessment and proper follow-up;
- Academic research has shown that the likelihood of criminal behaviour decreases with age. The Static-99R form takes this into account: the risk of reoffending is lowered by three points for subjects over 60, and by one point for subjects aged between 40 and 60. This greatly affects the ultimate risk profile, as perpetrators of transnational child sexual abuse are frequently aged over 40. It is therefore recommended to personalise the assessment, and to place the Static-99R form within the context of the available information on dynamic risk factors. The Stable-2007 and Acute-2007 forms are useful in this respect. The police should discuss the results of the risk-assessment instrument and the supplementary information on dynamic risk factors with the Public Prosecution Service and the Probation Service, in order to maximise the available information on sex offenders requiring monitoring (Rijksen, 2017).

Experts speak on the risk assessments of 150 subjects based on 'gut feelings' and a risk-assessment instrument

Police employees do not believe that assessing the risk of reoffending based on 'gut feelings' is effective, as most police employees have no knowledge of the contributing risk factors, resulting in many incorrect assessments. Evidence for the above was provided in 2016, when the police assessed the risk of 150 subjects using a risk-assessment instrument. The subjects were identified by reports, or by travel abroad combined with prior sex offences. Of the 150 subjects, many were not monitored based on the risk assessment, which estimated the risk of reoffending as too low. One reason was because many of the offenders were aged over 65, reducing their score by three points under the Static-99R form and lowering their estimated risk. The effectiveness of the risk assessment for perpetrators of sexual abuse was also reduced due to the availability and quality of information. There were men, for example, who had committed a sex offence abroad within the last ten years that the police were not aware of, due to unavailable or incomplete information on the international convictions.

In 2018, the police, the Probation Service and the Public Prosecution Service developed a new uniform national procedure for monitoring perpetrators of sexual abuse (De Wild & Rijksen, 2018). Essentially, the new procedure involves permanent contact officers in the police sex-crimes division who conduct risk assessments of arrested/other sex offenders, and who consult with the Public Prosecution Service to decide on a strategy for monitoring individual sex offenders who are at high risk of reoffending (De Wild & Rijksen, 2018).

Experts speak about who should conduct the risk assessment

According to a police employee, the police started using the risk-assessment instrument because cases were being shelved. The idea was to use the Static-99R form to prioritise cases, making it clearer to the Probation Service and the Public Prosecution Service which cases required attention, and improving cooperation throughout the system. However, the experts believe that performing risk assessments should not be a job for the police, as police employees are not behavioural specialists. Performing the assessments also requires a lot of capacity. The Probation Service and the Netherlands Institute of Forensic Psychiatry and Psychology (NIFP) are the bodies that should conduct the assessments (which they do, at the behest of the Public Prosecution Service). In doing so, is important for them to have access to the available police data, as the police information systems contain information that is unknown to the Probation Service. According to several experts, the Probation Service does not always have sufficient capacity to conduct risk assessments for this purpose.

In 2018, the three risk-assessment instruments became part of the revised Recidivism Assessment Scales (*Recidive Inschatting Schalen*, RISC) that are used by the Probation Service, the NIFP and other bodies (Goedvolk & Klein Hofmeijer, 2020). Using the RISC can generate insight into the risk presented by a criminal to their surroundings, of the relationship of the crime in question to the various aspects of the criminal's life (i.e. factors that can be conducive to crime), the criminal's capacity for change (responsivity), and lastly, looking at which areas require intervention in order to prevent reoffending (indication).⁴⁵ The three risk-assessment instruments are specialised RISC instruments that are used for sex offenders. They support Probation Service practitioners when issuing advice to the Public Prosecution Service on the risk of reoffending, and the potential inclusion of special conditions in order to prevent reoffence among suspects or convicted sex offenders. The risk-assessment instruments should be administered by specially trained employees. To ensure quality when administering the risk-assessment instruments, various regions hold peer feedback sessions where employees discuss case studies and the associated Static-99R, Stable-2007 and Acute-2007 forms. There is also a national consultative body that discusses specific topics related to sex offences and/or the Static-99R, Stable-2007 and Acute-2007 instruments (Goedvolk & Klein Hofmeijer, 2020).

3.3.2 European Criminal Record System (ECRIS)

European member states are obliged to report every final conviction of a person from another EU member state to the state of which that person is a national. That member state must then record

the report in their own judicial documentation. Member states thus obtain an overview of convictions pertaining to people with the nationality of that member state, issued by EU criminal courts. When processing an application for a certificate of conduct (VOG), the *Justis* department (the screening authority of the Ministry of Justice and Security) must consider all information contained in the Netherlands Judicial Documentation System (JDS), including any final criminal rulings issued in other member states (*Appendix to Proceedings II*, 2278, 2018). In other words, it is a certificate showing that a person's former conduct constitutes no objection to them holding a new job or position, or applying for a visa or emigration. In this manner, a national VOG is an instrument that can prevent sex offenders from perpetrating transnational child sexual abuse abroad.⁴⁶

For jobs that involve working with children – such as paid or volunteer childcare, youth care or education – the European Directive on combating the sexual exploitation of children and child pornography (2011/EC/93) also requires judicial information to be issued on request by one of the member states. This Directive has been in force since December 2013. To facilitate the rapid, uniform and compatible exchange of this data, in 2012 the European Criminal Record System (ECRIS) was instituted (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Dekker, 2019; *Appendix to Proceedings II*, 1619, 2020), to which all European member states have access. The ECRIS is therefore not an independent database, but an interface of linked national EU criminal registers. Every European country has a central authority that participates in the network. In the Netherlands, this is the Judicial Information Service. In addition to the central authority, there are also other authorised national authorities that are allowed to request information from other EU member states via the central authority and ECRIS. For VOG screenings in the Netherlands, this service is Justis in The Hague (European Commission, 2020).⁴⁷

The establishment of the ECRIS network was significant, as it showed that courts often issued rulings based on past convictions that were included in the national registry, while convictions in other member states went unknown. As a consequence, criminals were able to escape their criminal past by means such as emigrating or working with minors in a different member state. Electronically linking the national criminal registries of the European member states is intended as a solution to this problem (*Parliamentary Papers II*, 34550 VI, no. 92, 2017).⁴⁸ This way, courts and public prosecutors have access to information on the relevant person's criminal record.⁴⁹ Although ECRIS was originally created to improve criminal justice, it is now also used for preventive means. It intends, for example, to prevent convicted sex offenders from sexually exploiting or abusing minors in other countries (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Dekker, 2019). In 2016, the European Commission concluded that while ECRIS works efficiently with respect to citizens of EU member states, it provides no insight into European convictions of third-country nationals, people with former nationalities, or stateless persons⁵⁰ (European Commission, 2016).⁵¹ In 2020, the Dutch cabinet still expressed a desire for more consistent information on the convictions of third-country nationals who have been convicted of child sexual abuse within the EU. It seems that this desire is being met, given that the more effective use of ECRIS in the screening of personnel who work with children is a key element of the European Commission's Security Union Strategy (*Parliamentary Papers I*, 35602, no. A, 2020). The Commission is also responsible for the European Criminal Record Information System Third Country Nationals (ECRIS-TCN), which is expected to be operational by 2022. ECRIS-TCN contains a list of the identifying data of third-country nationals (who are not EU citizens) and EU citizens who have additional nationalities outside the EU who possess judicial documentation. People are registered with a mark for the country where their final conviction was issued. But a hit in the system by itself does not provide sufficient information to complete the VOG screening. In such cases, the Justis service must use ECRIS to send a request for information to the member state that issued and registered the final conviction. Where the request is for 'working with children,' member states are obliged to provide information. For other judicial history screening requests, the national legislation of the country in question will determine whether a response is obligatory. Regarding the implementation of ECRIS-TCN, the Minister for Legal Protection has stated that he will investigate how ECRIS-TCN can be incorporated procedurally into the Justis process, and what effect it will have on the handling times of VOG applications. The House of Representatives will be informed of such before the implementation of ECRIS-TCN in 2022 (*Parliamentary Papers II*, 29279, no. 575, 2020). In June 2021, the Minister for Legal Protection indicated that he was also exploring options for incorporating final convictions issued by non-EU courts into the VOG screening process. This

information pertains to the sexual abuse of minors by Dutch citizens abroad (*Parliamentary Papers II, 35570, no. 112, 2021*).

Experts speak about ECRIS in practice

The Netherlands always queries the ECRIS network when Europeans (including non-Dutch Europeans) request a working-with-children VOG. One expert said that far from all European member states make active use of the option to query prior convictions in the country of nationality, and Europeans who wish to work with children in another member state are not always screened for all available prior European convictions, creating a risk that sex offenders convicted elsewhere in Europe will reoffend in a different country. One relevant example was the sex case in Amsterdam involving a Latvian, who was convicted in Germany and subsequently received a VOG in order to work in a Dutch childcare centre. To address this problem, the Minister for Legal Protection signed a Memorandum of Understanding with the Benelux countries in 2019, calling attention to the importance of information exchange whenever working with children is involved. Another expert sees a risk in the fact that member states have no consistent access to child sex convictions in third countries (except the United Kingdom). According to one officer from the Ministry of Justice and Security, gaining access to this information still involves many steps. Greater attention is also needed for the quality of information coming from non-EU countries, such as consideration for the legal protection of those subjected to the justice system, and incomplete or incorrect information in case files. This is, according to experts, the greatest problem: that ECRIS does not provide any information on convictions in non-EU countries. A child sex conviction in Vietnam will not be visible in ECRIS, for example. All things considered, experts are therefore sceptical regarding the usefulness of ECRIS in combating transnational child sexual abuse. On 1 January 2021, however, it did become possible for the Netherlands to request judicial documentation from the United Kingdom – which is now a non-EU country – where the purpose of the request is for working with children. This information can then be used in the VOG screening process. This option is available as part of the EU-UK Trade and Cooperation Agreement (TCA).

3.3.3 The Green Notices Instrument

In 2015, Interpol launched Green Notices, a preventive risk-reduction instrument intended to deny convicted sex offenders with a high risk of reoffending the opportunity to travel anonymously and undetected, to emigrate, or to perform paid or volunteer work with children abroad (Ministry of Justice and Security, 2013). The aim was to prevent transnational crime (Ministry of Justice and Security, police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016; Dekker, 2019). Green Notices are international alerts of prior criminal activity by persons known to have a high risk of reoffending (*Dekker, 2019; Appendix to Proceedings II, 1619, 2020*). Green notices do not automatically include court rulings, however countries can make separate agreements with one another to do so. Bilateral information can be exchanged via 'Green Diffusions,' for example. The addition of a ruling could make the alerts suitable for use in VOG screening.

Intermezzo – Other types of notices

Green Notices are not the only types of notices.

- Red Notices are used by judicial authorities to locate and arrest a person, as well as by international tribunals to find people so that they can be extradited;
- Blue Notices are used to collect information about a person's identity, location or activities in relation to a criminal investigation;
- Yellow Notices are used to help locate missing persons, or to help identify persons who are unable to identify themselves;
- Black Notices are used to seek information on unidentified bodies;
- Orange Notices warn of an event, a person, an object or a process representing a threat to people or property;
- Purple Notices provide information on modus operandi, objects, devices and concealment methods used by criminals;
- The United Nations Security Council Special Notice is issued to inform Interpol member states of individuals who have had sanctions imposed on them by the UN;

- Like Notices, Diffusions are sent to other member states for the same purpose, the only difference being that the country sending the information can choose which countries it shares the information with (Interpol, 2020).

Alerts are generally stored in the Interpol database for five years, allowing all member states to be informed (Dekker 2019; *Appendix to Proceedings II, 1619, 2020*). Green Notices are 'for information only,' and do not prevent sex offenders from leaving the country (Dekker, 2019). It is up to the destination country to decide whether to implement measures based on its own laws to prevent new crimes within its territory (*Parliamentary Papers II, 31015, no. 162, 2019*; Dekker, 2019; Public Prosecution Service, n.b.) One measure imposed by the destination country might be the denial of entry, by refusing to grant a visa, for example. Green Notices can thus effectively result in movement restrictions, however whether – and if so, which – measures will be taken is up to the destination country, and no feedback is provided. The Green Notices are therefore not a travel-limitation measure in the absolute sense (Dekker, 2019; Public Prosecution Service, n.b.).

In 2015, Interpol took stock of why member states made little to no use of Green Notices. The reasons proved to vary greatly, and included privacy aspects and insufficient knowledge among operational services on how to use alerts (*Parliamentary Papers II, 31015, no. 130, 2016*) This was the reason why Interpol encouraged all participating countries to start making effective use of this warning system, by providing education on its use and the associated benefits (Dekker, 2019).

Experts speak about Green Notices

In theory, Green Notices are a good warning system, say those with expertise on the subject. To date, Green Notices have seen only limited use for preventive purposes, such as the VOG screening. According to a liaison officer (LO), no more than a handful of Green Notices have been issued pertaining to Dutch nationals. A number of impediments are responsible, several of which relate to privacy violations and the restrictive consequences that can result from a Green Notice. A Public Prosecution officer also said that the same assessment framework applies to issuing a Green Notice as for Article 24(a) of the Passport Act. Consequently, there are also doubts as to when the facts and circumstances have sufficient gravity to warrant the issuing of a Green Notice. In cases when a Green Notice is issued, the police and the Public Prosecution Service state that the Green Notices issued by the Netherlands do not contain any extensive information. The reason is because the alerts are visible to all 194 Interpol countries, and there is much variation in legislation between them. For example, a Green Notice about a Dutch man who has sexually abused an underage boy and who intends to travel to an Islamic country soon can have far-reaching consequences for the Dutch man. One proposed solution is to make use of a Green Diffusion in such cases, which allows the alert to be sent only to certain countries. One reservation in this instance is that the power of a preventive measure such as a Green Notice comes from the very fact that a person cannot be continuously monitored.

This is necessary for a Green Diffusion, since knowledge of where and when a person will travel is needed in order to take timely action.

One police employee said that in the case of a Green Notice, the authorities in the country from which the sex offender is departing have a responsibility to inform that person that a Green Notice has been issued, so that they can decide whether they wish to travel or not. The reason is because a person may be refused entry into the destination country if a Green Notice has been issued. All countries can take measures as they wish. An individual entering the Netherlands for whom a Green Notice has been issued cannot be denied entry, for example, due to the lack of a basis in criminal law to do so. According to one expert, this is a loophole in legislation – not only in the Netherlands, but also in many other countries. It is also the case that in practice, many destination countries are unaware of the Green Notices because they do not (or cannot) consult the information systems that contain them. A liaison officer said, for example, that Green Notices do not work on the Asian continent, because they are contained in computer systems for which the necessary infrastructure is not available in many Asian countries. Experts believe that this fact does impede the effectiveness of the preventive measure. Moreover, Green Notices only identify people who have already been

convicted and are therefore known to the police and the justice system, restricting the scope of their effectiveness.

Interim findings

- The applicability of the Static-99R risk-assessment instrument on the group of transnational child sex offenders is limited. The Static-99R methodology means that older perpetrators receive a lower estimated risk than experts believe they should. Also, the necessary information is not always available, or the quality of the information is inadequate to correctly estimate the risk of reoffending.
- The Netherlands does not receive information requests from all EU member states via the European Criminal Record System (ECRIS), including those for a certificate of conduct (VOG) or 'working with children' checks, creating a risk that sex offenders convicted elsewhere in Europe will reoffend in a different country. Information on the criminal past of third-country nationals is also not available in ECRIS. Taken together, these factors make ECRIS less effective as a preventive tool. Also, the Netherlands does not always query ECRIS when processing VOG applications from Europeans. In June 2021, the Minister for Legal Protection indicated that he was exploring options for incorporating final convictions issued by non-EU courts into the VOG screening process. This information pertains to the sexual abuse of minors by Dutch citizens abroad.
- Little to no use is made of Green Notices, due to the potential violation of privacy, insufficient knowledge among operational services abroad on the use of the alerts, and the potential restriction of movement as a result. According to experts, an extremely limited number of Green Notices are issued in relation to transnational child sexual abuse.

3.4 National and international cooperation on prevention, detection and prosecution

In 2013, the Dutch police and justice department stated that they did not have adequate information on transnational child sexual abuse (Ministry of Justice and Security, 2013). Three years later, the Ministry of Justice and Security,⁵² the police, the Public Prosecution Service and the Royal Netherlands Marechaussee (2016) declared that it was easy for Dutch citizens to commit child sexual exploitation and sexual abuse abroad. Although instruments such as ECRIS and the Green Notices already existed, the likelihood of being detected and prosecuted was not great, as only limited information on transnational child sexual abuse was available, registered and accessible. This lack of information makes it difficult not only to conduct empirical research on transnational child sexual abuse and the strategy to combat it, but also to focus efforts around investigation results and the effects of other interventions (Koning & Rijksen-van Dijke, 2016).

Experts on the low likelihood of detection and prosecution due to bribery

According to respondents working at the Public Prosecution Service, victims in poor destination countries for transnational child sexual abuse and their family members are very susceptible to bribery. Not only the suspect makes bribery attempts, but their family and friends from the Netherlands can also do so in an attempt to bring the suspect back to the Netherlands. In exchange for money, the victim and/or their family are asked to withdraw their charge, or withhold crucial information from the criminal investigation, making it more difficult to successfully complete the investigation and prosecute the offender. In addition to bribing the victim and their family, bribes can also be offered to the authorities in the country in question. Exactly how this occurs is unknown.

The low likelihood of being detected and prosecuted abroad illustrates the need for more and better information (Koning & Rijksen-van Dijke, 2016). Various initiatives have been launched with the aim of both providing more information to the police, to the Royal Marechaussee and the justice department, as well as to promote national and international cooperation to prevent convicted sex offenders from committing transnational child sexual abuse (or reoffending).

3.4.1 Child Sex Tourism Hotline and 'Don't Look Away'

Reports from witnesses and victims can play an important part in the detection and prosecution of offenders. Dutch citizens can report instances or suspicions of transnational child sexual abuse to the Child Sex Tourism Hotline (*Meldpunt Kindersekstoerisme*). The hotline was set up in 2010 as part of the Online Child Abuse Expertise Centre (*Expertisebureau Online Kindermisbruik*, EOKM) to satisfy a reporting need (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013).⁵³ In 2014, the possibility was investigated of joining the hotline with Don't Look Away (Ministry of Justice and Security, 2013; *Parliamentary Papers II, 31015, no. 112*, 2015), a European campaign against transnational child sexual abuse launched in 2010 by a partnership between the governments of Germany, Austria and Switzerland, ECPAT, the travel sector, and Interpol. In 2015, the Child Sex Tourism Hotline joined Don't Look Away (*Parliamentary Papers II, 31015, no. 112*, 2015). In 2020, the name of the hotline was changed to the Don't Look Away Hotline (*Meldpunt Don't Look Away*)

Don't Look Away calls on citizens to be aware of transnational child sexual abuse, and if they witness it, to make a report to the Don't Look Away Hotline (anonymously or not). The aim of Don't Look Away is to collect as much useful information as possible on existing or potential perpetrators and victims for use in criminal investigation (Ministry of Justice and Security, 2013; *Parliamentary Papers II, 31015, no. 112*, 2015; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). To do so, an awareness campaign was launched at Schiphol airport and other locations (*Parliamentary Papers II, 31015, no. 112*, 2015). The parties involved are the Police, the Royal Netherlands Marechaussee (KMar), the Ministry of Justice and Security, the travel sector (TUI and ANVR), NGOs (ECPAT Netherlands, Plan Nederland, Free a Girl and Terre des Hommes) and the EOKM (Minister of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). In 2019, 36 reports were received by www.meldkindersextourisme.nl (www.reportchildsextourism.nl). Most reports concerned suspicions of child sex tourism abroad. The locations where sexual exploitation of minors was identified were orphanages, hotels, bars, clubs, restaurants, the beach and on the street. The estimated age of potential victims varied from 2-14 (*Parliamentary Papers II, 31015, no. 201*, 2020).

Experts speak about experiences with Don't Look Away

The aim of Don't Look Away was to draw attention to the subject of transnational child sexual abuse, and to generate more and higher-quality reports from the Don't Look Away Hotline. The respondents stress that a report to the police is only enough to warrant an investigation when the contact between the adult and the minor is intimate in nature: *It mustn't turn into a witch hunt for men with children. There needs to be a reason to believe that something isn't right, for example if an adult male places his hand on a minor's body in a way that is not considered normal.* According to the respondents, in 2020 the police received a total of twenty reports of transnational child sexual abuse, ten of which originated from abroad.⁵⁴ It is unknown whether these reports were made by nationals of those countries, or by Dutch citizens abroad. The focus groups did not reveal how many of these reports resulted in arrests and convictions. The reason for the low number of reports, according to an ECPAT employee, is because many people do not wish to make an accusation until they are sure that their suspicions are correct. There is therefore room for improvement in the information provided to citizens, who need to know that calling the hotline is not equivalent to making a police report. The police will always look into a hotline report before launching an investigation on a subject. The investigation must then produce evidence of a criminal offence, and only then can a suspect be arrested. Informing citizens of this process will serve to increase willingness to call the hotline, experts believe. Citizens often wish to be informed afterwards of what was done in response to a report. Although this is forbidden by legislation, ECPAT does maintain a list of convicted Dutch citizens based on media reports, to demonstrate the usefulness of calling the hotline.

In 2018, the EOKM transferred the Child Sex Tourism Hotline (renamed Don't Look Away in 2020) to Defence for Children/ECPAT, as the EOKM wished to concentrate more on its core operations.⁵⁵ Since the transfer, Defence for Children/ECPAT has been collecting reports. It assesses whether they are spam reports based on their nature, and after this assessment, the reports are forwarded to the police (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018).

Intermezzo – Project WATCH

Terre des Hommes developed the WATCH programme in the Netherlands, the aim of which is to stop the commercial sexual exploitation of minors in the Netherlands. Part of the WATCH programme is a project titled Working Actively Together for Children (WATCH). As part of the programme, Terre des Hommes (in conjunction with the NGO *Action Pour Les Enfants*, APLE) trains detectives to shadow western and local perpetrators of transnational child sexual abuse in Indonesia, the Philippines, India and Nepal, to collect evidence and to submit the information collected to the police so that the offenders can be prosecuted. APLE investigates an average of 150 tips per year, dozens of which lead to arrests and several to convictions. There is no explicit information on whether these tips pertain to Dutch citizens, or people of other nationalities.⁵⁶

If the nature of the report warrants an investigation, it will be forwarded to the Teams engaged in Combating Child Sexual Abuse and the Sexual Exploitation of Children in the Context of Travel and Tourism (*Team Bestrijding Kinderporno en Kindersekstoerisme*, TBKK) run by the National Police (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018). The TBKK carries out such an investigation, and if they also conclude that the report warrants a police investigation and the subject has not yet been prosecuted in another country, an investigation will be started. If the perpetrator is already being prosecuted in another country, the resulting information can lead to an investigation by the Dutch police⁵⁷ (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Koning & Rijkse-van Dijke, 2016).

Experts speak about the TBKK

The TBKK was formed in 2012, as a direct result of the Robert M. case and because of the large number of shelved cases involving images portraying the sexual abuse of minors. In that year, a capacity of 150 FTE was earmarked, distributed across the eleven units of the National Police. According to police employees, there is too little capacity in 2021 compared to 2012. The number of FTEs has remained the same in 2021, while the number of reports has increased. 2012 saw roughly 3,000 incoming reports, a number which grew to over 30,000 in 2019 (most of these reports pertained to images portraying the sexual abuse of minors). As a result, the TBKK cannot follow up on all reports warranting further investigation. Prioritisation is therefore necessary, and the police assign transnational child sexual abuse a lower priority than reports of visual materials portraying the sexual abuse of minors, police employees say. One explanation given is that for the time being, transnational child sexual abuse is not 'close enough to home.' If a report is followed up on, the police first ascertain the offender's identity. If the Dutch citizen is known to the police and appears in the police systems, the police will start a global search. If nothing is found, the police will need to locate the Dutch citizen abroad, which often requires cooperation with foreign authorities. International procedures like this take up a lot of time, and it is not always clear whether they will lead to the desired positive result. This also affects the quality of the cooperation, and means it will be difficult to move from the report to a suspect and a charge.

3.4.2 Stop it Now!

The Stop it Now! hotline is part of EOKM, and was an initiative launched in 2017. Stop it Now! aims to prevent child sexual abuse by lowering the barrier to appropriate help via an anonymous, confidential and free telephone helpline. It is intended for people who are at risk of crossing a line, or who have already done so with regard to minors. It therefore does not focus specifically on transnational child sexual abuse. People's loved ones (partners, parents, family, friends, colleagues, etc.) and professionals (teachers, educators, GPs, etc.) can also call the line to express their concerns. The line is staffed by social workers with expertise in discussing sexuality (Koning & Rijkse-van Dijke, 2016).⁵⁸ They have direct lines of communication with De Waag (an outpatient forensic psychiatry centre), and can consult with them in order to refer clients for treatment options.

A study of Stop it Now! revealed that from March 2012 to June 2016, the largest group calling the helpline was made up of potential offenders (44 per cent). Members of this group have not yet crossed the line, however there is a risk that they may do so in the future due to their feelings and/or situation. Ten per cent of callers were people who had already crossed the line and engaged in

sexual behaviour with minors, some of whom had already had dealings with the police or judicial system due to their behaviour, and some of whom had not. The others who called Stop it Now! were downloaders (37 per cent) and potential downloaders (8 per cent) of visual materials portraying the sexual abuse of minors (EOKM, 2016). Stop it Now! has been subsidised by the Ministry of Justice and Security since 2018 (*Parliamentary Papers II, 31015, no. 175, 2019*).

Experts speak about Stop it Now!

It helps when people can talk about their desire to travel abroad and seek contact with minors, as it can prevent people from leading double lives and reduces the likelihood of them actually leaving the country. Talking about it is said to be more beneficial than, say, blacklisting a person's name. In a strategy related to Stop it Now!, one expert proposed the use of internet forums as a preventive measure, for preferential offenders especially. One example of an internet forum is www.pedofile.nl, where people can talk to others who are in the same situation. These people are against crossing the line, but do accept their sexual preference for minors. Forums like this offer opportunities for action to limit travelling and the perpetration of transnational child sexual abuse as much as possible, by drawing attention to the harm caused and the likelihood of being caught. On the other hand, experts also wonder whether preferential offenders will be open to hearing this kind of information.

3.4.3 Airport screening

Customs and the Royal Netherlands Marechaussee (KMar) devote attention to combating transnational child sexual abuse when conducting border checks and in their border control and investigative activities. They search for images portraying the sexual abuse of minors, for example (Ministry of Justice and Security, 2013; National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016).

Intermezzo – Creating images portraying the sexual abuse of minors and committing sex crimes in Thailand and in the Philippines

On 31 May 2017, a man (then aged 77) was arrested at Schiphol airport after a search of his data carriers revealed pornographic images of children and animals. More detailed investigation revealed a total of 1,429 images and 39 films/videos on the data carriers qualifying as child pornography, as well as 701 photographs and 78 films/videos of animal pornography. Some suspicious indications arose over the course of the investigation, in the form of visual and other materials, suggesting sexual abuse of four underage girls in Thailand and the Philippines. Via legal-aid requests to Thailand and the Philippines, the identity and location of the minors was ascertained, and the four girls were questioned. The four girls all proved to have been photographed naked by the suspect. Two of the girls had also had sex with the suspect, while the other two had been touched. In each case, the suspect had given money to them. The statements by three of the four underage girls revealed a pattern: the suspect would ask a girl to help him find a place to stay, or to get something to eat together. After these introductions, the girls were invited to the suspect's residence, where naked photographs were taken of them. The girls were also asked to return with more young girls. The girls were convinced by promises of money or other rewards. Their bodies were also touched, licked and/or penetrated. During sentencing, the courts consider the fact that the suspect was aware that the girls were living in extreme poverty and abominable conditions. Influenced by the fact that the suspect already had a long criminal history of sex offences, the court sentenced him to four years' imprisonment, two of which were suspended, with ten years' probation. As a special condition, the suspect was required to report to the Probation Service at times to be set by the service, as frequently and for as long as deemed necessary by the service. The suspect was also forbidden to make or maintain contact with the four victims in any manner whatsoever, and was required to live in accommodation approved by the Probation Service. If the suspect had no access to this kind of accommodation himself, he would be required to live in sheltered accommodation or a social shelter, for the full duration of the probation period. He was also prohibited from seeking any contact whatsoever with minors, from any form of behaviour aimed at a digital environment where child pornography can be obtained or viewed, or where sexual acts are communicated with minors. Additionally, he was obliged to cooperate with checks on computers and other digital data carriers to be performed by the Probation Service, to obtain and maintain a daily routine, and to build up a social

network. Lastly, he was not permitted to cross the Dutch border without the permission of the Probation Service and/or the public Prosecution Service.⁵⁹

Airlines also issue their check-in and boarding information (API/PNR) to the Royal Netherlands Marechaussee, for two reasons: to improve border control, and to combat illegal immigration. In 2016, in conjunction with the Public Prosecution Service, the police and the Ministry of Justice and Security, the Royal Marechaussee investigated whether, and if so how, this information could be put to use in the justice system, such as in combating sexual exploitation and transnational child sexual abuse (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016).

The specific results of this investigation are unknown. What is known is that since June 2019, the details of every person travelling by plane have been stored by a new special KMar unit: the Netherlands Passenger Information Unit (Pi-NL). It is unknown whether this development resulted from the above investigation. The Pi-NL is responsible for storing airline passenger information, for the purposes of gaining greater insight into travel movements. The information may only be used to prevent terrorist attacks and serious crime, including the sexual exploitation of minors and the possession of visual materials portraying the sexual abuse of minors. It can also be used to prosecute perpetrators of these crimes. Until June 2019, it was not compulsory for airlines to share travel information. For six months, the information is stored and linked to the passengers' names; for the four-and-a-half years after that, it is stored anonymously. Among other details, it contains information on reservations and previously travelled routes, baggage, and payment/contact information. No details of a person's religious or ethnic background may be processed, and file exchange with other countries is subject to strict regulations. The Dutch Data Protection Authority monitors such exchange.⁶⁰ In the first year, the Pi-NL forwarded the information on over 3,000 individuals to authorised bodies, such as the police and Royal Marechaussee, as these individuals appeared on international warning lists. Since many of these cases are ongoing investigations, the reasons for disclosing the information cannot be specified in greater detail.⁶¹

In 2016, via a partnership among the police, the Royal Marechaussee and Interpol, the following actions were undertaken (among others) in an effort to increase the effectiveness and efficiency of the strategy against transnational child sexual abuse by customs and the Royal Marechaussee: 1) the development of a briefing package on the sexual exploitation of children in the context of travel and tourism (SECTT) for border control personnel, 2) devoting attention to transnational child sexual abuse in the training programmes for border control personnel, and 3) exploring the possibilities for linking border control systems with the Interpol database, Travel Documents Associated With Notices (TDAWN). The latter is a database containing both flagged travel documents and Notices (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). Whether these three actions were carried out, and their potential effect on the strategy against transnational child sexual abuse, did not become apparent over the course of this study.

3.4.4 Improving the state of information and intelligence

In 2014, the Dutch embassy in Manila founded the 'Manila Dialogue' information exchange programme, which places national and international partners in regular contact with one another about developments and risks identified in the areas of human trafficking, including the sexual exploitation of children. As part of this platform, working parties were established in 2016 dedicated specifically to the most vulnerable groups, including children. To this end, the ministries of Justice and Security and of Foreign Affairs organised an expert seminar on the sexual abuse of children that was attended by the Public Prosecution Service, the police, relevant human rights NGOs and South-East Asian embassies. The goal of the seminar was to improve cooperation and information exchange in the efforts to combat the sexual exploitation of children (*Appendix to Proceedings II, 947, 2017*). A comparable initiative is the 'Asia Carousel,' whose purpose is to increase knowledge and contacts between the Netherlands and countries in Asia and Oceania. As part of the initiative, the ministry of Foreign Affairs is collaborating with a range of partners including universities, representatives of civil society, industry, media, and government bodies. Asian embassies in The

Hague, and Dutch embassies and consuls in Asia and Oceania also take part. The topics covered are diverse, and include transnational child sexual abuse.⁶²

In 2016, the Ministry of Justice and Security, the police, the Public Prosecution Service and the Royal Marechaussee stressed the necessity of continuing to invest in the information and intelligence available to the police and Royal Marechaussee, in collaboration with authorities and organisations including the Ministry of Justice and Security, the Ministry of Foreign Affairs, the Ministry of Defence, the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and NGOs (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Marechaussee, 2016). They identified five action items:

1. Gaining insight into the phenomenon of transnational child sexual abuse – such as Dutch traveller flows and destination countries – requires consistent and ongoing use of data available on the internet (big data). To achieve this, the police developed an SECTT internet search tool in conjunction with parties including Web-IQ, the Public Prosecution Service, Interpol and international enforcement agencies, to gain a greater insight into the – partly variable – locations of transnational child sexual abuse (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016).

Experts speak about the benefits of big data

According to respondents, there is much available data that has gone unused until now, but which could help to predict whether a person will commit transnational child sexual abuse. Harnessing this opportunity will require a big-data-analysis system populated by public-private partnerships with all of the available information necessary for making an accurate prediction. The necessary parties within this partnership will include both public authorities such as the police and the Public Prosecution Service, as well as private parties, such as NGOs, service providers, and banks. This will bring to light various aspects, such as money flows. Repeated transfers of less than 100 euros to a certain country, followed by the purchase of a plane ticket for that same country after some time, could constitute an important warning sign, for example. On the other hand, offenders also learn how to stay 'under the radar.' They are increasingly making use of 'crypto wallets' to store crypto currency, and make it more difficult to trace the flow of funds.

2. The police and the Public Prosecution Service wish to create a clear registration system that includes both suspicions, and cases in which child abuse has been definitively established. Such a system will support operational activities and facilitate policy decisions (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). A crucial prerequisite is for those responsible for selecting suspicions and cases to be able to recognise transnational child sexual abuse (Koning & Rijkssen-van Dijke, 2016). The experts consulted had no information about this registration system, or were not familiar with these plans.
3. To promote collaboration with international authorities and organisations, in June 2016 a legislative proposal was submitted for the virtual abolition of the convention requirement for legal assistance (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016; *Parliamentary Papers II*, 34493, no. 1, 2016) This is due to the unclear structure and content of regulations governing cooperation on the detection, prosecution, trial and enforcement of crimes by foreign authorities. Essentially, the regulations are largely based on the 1959 European Convention on Mutual Assistance in Criminal Matters, and were designed according to the structure at the time, when the examining judge was in charge of executing requests for legal assistance. They also include provisions on the application of special investigative powers and powers for demanding information, which are obscure and result in a lack of clarity in practice. Of a more fundamental nature is the question of whether the regulations reflect developments in legal assistance that have taken place in recent decades, and that are still ongoing. The new legislation simplifies and improves the regulations governing investigative assistance with non-EU countries, and includes safeguards for balanced implementation (*Parliamentary Papers II*, 34493 no. 3, 2016). The existing regulations for the transfer and acceptance of criminal proceedings and the associated EU instruments were also included in the new fifth book of the Criminal Procedures Code. The proposed regulations eliminate the leave procedure, and grant more possibilities for video interrogation and leaving aside the convention requirement to apply special investigative powers and forms of injunctive

relief (*Parliamentary Papers II, 34493, no. 3, 2016*). The proposal was adopted in 2017 by both the Dutch House of Representatives and the Senate.⁶³ In addition to improvements to international cooperation with foreign authorities, effective collaboration with international organisations is also of great importance in the detection and prosecution of offenders. International organisations regarded as valuable partners by the Dutch police and the justice department are NGOs. The NGOs in destination countries work for and with the local population, which means they have knowledge of the local context and may have access to information on potential or active child sex offenders. NGOs are also part of large international networks, allowing them to contribute to more effective investigations. To intensify the collaboration between authorities and NGOs, clear agreements are necessary on the options and limitations of information-sharing and communication regarding the approach to be taken to received reports (Koning & Rijkssen-van Dijke, 2016; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016).

Experts speak about collaboration with NGOs

According to experts working at NGOs, these organisations can be of value in the collaboration with the police by reporting suspicious situations and taking preventive measures. The police will launch an investigation once a person is suspected of committing a criminal act. Investigation is also a police responsibility, and the police has no capacity available for preventive measures – nor are they the primary task of the police. Furthermore, NGOs possess concrete information on Dutch offenders, which the police can use as part of investigations when NGOs pass on these warnings. Police employees say that working with NGOs is not so easy. Whereas NGOs can pass on information to the police, the police are not permitted to share operational information with NGOs, as they must comply with statutory regulations. As such, NGOs often do not know what happens with the information they provide. This leads to frustration, and NGOs sometimes launch their own investigative activities as a result. For example, some NGOs go onto the dark web and pretend to be a person in search of sexual activities with a minor. One police employee said this can lead to entrapment, in which case the NGO is itself committing a crime. This happened during the ‘Sweetie’ initiative by NGO Terre des Hommes (see Section 3.5). Any information obtained by such illicit investigation activities cannot be used in any criminal investigation by the police. To improve collaboration between the police and NGOs, police employees believe it is important for the police to include more NGO involvement in the existing options under legislative frameworks. In other words, according to various experts: more expectation management is required. However, it is important that collaboration only be sought with NGOs that have made agreements with local authorities, and not those operating in a destination country without the approval or agreement of the local authorities.

4. To ensure the more targeted deployment of police capacity at operational, tactical and strategic level, a core group will be formed to examine whether, and if so how, information on transnational child sexual abuse can be gathered and analysed consistently and systematically. That will allow the parties involved to be advised on the phenomenon of transnational child sexual abuse, on the proportion of Dutch offenders, and strategic options available (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). Five years later, the experts consulted were unaware of whether this core group was ever formed.

3.4.5 Liaison Officers and Flexible Liaison Officers

The Dutch police and Royal Netherlands Marechaussee have a joint international network consisting of Liaison Officers (LOs) to prevent and combat serious forms of transnational crime and terrorism (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). They are stationed in countries that require additional support for operational collaboration. There is no permanent LO in countries where collaboration already runs smoothly, or where use can be made of Europol (Princen, Geuijen & Schiffelers, 2016).

The LOs' primary task is collaboration and mediation in the execution of Dutch police and judicial requests for legal aid in Dutch criminal investigations. Stationed at the embassy or consulate, LOs maintain contact with international authorities. They exchange information and offer active

assistance in the detection of Dutch transnational child sex offenders (among others) (*Parliamentary Papers II, 31015 no. 91, 2013*; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016; Princen, Geuijen & Schiffelers, 2016; Police & Public Prosecution Service, 2020).⁶⁴ The duties of an LO also increasingly include taking charge of the operational management of international cooperation, which can be directed at criminal phenomena such as transnational child sexual abuse. Where necessary, the LOs who are up-to-date on the phenomenon of transnational child sexual abuse, the available strategies, and the relevant local parties can act as a point of contact in their assigned area for parties that have information on actual or potential transnational child sexual abuse (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). LOs also invest in capacity-building by training police officials abroad on how to conduct independent investigations into transnational child sexual abuse (Police & Public Prosecution Service, 2020).

Experts speak about the deployment of LOs in the various countries

According to one expert, one of the first LOs who ever worked to combat transnational child sexual abuse was stationed in Brazil in 2014, due to the FIFA World Cup and the risk that men would abuse minors there. Thailand and the Philippines also proved to be hotspots, which led to thematic LOs being stationed there too. In addition to the Dutch police and justice department, international investigative bodies and NGOs have also invested in these areas. This has led to a 'waterbed effect,' causing offenders to surface in other countries. This is what prompted a review in 2016, resulting in the deployment of LOs in multiple South-East Asian countries. It is therefore logical that more reports are received from these areas. Thematic LOs were done away with in 2018, however the LOs in Thailand and the Philippines are regular LOs charged with all LO duties. Some LOs are involved in matters related to transnational child sexual abuse in their areas of accreditation, as the phenomenon is clearly present in these two countries as well as further throughout the region. Given the focused strategy in South-East Asia, these two LO positions are of extreme importance to combating transnational child sexual abuse. In 2021, the LO network consisted of Dutch and Belgian police LOs, and the Royal Netherlands Marechaussee. The network makes use of each other's LOs, giving it essentially global coverage.

LOs in a region result in several dozens of police reports from the local population annually, which lead to a number of successful investigations and prosecutions, according to the interviewed experts. In this context, LOs are a linchpin in enabling collaboration with the local authorities if a Dutch criminal investigation needs to occur via legal assistance. The discrepancy between the higher volume of reports and the number of successful investigations comes from the fact that the reports often lack information, resulting in cases either not being pursued or having extremely long lead times. Additionally, not every report pertains to a Dutch citizen, and so the follow-up takes place elsewhere.

In addition to LOs, there are FLOs (Flexible Liaison Officers) whose portfolio includes transnational child sexual abuse. FLOs spend part of their time abroad, and work the rest of the time in the Netherlands (Princen, Geuijen & Schiffelers, 2016). This division means they are sufficiently familiar with both the reality of investigations (including in the Netherlands) and the local international context, and are thus able to take warning signs and convert them into investigation initiatives (Koning & Rijksen-van Dijke, 2016; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). At the operational level of joint investigations, they act as the link between the TBKK in the Netherlands and the international police authorities in their allocated region. They ensure smoother and more dynamic information exchange, improved initiation of local investigations, and more local attention and awareness for the strategy against child sexual abuse (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016; *Appendix to Proceedings, 3879, 2020*). The local network of FLOs has led to the identification and rescue of victims on multiple occasions. Dutch investigation teams and police partners abroad, as well as local NGOs, also make use of the specific knowledge and experience of the FLOs. From a practical point of view, this has resulted in the smoother and more dynamic international exchange of information, more effective initiation of local investigations, and increased local attention and awareness for the strategy against child sexual abuse (*Parliamentary Papers II, 31015, no. 175, 2019*).

Experts on the use of FLOs in transnational child sexual abuse

According to one police expert, the International Phenomenon Strategy against Images Portraying Child Sexual Abuse/Transnational Child Sexual Abuse 2021-2025 has established several strategic objectives for the two tracks of Comprehensive Countermeasures and Detection & Prosecution. These include improving the availability of information, continuing the focused strategy in the Asian region and researching other/rising source countries of transnational child sexual abuse (Africa and Eastern Europe), and the strengthening of public-private partnerships. The goal is to create, maintain and expand on new and existing alliances with local authorities, as well as with NGOs and public-private parties. To this end, a strategic transnational child sexual abuse FLO was appointed in December 2019 for a temporary period of four years. This strategic FLO is based in the Netherlands, and can be deployed globally to work on transnational child sexual abuse. The position was created as part of efforts to promote global proactive and reactive action against child sexual abuse.

Interim findings

- There is limited information available on transnational child sexual abuse.
- Experts see the Don't Look Away campaign and the Stop it Now! initiative as valuable due to their preventive effect.
- The presence of Liaison Officers (LOs) and Flexible Liaison Officers (FLOs) leads to dozens of reports per year, some of which prompt investigations into, and prosecution of, perpetrators of transnational child sexual abuse.
- NGOs can play an important part in identifying signals. However, experts have established that it is important to make clear agreements on the possibilities and limitations of information-sharing and communication regarding the follow-up given to reports.

3.5 Online measures

A critical limitation to the current countermeasures against transnational child sexual abuse is the extremely limited number of measures aimed at combating sexual exploitation and abuse of minors in an online environment, even though this practice is considered a possible gateway to genuine hands-on abuse. A warning about this online phenomenon was already issued in 2013, about the fact that the advent of the internet and the increasing use of the resulting open communication channels have led to new manifestations of sexual exploitation and sexual abuse of children (*Parliamentary Papers II, 33580 no. 3, 2013*), that are used for financial gain by facilitators of child sexual abuse and distributors of images portraying the sexual abuse of minors (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016).

Experts speak about the need for measures in and for online environments

Experts state – partly due to the corona crisis, which has prevented or impeded offenders of transnational child sexual abuse from travelling abroad – that there is a need for measures targeting the online environments where minors are sexually exploited and abused. As an example measure, one expert mentions the deployment of investigators who enter chat sites and the dark web where contact is made between offenders and minors.

In recent years, various measures have been introduced that are adjacent to this relatively new online environment. Three examples are given below.

Virtual Global Taskforce (VGT)

The VGT was founded in 2003, and is an international alliance of countries, investigative bodies (including Interpol and Europol), NGOs and companies. The Dutch Police joined in 2013. The VGT meets periodically to exchange information on planned, current and completed campaigns and developments intended to aid the combating of online child sexual abuse (Ministry of Justice and Security, 2013; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). In 2015, the strategy against 'distribution of child pornography via online peer-to-peer networks' was on the VGT network's agenda. By 2017, every VGT member state

had formulated targeted national countermeasures against this phenomenon (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016; *Parliamentary Papers II, 31015 no. 120, 2016*). In 2019, the VGT reviewed the developments regarding online child sexual abuse. One trend identified was the increasing value placed on individual privacy, including in online environments. This is problematic, as it allows online child sex offenders to better conceal their identity, and to do so more often. The internet has also become accessible to more and more people, both due to lower costs and higher availability on multiple devices such as telephones, laptops and computers. Minors, too, are increasingly active online, and their parents often do not adequately monitor their use of the internet. The consequence of the growing number of electronic devices and increased access to the internet is that more images portraying child sexual abuse are being produced and consumed. Lastly, the internet means that when searching for minors, offenders are no longer limited to those in their immediate geographic vicinity. Minors in other countries have become potential targets. These developments mean that online child sexual abuse has become a worldwide problem. Although cooperation between countries is increasing, there are still barriers to effectively combating these developments (Virtual Global Taskforce, 2019).

European Financial Coalition (EFC)

Between 2013 and 2016, the EU member states joined forces to investigate financial transactions. The EFC network consisted of police services, NGOs, financial partners such as banks, internet technology partners and social media partners. The project resulted in policy measures, recommendations for relevant private parties, a jointly developed and administered training programme, and several awareness events. The project was subsequently absorbed into a programme of indefinite length, dedicated to continuing the joint activities of the above-mentioned parties with the aim of minimising the abuse of legitimate services for the commercial exploitation of children via the internet (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). In 2015, Europol conducted a study on the phenomenon and concluded that a relatively large number of websites where child-abuse material is potentially available are hosted in the Netherlands (Europol, 2015). The former ministry of Justice and Security Van der Steur had the following to say: *In a sense, there is a reason why a relatively large number of internet sites are hosted by companies based in the Netherlands. The Netherlands has excellent digital infrastructure and services, which generates a lot of industry. This includes both local and international businesses who choose to get their websites online via Dutch hosting providers. The hosting of websites with pornographic content (including child pornography) are, unfortunately, no exception. But I would like to point out that while these websites may be hosted on Dutch servers, the actual content (and the demand for it) largely comes from other countries (Parliamentary Papers II, 31015 no. 120, 2016)*. The Europol report (2015) also identifies an increase in paid livestreaming: people in western countries use chat sites to establish contact with organisations or individuals who offer online child abuse for payment. The subject is now an integral part of the VGT agenda (Europol, 2015; *Parliamentary Papers II, 31015, no. 120, 2016*).

Sweetie

In 2013, Terre des Hommes created the virtual ten-year-old Filipina, 'Sweetie.' The aim was to combat the sexual exploitation of minors (both on and offline) by deploying Sweetie in chat rooms and on dating sites. When men approached her for sexually-themed chats, she entered into conversation with them.⁶⁵ Although the men believed themselves to be anonymous, using fake names and pre-paid credit cards, still they revealed some details about themselves. Using Google and Facebook, Terre des Hommes could use this information to identify the men.⁶⁶ The information was then stored and used to warn or scare off offenders. Where deemed necessary, Terre des Hommes also submitted complete suspect files to the relevant authorities and police. The suspects were then traced, or even apprehended and prosecuted. The victims went to a safe shelter where they could recover, and where they received medical and trauma-processing care.⁶⁷ The operation was impactful, given that over one thousand perpetrators of child abuse were exposed in 71 countries. The case files were submitted to Europol and Interpol. The enormous scale of transnational child sexual abuse did not change, however, and Terre des Hommes realised that they needed to refocus their efforts on the time *before* the minors were in fact sexually abused.⁶⁸ That is why, in 2016, Sweetie 2.0 was launched, on a much larger scale. Whereas the original Sweetie had monitored nineteen chat rooms,

Sweetie 2.0 used a chatbot to scour hundreds of rooms and engage in dozens of chats simultaneously.⁶⁹ Its goal was to use chatbots to identify, warn, discourage and scare off offenders.

To investigate the feasibility of this countermeasure, Leiden University conducted a large-scale comparative law study on international legislation and policy in nineteen countries (Schermer, Georgieva, Van der Hof & Koops, 2016). The study examined the structure of the police mandate in each country, and how it could be stretched to permit the use of the software.⁷⁰ The study showed that the likelihood of Sweetie 2.0 leading to successful prosecutions is lower in the Netherlands than in the United States, Canada, the United Kingdom and Australia. In these countries, the law granted more room to manoeuvre, as there was greater scope to convict suspects based on their intent. Nor did it matter that Sweetie 2.0 was not a real person – if a suspect believed they was dealing with a real child, their actions were already punishable. In the Netherlands, the use of virtual fake minors was not allowed, and it was unclear whether webcam sex with a virtual person was even a crime. To qualify as punishable in the Netherlands, all aspects listed under a criminal description must be fulfilled, and because the definitions of sex crimes specify ‘a person who has not yet reached the age of eighteen,’ this criterion can never be satisfied. Sweetie 2.0 is not a real person, after all. The same applies to attempted crimes, as it is impossible to have attempted a crime that is not punishable by law (Schermer, Georgieva, Van der Hof & Koops, 2016).⁷¹

This problem was what prompted the submission of the Cybercrime III legislative proposal, which entered into force on 1 March 2019. This act gives the police and judiciary new powers to combat cybercrime, allowing them to access computers remotely and in secret to find evidence for serious crimes, such as images depicting the sexual abuse of minors, drug trafficking, or liquidations. In addition, the Act gives investigating officers the power to apply various investigative tactics, such as making certain data inaccessible, copying files and tapping communication channels.⁷² In 2018, Minister Grapperhaus stressed that these tasks are really only supposed to be performed by trained police investigative officers, and not by Terre des Hommes, as the use of Sweetie 2.0 in other cases qualifies as entrapment (*Procedures II, no. 64, item 40*, 2018). The work by the investigative officers makes it more difficult for criminals to evade detection on the internet. Other provisions allow investigating officers to use ‘fake teens’ in order to facilitate the identification and prosecution of ‘groomers’ who approach minors online for sexual purposes,⁷³ and enable the deployment of digital creations such as Sweetie 2.0.

With the aid of the Postcode Lottery, in 2019 it became possible to expand the #Sweetie 24/7 project to countries such as Cambodia, Kenya and Nepal. The software has also been further developed, and it is now possible to find suspects on all manner of social media and online platforms. The ultimate goal is to transfer the complete Sweetie approach to the local authorities in the Terre des Hommes project countries.⁷⁴

3.6 Scope of the available instruments

According to respondents, the strategy combating transnational child sexual abuse in the Netherlands is still in its infancy. The available judicial options and instruments have gone largely unused until now. In 2016, Koning & Rijkssen-van Dijke stated that the effectiveness of the available arsenal of instruments is limited, for two reasons. Firstly, most of the measures in the Netherlands and internationally target offenders who are already known to the justice system. With only these measures, the strategy against offenders who are unknown to the police is much more complicated. Secondly, there is too little attention to tackling situational offenders, even though there is a suspicion that this group constitutes the unseen majority of offenders (Koning & Rijkssen-van Dijke, 2016).

Experts speak about the invisibility of situational offenders

According to one staff member at the ministry of Justice and Security, the distinction between preferential and situational offenders has fuelled policy choices, causing the police and the Public Prosecution Service to concentrate on the detection and prosecution of preferential offenders. While preventive measures were implemented to prevent both preferential and situational offenders from committing transnational child sexual abuse, one police employee said that far fewer situational

offenders feature in criminal investigations. They are only identified as a coincidental arrest, if they are caught in the act, or if international investigative services are particularly active in combating child sexual abuse. Consequently, according to one LO, there is a potentially large group of offenders that goes unseen.

More measures targeting situational offenders should be implemented in the future, such as the elimination of opportunist structures for the sexual abuse of minors abroad (Koning & Rijkssen-van Dijke, 2016). Koning & Rijkssen-van Dijke (2016) also propose addressing the indifference of situational offenders, such as through information campaigns that appeal to travellers' consciences, clarification of legislation, and offering appropriate assistance to the group of situational offenders.

Looking deeper into the future measures, Koning & Rijkssen-van Dijke (2016) draw a distinction between long-stay and short-stay offenders. They propose two measures that could be useful in the case of short-stay offenders. The first, say the authors, is the crucial monitoring of forums where information on transnational child sexual abuse is exchanged, as these interactions do not always take place in protected areas of the internet that investigative services have little access to. Secondly, a barrier model could be set up to identify and tackle facilitators, without whom there would be fewer opportunities for offenders to sexually abuse minors. The private sector could play an important role in this regard, where prevention relies greatly on international cooperation with and raising awareness among travel organisations, transport companies, and others in the tourist industry. Dutch travel agencies, for example, no longer conduct business with accommodation providers following suspicions that they facilitate child abuse (Koning & Rijkssen-van Dijke, 2016). As an extension of this principle, Jonas (2016) proposes looking into only allowing hotels to advertise on www.booking.com that actively combat sexual exploitation and child sexual abuse. In 2021, Defence for Children/ECPAT created a brochure that can be used by travel guides to inform travellers about how to recognise child exploitation and where it can be reported. The brochure also clearly states that reporting a suspicious situation is not the same thing as lodging a police report. The body receiving the alert will decide whether to lodge a police report or not. If the initial body believes it is warranted, the report will be forwarded to the National Police TBKK (Defence for Children/ECPAT, 2021).

Intermezzo – ECPAT International

In 1990, End Child Prostitution in Asian Tourism (ECPAT) International was founded to put an end to child prostitution in relation to Asian travel. In 1996, the scope of concern was expanded to include all forms of commercial sexual exploitation. ECPAT also works globally to research awareness of an adequate strategy against child sexual exploitation in prostitution, both online and in relation to tourism and travel. In 2021, the international ECPAT network included a total of 122 local organisations in 104 countries. One important task of the ECPAT network is to monitor how government authorities combat and prevent the sexual exploitation of children. ECPAT reminds countries that fail to comply with international agreements made to protect children against sexual exploitation, and advises them on how to make improvements. The ECPAT network also collects and explores effective alternatives and develops training materials for professionals, such as service providers, the police and the tourism industry. An example of the strategy against sexual exploitation of children in relation to tourism and travel is the Tourism Child Protection Code developed in 1998 (hereinafter: the Code), which was developed by ECPAT Sweden in conjunction with the travel sector and the World Tourism Organisation. It is a code of conduct for the travel industry that aims to combat child abuse in tourism. The code of conduct has already been signed by many travel organisations worldwide, ranging from tour operators and hotels to airlines, restaurants and nightclubs. ECPAT has been in the Netherlands since 1995, and in 2003 ECPAT Netherlands merged with Defence for Children. To combat commercial sexual exploitation, collaboration is sought with the Ministry of Justice and Security, ACCOR Netherlands, ANVR, TUI, EOKM, the Royal Netherlands Marechaussee (KMar), the National Police, Leiden University and other children's rights organisations.⁷⁵ As of 2016, the Code no longer approves membership for organisations that offer volunteer work in, or excursions to, orphanages. Organisations involved in volunteer activities limited to education, sport and childcare must take additional child protection measures in order to minimise the risks of abuse and exploitation (Defence for Children/ECPAT, 2019).

Long-stay offenders of transnational child sexual abuse – who can be migrants, expats, or volunteers – try to secure long-term access to a victim by building trust within the local community. Measures for tackling this group of offenders include raising awareness of the risks that exist within volunteer organisations and abroad, and encouraging modifications to application procedures and recruitment communications, such as applying for a VOG. Because this measure takes prior convictions into account, it primarily prevents sexual abuse by reoffenders. Clarifying the norm can also help to combat the neutralisation techniques of situational offenders (Koning & Rijksen-van Dijke, 2016).

Experts speak about other potential preventive measures

According to experts, there are plenty of available options for preventive measures that have gone largely unused until now. Firstly, they propose more intensive efforts to eliminate the circumstances conducive to the sexual abuse of minors, so that offenders have less opportunity to do so. Development aid should be promoted, for example, so that parents earn enough money, children can attend school, and underage children no longer need to work in establishments such as massage parlours. Secondly, a Public Prosecution officer mentioned the option of a buddy system, which occurs in Canada as part of the Circles of Support and Accountability (CoSA) reintegration programme. Whenever someone feels the need to travel abroad to commit abuse, they can talk to their buddy so that they are prevented from following through. The third and final option mentioned involves stamping passports, as is the case in the United States. Opinions are divided on this measure. According to one group of experts, stamps of this nature mean that convicted sex offenders can never reintegrate into society with a clean slate. Whenever they want to hire a car, for example, it is obvious that they are a sex offender. This constitutes a privacy infringement, and the stamp also imposes a stigma on the convicted sex offender. The expected result is that such people will appear in public less and less, which also makes them more difficult to monitor. The remaining experts see the benefits of the passport stamp, as it shifts responsibility to the destination country. The example given is that when a convicted sex offender travels to Thailand, the local authorities in Thailand will see that they have been convicted of sex offences, and it is up to them to decide whether to monitor the person. The proponents of this system believe this to be a better solution than ‘holding’ someone in the Netherlands via the Passport Act.

Interim findings

- To date, the judicial possibilities (legislation and the courts), as well as the three available instruments (the risk assessment instrument, Green Notices, and ECRIS, including VOG screening) have seen little application.
- The reason is that in practice, they can only be applied to offenders who have already been convicted, and who are therefore already known to the police and the justice system. To combat transnational child sexual abuse by first offenders, preventive measures are necessary.

3.7 Summary

The Netherlands has legal instruments available to combat transnational child sexual abuse, which form part of international conventions and national legislation adopted in and after 1989. These instruments aim to protect children and young people from all forms of sexual exploitation and sexual abuse. The relevant legal frameworks are: the International Convention on the Rights of the Child (including the Optional Protocol), the Convention on Cybercrime, the Barth amendment, the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, and Directive 2011/93/EU. The common purpose of these agreements is for children and young people to be protected against all forms of sexual exploitation and sexual abuse, including transnational child sexual abuse. In 2018, the Long-Term Supervision (Behavioural Influence and Limitation of Freedoms) Act (*Wet Langdurig Toezicht, gedragsbeïnvloeding en vrijheidsbeperking*) entered into full force in the Netherlands. This Act was introduced due to the large volume of crime committed by reoffenders, and because the return to society of those under post-sentencing orders and perpetrators of serious sex and violent crimes often led to a sense of social distress and a lack of safety. The aim of the act is to reduce reoffence by maintaining proportional surveillance of convicted offenders for as long as necessary. The WLT entered into full force in 2018, and enables the

long-term monitoring of convicted child and other sex offenders who are at risk of offending again. The WLT, and in particular the behaviour-influencing and freedom-restricting measures (GVM), were invoked 16 times in 2018 and 2019. The persons on whom a GVM was imposed included five offenders who had committed one or more sex offences. Of these five, four had been convicted of sexual abuse crimes involving victims aged under 18, and could potentially have travelled abroad (Nagtegaal, 2021).

The Passport Act is of relevance to the present study. If there is a justified suspicion that a person is likely to try to evade punishment and/or reoffend, the Act can be invoked to deny a passport application or to annul an existing passport. The goal is to make it more difficult for convicted sex offenders to commit transnational child sexual abuse (or to do so again). Although this measure does constitute one of the most powerful barriers for potential offenders, it does have several limitations. For example, it can only be applied to convicted sex offenders, and is ineffective on first offenders. It also does not prevent convicted sex offenders from travelling to a Schengen country on a Dutch ID card, for example, and annulments are not always noticed at border control, allowing convicted sex offenders to leave the Schengen zone illegally. The Passport Act might therefore be effective in combination with other special conditions, listed in greater detail below.

Dutch courts have various options available for imposing special conditions, which include reporting obligations, geographic restrictions, or travel bans. Reporting obligations alone cannot prevent convicted sex offenders from leaving the country, and their effectiveness is therefore limited. Little research has been conducted on geographic restrictions at all, let alone as they relate to transnational child sexual abuse. The limited research that *is* available shows that monitoring compliance with geographic restrictions is difficult in the absence of supplementary measures and/or special conditions, in particular electronic monitoring, such as the use of an ankle bracelet. With regard to travel bans, little jurisprudence is available; to date, the application of this measure on offenders of transnational child sexual abuse seems limited.

Instruments have also been developed that make it more difficult for convicted sex offenders to reoffend by assessing the reoffending risk and adjusting the strategy or treatment accordingly. These are risk-assessment instruments. The Probation Service conducts a risk assessment in cases where a criminal case is part of judicial proceedings. To do so – just like the Netherlands Institute of Forensic Psychiatry and Psychology (NIFP) – they make use of the Static-99R (static data) form and the Stable-2007 and Acute-2007 instruments (dynamic risk factors), which provide a more accurate determination of the reoffending risk. Capacity shortages mean that the Probation Service carries out fewer risk assessments than could be performed, some of which are shifted to the police. The police, however, do not have the necessary capacity (or less capacity) to carry out an effective risk assessment. What the police want is to proactively monitor suspects who are at high risk of reoffending. This risk must be established at an early stage, i.e. at the first point of contact between the police and the suspect: an arrest. The police have access to a range of information, such as demographics, criminal history and the types of victims targeted by the suspect. This information is entered into the Static-99R form, as it establishes risk based on this type of static information. In practice, however, using the Static-99R form in isolation does not always result in an accurate assessment of the reoffending risk among perpetrators of transnational child sexual abuse. The first reason is because not every individual satisfies the five prerequisites for generating an accurate risk assessment, namely: 1) the suspect must be male, 2) be over 18 years of age, 3) must have been arrested for and/or convicted of a sex crime in the last ten years, 4) at least one of the arrests/convictions must be a Category-A sex offence⁷⁶ as defined in the Public Prosecution Service's sentencing guidelines, and 5) the information used for the scoring must be credible, complete and reliable. Secondly, information on international convictions is often unavailable, incomplete or too old, disqualifying it from inclusion in the risk calculation and impeding the imposition of judicial measures, as they can only be applied if the risk of reoffending is high.

The second instrument is the European Criminal Record System (ECRIS). For jobs that involve working with children – such as paid or volunteer childcare, youth care or education – the European Directive on combating the sexual exploitation of children and child pornography (2011/EC/93) requires judicial information to be exchanged on request by one of the central authorities. In practice, this means that Europeans who apply for a Certificate of Conduct (VOG) in the Netherlands to work with children can be screened for potential judicial documentation not only in the Netherlands, but

also in the country where they are nationals. Past behaviour also never used to constitute any objection to visa applications or emigration to foreign countries, which meant that VOG screening could not prevent foreign sex offenders from committing transnational child sexual abuse abroad. In 2016, the European Commission concluded that ECRIS works well when it comes to EU citizens, but that there is no insight into European convictions of third-country nationals or stateless persons. To improve this situation, the European Criminal Record Information System Third Country Nationals (ECRIS-TCN) is expected to be operational in 2022. ECRIS-TCN contains a list of the identifying data of third-country nationals (who are not EU citizens), and of EU citizens who have additional nationalities outside the EU.

The third and final instrument are the Green Notices that are made available to all Interpol member states. These are international warnings of people with prior criminal activity and who are at a high risk of reoffending. They do not prevent people from leaving the country, however member states are informed of their imminent arrival, and can take measures according to their own legislation. In practice, Interpol member states issue few Green Notices for transnational child sexual abuse offenders due to the assumed infringement on privacy and liberty. And when Green Notices *are* issued, destination countries do not always take heed of them.

Lastly, initiatives have been launched to improve the information available to the police, the Royal Netherlands Marechaussee and the justice system, in order to prevent potential and convicted sex offenders from committing transnational child sexual abuse (or doing so again), and to make it less easy for offenders to evade detection or prosecution if they do commit transnational child sexual abuse. One such initiative was the Child Sex Tourism Hotline launched in 2010, which became part of Don't Look Away in 2015. In 2020, the Child Sex Tourism Hotline changed its name to the Don't Look Away hotline. It calls on citizens to be aware of transnational child sexual abuse, and if they witness it, to make a report to the Don't Look Away Hotline (anonymously or not). This way, as much useful information as possible is collected on current or potential offenders and victims for use in criminal investigations. Dozens of reports are received each year, which the experts view as a small number. The reason, say the experts, is that citizens do not wish to simply accuse somebody without knowing for certain whether their suspicions are true. Another initiative is Stop it Now!: a helpline that aims to prevent child sexual abuse by providing easier access to suitable help via an anonymous, confidential and free telephone helpline for people at risk of crossing a line when it comes to minors, or who have already done so. People's loved ones (partners, parents, family, friends, colleagues, etc.) and professionals (teachers, educators, GPs, etc.) can also call the line to express their concerns. In practice, having the opportunity to talk about their sexual feelings for minors has shown that people are less inclined to travel abroad. As another initiative, the Customs Administration and the Royal Netherlands Marechaussee devote attention to combating transnational child sexual abuse by searching for visual materials portraying the sexual abuse of minors in their border control, monitoring and investigative activities (among other things). Airlines also issue their check-in and boarding information (API/PNR) to the Royal Netherlands Marechaussee. Since June 2019, this information has been stored by the Netherlands Passenger Information Unit (Pi-NL), whose aim is to generate greater insight into travel movements and to use the resulting data to prevent terrorist attacks and serious crime, including the online and offline sexual exploitation of minors. The data can also be used to prosecute perpetrators of these crimes. Initiatives have also been launched to improve international cooperation, including partnerships with NGOs. NGOs work for and with the local population, and therefore have knowledge of the local context and may also have information on potential or active child sex offenders. Whereas the police only carry out investigations once a crime has been committed, NGOs can work more preventively. To improve collaboration with NGOs, experts believe that clear agreements are necessary in order to set out the NGOs' legal and other options for sharing information and communication on how the police follow up on reports. One final initiative intended to improve available information and international cooperation is the deployment of Liaison Officers (LOs) and Flexible Liaison Officers (FLOs). LOs are stationed for several years abroad, while FLOs work abroad only periodically. Their purpose is to promote collaboration and mediation in the execution of Dutch police and judicial legal aid requests to benefit Dutch investigations in other countries. In countries with an LO, the police receive several dozen reports from citizens annually, which result in several successful investigations and arrests. The local network of FLOs has led to the identification and rescue of victims on multiple occasions. Dutch investigation teams and police partners abroad, as well as local NGOs, also make use of the specific

knowledge and experience of the FLOs. From a practical point of view, this has resulted in the smoother and swifter international exchange of information, more effectively initiating local investigations and raising local attention to, and awareness of, tackling child sexual abuse.

Lastly, the literature makes three suggestions for preventive measures in order to more effectively combat transnational child sexual abuse. Firstly, the circumstances conducive to transnational child sexual abuse should be eliminated by promoting development aid. Convicted sex offenders can also be assigned a 'buddy,' who they can talk to whenever they feel the need to travel abroad so that they can resist the urge to do so. Lastly, convicted sex offenders could receive a label in their passports. The purported advantage of this measure is that it is up to the local authorities in the destination country whether they wish to monitor the relevant person. The disadvantage is the label's stigmatising effect.

Endnotes

1 In 2021, all countries in the world signed the Convention on the Rights of the Child, except the United States and South Sudan (PLAN International, n.b.).

2 Kinderrechten.nl, n.b. a

3 Kinderrechten.nl, n.b. a

4 Convention on the Rights of the Child, New York, 20 November 1989. Consulted on: <https://wetten.overheid.nl/BWBV0002508/2002-11-18>

5 Kinderrechten.nl, n.b. b

6 Convention on the Rights of the Child, New York, 20 November 1989. Consulted on: <https://wetten.overheid.nl/BWBV0002508/2002-11-18>

7 An optional protocol is a convention text (protocol) that is part of another convention.

8 National Commission on the Rights of the Child, n.b.

9 National Commission on the Rights of the Child, n.b.

10 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child, New York, 25 May 2000. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWV0001752&z=2005-09-23&g=2005-09-23>

11 Convention on Cybercrime, Budapest, 23 November 2001. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWV0001839&z=2007-03-01&g=2007-03-01>

12 Convention on Cybercrime, Budapest, 23 November 2001. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWV0001839&z=2007-03-01&g=2007-03-01>

13 These powers include the authority to temporarily freeze certain stored but transient data; the temporary freezing and potential release of traffic information; an order to provide specific computer data, including subscription data; the authority to search and potentially seize/copy computers and computer data; the provision of traffic information; and the interception of specific content data.

14 Senate of the Dutch Parliament, n.b. a

15 Supplementary Protocol to the Convention on Cybercrime with respect to criminalisation [...] and xenophobic acts committed via computer systems, Strasbourg, 28 January 2003. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWV0004845&z=2010-11-01&g=2010-11-01>

16 *Europa Nu*, 5 February 2019

17 Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, Lanzarote, 25 October 2007. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWV0004127&z=2010-07-01&g=2010-07-01>

18 This is a term used by the Customs Administration to denote countries that do not belong to the EU customs union.

19 The European Convention on the Transfer of Proceedings in Criminal Matters stipulates that a member state can only instigate criminal proceedings at the request of another state if the offence is punishable by law in both states.

20 Article 552(h) (2) of the Penal Code defines requests for legal assistance as follows: 'Requests to jointly or individually perform acts of investigation or to cooperate therewith, to send documents, files or articles of evidence, to provide intelligence, or to serve or issue documents or to make notices or announcements to third parties' (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2013).

21 Ministry of Justice and Security, n.b. a; Ministry of Justice and Security, n.b. b.

22 The hands-off offences that qualify for measures influencing behaviour or restricting personal liberty include child pornography, attendance at sex shows involving minors, inducing minors to witness sexual acts with lascivious intent, grooming, and procuration (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2018).

23 Penal Code Amendment Act, etc. (Long-term Supervision (Behavioural Influence and Limitation of Freedoms Act)).
<https://wetten.overheid.nl/jci1.3:c:BWBR0037362&z=2018-01-01&g=2018-01-01>.

24 Passport Flagging Instruction. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWBR0030553&z=2011-11-01&g=2011-11-01>.

25 This can include reporting obligations, geographic restrictions or a travel ban, but also special conditions unrelated to travel movements.

26 The Kingdom encompasses the countries of the Netherlands, Aruba, Curaçao and Saint Martin. Bonaire, Sint Eustatius and Saba are special municipalities of the Netherlands. In cases of suspected fleeing or evading punishment, Article 18 of the Passport Act offers no grounds for a request to deny or annul a passport.

27 Passport Act. Consulted on: <https://wetten.overheid.nl/jci1.3:c:BWBR0005212&z=2021-01-01&g=2021-01-01>.

28 Requests for legal assistance must serve a judicial purpose, i.e. investigation or prosecution. Imposing a passport measure does not qualify. Requests for legal assistance therefore do not qualify as a designated or permissible instrument for obtaining information for use in applying a passport measure. Moreover, information already obtained via a request for legal assistance for the purposes of prosecution may not be forwarded or used for any other purposes, unless explicit permission has been requested and granted from the issuing party.

29 Rijksoverheid, n.b. a; National Office for Identity Data (RvIG), n.b. a.

30 National Office for Identity Data (RvIG), n.b. b.

31 The Enforcement of Criminal Law Decisions (Reform) Act. Consulted on: <https://wetten.overheid.nl/BWBR0039301/2020-07-25>.

32 Research and Documentation Centre (WODC), n.b.

33 Strafrechtketen.nl, n.b.

34 Public Prosecution Service, n.b.

35. One expert emphasised that because freedom of movement grants European Union residents unrestricted travel to other EU member states, there is no use in issuing Green Notices to the Schengen Information System.

36 A member of the Supervisory Committee asked whether the Passport Act is ever invoked administratively, or only ever criminally. Another member responded by saying that a distinction can indeed be drawn according to the underlying purpose of invoking the Passport Act: criminal, administrative or preventive. The same member said that to date, the Act has never been applied on an administrative basis.

37 *Problemen met justitie?* [Problems with the justice system?], n.b.

38 Fivoor, n.b.

39 The Dutch Criminal Code (WvS). Consulted on: <https://wetten.overheid.nl/BWBR0001854/2018-01-01>

40 According to one Supervisory Committee member, ankle bracelets are intended solely for short-term use, and it would be far more beneficial to examine whether courts can impose country bans.

41 The Dutch Criminal Code (WvS) Consulted on: <https://wetten.overheid.nl/BWBR0001854/2018-01-01>

42 The Dutch Criminal Code (WvS) Consulted on: <https://wetten.overheid.nl/BWBR0001854/2018-01-01>

43 The Stable-2007 instrument measures dynamic (variable) sex-offender risk factors. The instrument is meant to be applied as part of probation supervision, and can be used to establish and evaluate a treatment or other plan. The Acute-2007 form measures the acute dynamic risk factors among sex offenders. Risk factors are highly changeable, and the instrument has been designed to help supervisors monitor the acute risks and determine the intensity of risk management. Both the Stable-2007 and Acute-2007 forms are used in combination with the Static-99R form (Dutch Probation Service, n.b.).

44 These include torts of direct contact, voyeurism, and sex with animals or corpses. For example, if a subject has been apprehended for the possession of child pornography (a Category-B offence) but has never before been convicted of rape (a Category-A offence), the Static-99R form cannot be used.

45 Nederlands Jeugdinstituut, n.b.

46 Rijksoverheid, n.b. b

47 According to one Public Prosecution Service officer, it should be noted here that ECRIS is only consulted if the VOG is mandatory in order to perform a certain type of work. This is currently not the case for many volunteer and other positions, such as volunteer jobs in sports associations. For the positions for which a VOG *is* requested, it is not certain whether they are updated periodically. In this respect, according to the aforementioned officer, the VOG system is not a cure-all.

48 *Europa Nu*, 19 January 2016.

49 European Commission, n.b.

50 In 2014, former State Secretary Teeven said that criminal information is not consistently exchanged with non-EU countries. The key reasons, according to Teeven, were that sentencing and conviction-registration methods in non-EU countries were not sufficiently harmonised. The exchange of criminal information, moreover, was based on the principle of reciprocity, whereas privacy legislation has made the Netherlands hesitant to share information with non-EU countries where the judicial protection of individual rights cannot be adequately guaranteed. No cooperation at all took place with countries outside the EU for preventive purposes, such as VOG screenings (Appendix to Proceedings, 2423, 2014). To create an international screening system, the Netherlands contributed to a study on the Interpol Police Certificate (IPPC). This feasibility study examined whether a coordination centre could be set up within Interpol to issue international screening certificates (Appendix to Proceedings, 2423, 2014; Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). This would allow employees or volunteers to provide an employer with a statement of unimpeachable conduct according to all available information (Ministry of Justice and Security, Police, Public Prosecution Service & Royal Netherlands Marechaussee, 2016). In 2019, it became apparent that Interpol did not wish to pursue the institution of an IPPC. Given the scarce capacity and high administrative costs, Interpol viewed the project as disproportionate, non-viable and unsustainable (Parliamentary Papers II, 35000 VI, no. 9, 2018).

51 *Europa Nu*, 19 January 2016

52 In 2019, the name of this ministry changed to the Ministry of Justice and Security.

53 Online Child Abuse Expertise Centre (EOKM), 1 June 2018.

54 This means that ten reports were received of Dutch citizens who committed transnational child sexual abuse abroad, as well as ten reports of non-Dutch citizens who committed transnational child sexual abuse in the Netherlands.

55 Online Child Abuse Expertise Centre (EOKM), 1 June 2018.

56 *Terre des Hommes*, n.b. a; *Terre des Hommes*, n.b. b.

57 Members of the Supervisory Committee stress that prosecutor power remains if the offender has not served their full sentence abroad. Offenders who are already abroad can also be prosecuted separately in the Netherlands for crimes not taken into consideration by the foreign court.

58 *Stop it Now!*, n.b.

59 Overijssel District Court, ECLI:NL:RBOVE:2018:4217, 08-960038-17(P), 6 November 2018.

60 *Het Parool*, 9 January 2018.

61 NCTV, 2 October 2020

62 Rijksoverheid, n.b. c.

63 Senate of the Dutch Parliament, n.b. b.

64 *Defence for Children*, n.b. a.

65 *Terre des Hommes*, n.b. c.

66 *RTL Nieuws*, 22 October 2015

67 *Terre des Hommes*, n.b. c.

68 *Emerge*, 24 November 2015

69 *Algemeen Dagblad*, 13 February 2016.

70 *Emerge*, 24 November 2015.

71 *Leiden University*, 19 October 2016.

72 Rijksoverheid, 28 February 2019.

73 Rijksoverheid, 28 February 2019.

74 *Terre des Hommes*, n.b. c.

75 *Defence for children*, n.b. b; *Defence for Children*, n.b. c; *Defence for Children*, n.b. d.

76 These include torts of direct contact, voyeurism, and sex with animals or corpses. For example, if a subject has been apprehended for the possession of child pornography (a Category-B offence) but has never before been convicted of rape (a Category-A offence), the Static-99R form cannot be used.

Part 2: An international comparison

4 Introduction to the international study

As part of this investigation into the strategy against transnational child sexual abuse, the strategies of five other countries were reviewed. These countries are Sweden, Germany, Ireland, Australia and the United States. Each section below is dedicated to one country. The sections are structured in a similar manner, but clearly show the differences between the countries. To avoid repetition, the following Intermezzo will serve as the introduction to all of the subsequent sections, outlining the information that will appear in each section.

Intermezzo – Structure of the country studies

Part 1: Context

This section summarises the social and political debate, as well as the scope of the problem according to current information.

Part 2: Legislation

This section discusses the specific legislation pertaining to transnational child sexual abuse, as well as more generic legislation covering sexual abuse. An analysis is also provided of the policy theory on which the legislation is based.

Part 3: Strategy

This section outlines the parties involved in implementing measures, the measures themselves, as well as specific attention to the risk-assessment instrument and international cooperation. Ideally, the application and effect of measures will be analysed, making use of scholarship and other research, as well as interviews (expert opinions).

Part 4: Offender profiles

Part 5: Information available on transnational child sexual abuse offenders

Part 6: Summary

5 Country Study: Sweden

The Swedish approach to transnational and other child sexual abuse is characterised by the prioritisation of care and treatment for offenders (Birgersson, 2018). One aspect of the strategy focuses on preventing child sexual abuse by providing opportunities for offenders to ask for professional help so that they do not ultimately commit an offence. Another aspect offers care to convicted child sex offenders, using therapy and other treatments to try to minimise the likelihood of reoffending. The care provided focuses on treating the underlying problems, with the aim of preventing unacceptable sexual behaviour. It should be noted here that all support is offered on a voluntary basis. If current or potential offenders do not wish to accept any support, they cannot be forced to do so. Not even convicted offenders are obliged to accept support. There is nothing in Swedish law that enables the compulsory hospitalisation of child sex offenders.

Unlike the other countries under review, Sweden has relatively few repressive measures that can be imposed. Under the Swedish Criminal Code, perpetrators of transnational/other child sexual abuse are punished via fines and/or incarceration. Additional measures, such as a compulsory hospital order, cannot be imposed. Sweden has no passport measures or travel bans, nor is there a register of convicted child sex offenders. The rationale is that a person is 'free' after they have been convicted of a sex crime, received a fine or a prison sentence, and undergone their punishment. The imposition of any liberty restrictions or further measures is not in line with this rationale.

An interview with ECPAT Sweden revealed that a heated debate is currently underway in the country regarding transnational and other forms of child sexual abuse, with starkly contrasting opinions and viewpoints. One group strongly believes in individual freedom, placing it high on the list of priorities. Members of this group believe that once a sentence has been served, convicted offenders are free citizens and we no longer need to 'keep tabs on them.' This explains why Sweden has no register for convicted sex offenders, and why there are no liberty or travel restrictions. The movement has strong representation both in politics and in general society. Many initiatives aimed at modifying the Swedish strategy can be thwarted by this group.

Another group, consisting mainly of victims of sex crimes, argues for heftier penalties and more supplementary measures. This group not only wants to see longer prison sentences, but are also in favour of options such as passport measures, and the introduction of a child sex offenders registry. The movement generally gains support whenever a new major scandal is uncovered, either in Sweden or elsewhere. Especially if the media devotes much attention to the scandal, heated social debate ensues (Birgersson, 2018).

Although the latter movement is gaining momentum and succeeds in keeping child sexual abuse on the political agenda, the question still remains as to whether stricter measures – such as passport measures or an offender registry – will ever be implemented in Sweden. Several interviewees estimated the likelihood as very low, as politics assigns greater priority to the personal freedom of the individual than to harsher punishments for abusers.

5.1 The scope of transnational child sexual abuse

It is difficult to say how many Swedish citizens are involved in transnational child sexual abuse. Based on the information available, it is virtually impossible to estimate the scope of the problem. The Swedish Bureau of Statistics (*Brå*) monitors Swedish criminality figures, and all relevant statistics can be found on the organisation's website. Although the figures provide detailed information on the number and types of offences, a major problem with them is that they do not specify where the crimes took place. The figures include crimes committed in both Sweden and abroad, so searching for figures on child sexual abuse does not reveal whether the abuse took place in Sweden or elsewhere. Various interviewees stated that this is an oversight, as it is not possible to reach any conclusions regarding the scope of the problem based on the available statistics. Nor is it possible to assess whether the chosen strategy is effective, or if any changes are necessary.

In 2008, ECPAT Sweden estimated the number of Swedish citizens who had purchased sexual services from minors abroad.¹ They placed the figure at around 4,000–5,000 (ECPAT, Sweden, 2011), which is approximately 0.05–0.06% of the adult Swedish population. No new estimates have been produced since 2008, so it is impossible to say whether this figure has changed in the meantime. Several international cases involving Swedish nationals have come to light since 2008, however.

Intermezzo – Major Swedish cases of transnational child sexual abuse

In 2013, a 52-year-old Swedish man was convicted in Sweden of eleven counts of inducing another to sexually abuse a minor in the Philippines. The Swede in question was also in possession of child pornography (*anstiftan och stämpling till grov våldtäkt samt barnpornografibrott*). The man watched live via a webcam from Sweden while the child sexual abuse took place. Despite the man not being physically present during the abuse, the court ruled that the crimes were severe enough to warrant punishment as though the man had committed the physical abuse himself. He received an eight-year prison sentence and a fine equal to nearly €100,000 in order to compensate five of his victims. This case was the first time anyone in Sweden was convicted for inducement to sexual abuse via a live webcam connection.²

Since then, a person in Sweden has been convicted of online sexual abuse on the basis of rape: in 2017, a Swedish court sentenced a 41-year-old Swedish man to ten years' imprisonment for the online sexual abuse of 27 minors. The man threatened his victims online, and coerced them into performing sexual acts on themselves and other minors. The minors either livestreamed the abuse, or recorded it and then sent the footage to the Swedish man. In this case, the man was not sentenced to inducement of sexual abuse, but of actual sexual abuse. As in the aforementioned case, the man did not abuse his victims physically, but over the internet.³

Both convictions were labelled by the Swedish police and Public Prosecution Service as an important step in the detection and prosecution of Swedish citizens who abuse international minors via the internet.⁴

The number of Swedish convictions of physical transnational child sexual abuse is limited. In an interview, ECPAT Sweden stated that between 1995 and 2017, eight Swedes were convicted of sex crimes committed abroad. No new convictions have occurred since 2017, however one Swede was convicted for the organisation of livestreams involving the abuse of minors in the Philippines (see above Intermezzo).

During the interview, the Swedish police stated having worked on around fifty international sex cases between 2016 and 2019. They did note that these included both hands-on and hands-off cases. Most cases involved the detection of hands-off offences, due to the ease of investigation. Victim statements are not absolutely necessary, for example, as the available footage can provide sufficient evidence. The police assume that the 40–50 cases investigated thus far form the tip of the iceberg. Due to capacity restrictions, the Swedish police cannot pursue any more cases.

5.2 Legislation and policy

Child sexual abuse is punishable under Swedish criminal law.⁵ The concept of *child rape* was reformulated on 1 April 2005, and it is this article that forms the basis for the criminal strategy against transnational and other forms of child sexual abuse. As of 1 April 2005, it no longer needs to be demonstrated that the suspect used violence and/or coercion. Under Swedish criminal law, it is sufficient to establish that a person has engaged in sexual intercourse with a minor, or that a person has performed comparable sexual acts with a minor. Once established, the person is considered to have committed rape. In this context, a minor is considered somebody under the age of fifteen years (Government Offices of Sweden – Ministry of Health and Social Affairs, 2007).

Swedish criminal law contains two articles that serve to criminalise transnational and other child sexual abuse. These are:

- *rape of a child*, which attracts a prison sentence of between two and six years (Swedish Criminal Code, Chapter 6, Section 4); and

- *gross rape of a child*, which attracts a prison sentence of between five and ten years (Swedish Criminal Code, Chapter 6, Section 4).

Any attempt to commit the above offences or to prepare to commit them (Swedish Criminal Code, Chapter 6, Section 15) is also punishable by law (Amnesty International, 2020).

In Sweden, the purchase of sexual services in any form whatsoever is prohibited by law. The purchasing of sexual services from a minor (in this case, aged under eighteen) is regulated separately by law (Swedish Criminal Code, Chapter 6, Section 9). It is therefore not the seller (in this case, the minor) of sexual services who commits a crime, but the purchaser. This applies not only to the purchasing of services in Sweden itself, but also to those purchased abroad – an important stipulation, as it means that child sex offenders who abuse minors abroad in exchange for payment can still be prosecuted in Sweden. When invoking this penalty clause, any ‘consent’ by the victim is irrelevant, as the purchasing of sexual services at any time is prohibited. The purchasers can therefore always be prosecuted.⁶ The maximum sentence is four years’ imprisonment.

Sweden has extraterritorial legislation, and the principle of ‘double criminality’ applies to many offences committed by Swedes abroad. This means that the offence must be punishable by law both in Sweden and in the country where it was committed. This principle does not apply to transnational child sexual abuse, which is why it can still be prosecuted in Sweden, even if the offence is not punishable in the destination country. All child sexual abuse committed by Swedish citizens abroad can therefore be punished by the Swedish authorities in Sweden itself. Although broad powers exist for prosecuting such crimes in Sweden, doing so in practice is troublesome, primarily because evidence for the crime must be collected in the destination country. This produces a range of problems in practice, and cases often stall due to a lack of evidence.

Another aspect of Swedish extraterritorial legislation is the fact that Swedish authorities can also prosecute people of other nationalities who commit crimes abroad but who live in Sweden (ECPAT, 2018). These include residents of other Scandinavian countries (Nordic citizens) living in Sweden, foreigners living in Sweden, and people who acquire Swedish nationality after having committed a crime⁷ (Swedish Criminal Code, Chapter 2, Section 2).

Although Swedish law offers several ways to prosecute perpetrators of transnational child sexual abuse, there are few ways to impose additional measures after release from prison or payment of their fine. Among other things, this means that convicted child sex offenders cannot be forced to undergo treatment in prison. It is therefore impossible to impose a mandatory hospital order on child sex offenders in Sweden. Nor are offenders listed in a registry, as Sweden has no such registry (Birgersson, 2018). The main reason for the absence of a registry is that it is considered an infringement on the privacy of an individual.

5.3 Strategy

This section describes the Swedish strategy in greater detail. First, a brief description is given of the key agents within the strategy, followed by an analysis of the strategy itself, including both the preventive and treatment elements. Next, the risk-assessment system is discussed, and the section concludes with a brief look at international cooperation.

5.3.1 Agents in the strategy against transnational child sexual abuse

In Sweden, multiple parties are actively involved in combating transnational and other forms of child sexual abuse. The key operators are described briefly below.

Government agencies and NGOs

In Sweden, multiple parties are actively involved in raising awareness of transnational child sexual abuse. On the government side, the *Jämställdhetsmyndigheten* (Swedish Gender Equality Agency) is closely involved in this process. The agency, founded in 2018, aims primarily to promote gender

equality for women and minors. Combating sexual abuse is one element of their strategy, and it is from this angle that they help fight against transnational child sexual abuse. Their key campaign in which the agency participated was the 'Say what you saw' campaign (see Section 5.3.2).⁸

In addition to this government agency, two NGOs are also closely involved in the strategy against transnational child sexual abuse: ECPAT Sweden, and the Childhood Foundation. Both organisations work from the perspective of the victim, and use campaigns in both destination countries and countries of origin to try to raise awareness that child sexual abuse is punishable by law. Both organisations were also involved in the 'Say what you saw' campaign.

Care providers

The largest care provider with respect to potential child/other sex offenders is ANOVA, a specialised department within the Karolinska University Hospital. The ANOVA team is multidisciplinary, and includes doctors, psychologists, psychiatrists, behavioural coaches, and others. The team provides care to anybody experiencing undesirable sexual feelings who wishes to receive support. The team's target group is therefore broader than only those with sexual feelings towards minors, and can include people with violent sexual feelings, for example. In addition to the care offered by ANOVA itself, ANOVA patients can also be referred to other care organisations or to individual psychologists and psychiatrists. ANOVA also manages the PreventTell helpline for people seeking help due to undesirable sexual feelings. ANOVA provides care to people whether they have already committed a crime or not.

The Swedish prison system and probation service, *Kriminalvården*, also offers care services via the SEIF programme. Like ANOVA, SEIF targets a wide range of convicted sex offenders and does not focus exclusively on those who have already abused minors. The SEIF team is also multidisciplinary, and includes psychologists, psychiatrists, and behavioural coaches. Convicted offenders can avail themselves of this care for as long as they are in prison or under post-sentence supervision. Once the supervision stops, so does the SEIF programme.⁹

Investigation and prosecution

In Sweden, the investigation of all transnational child sexual abuse cases is the responsibility of the *Nationella Operativa Avdelningen* (NOA), comparable to the National Unit (*Landelijke Eenheid*) in the Netherlands. The NOA has two investigative teams. The CSA Intelligence Unit generally receives alerts of potential transnational child sexual abuse,¹⁰ and gathers more information where possible. If sufficient information is available, the unit forwards the case to the Cybercrime Unit, who can then take over and investigate further. Neither the CSA Intelligence Unit nor the Cybercrime Unit is exclusively focused on combating hands-on transnational child sexual abuse – a large proportion of their activities are aimed at online child sexual abuse. The regional police units are exclusively focused on sex crimes committed in Sweden itself.

In addition to the police, the *Zweedse gränspolis* (the Customs Administration) is also involved in the strategy against child sex offenders. Especially in cases where an offender known to the police has travelled abroad and returns to Sweden, the customs administration can detain the person at the request of the police. The basis for such detention is on suspicion of smuggling. Customs must have reasonable grounds to suspect smuggling, however, in order to conduct a search of electronic devices and look for signs that a crime has been committed abroad.

Several public prosecutors at the Public Prosecution Service are charged with the responsibility of prosecuting child sex offenders. Just like the police, their mandate is broader than transnational child sexual abuse, and they also regularly prosecute crimes related to online child sexual abuse. National child sexual abuse cases are handled by other public prosecutors, often those handling sexual abuse cases in general.

5.3.2 Strategy

Unlike the Netherlands and the other countries under review, Sweden has no repressive measures in place to deny child sex offenders the right to travel abroad. Once a convicted offender has completed their sentence (either paid a fine or served a prison sentence), they are free and can move about as they please (Birgersson, 2018). It is not possible for the Swedish authorities to impose a passport measure or a periodic reporting obligation. In many cases, not even an extract from the legal proceedings is necessary – such extracts are only required when conducting volunteer work abroad that may involve contact with children.

As mentioned above, the Swedish approach focuses primarily on prevention and the provision of care and treatment. The care on offer targets both potential offenders and those who have already sexually abused minors. The preventive efforts aim primarily to raise awareness of the fact that child sexual abuse is a criminal offence, and that everyone plays a part in the prevention thereof. The key preventive measures are outlined below, followed by a description of the available care.

Preventive measures

To prevent child sexual abuse committed by Swedish citizens, two awareness campaigns are of relevance. The first is the ‘Say what you saw’ campaign, which is primarily aimed at stakeholders active in the travel and hotel industries. The other is the Travel Courage campaign, important in raising awareness among the general Swedish population.

Säg vad du såg – Say what you saw¹

Säg vad du såg – Say what you saw is a campaign involving the Swedish Gender Equality Agency, the Swedish police, ECPAT Sweden, the Childhood Foundation and the Child Safe Movement, among others. The campaign was financed by the Swedish Postcode Lottery and ran for three years, from 2019 until the end of 2021. The campaign targets stakeholders active in the travel and hotel industries, giving courses in various destination countries that educate hospitality-sector staff on the potential signs of abuse. The staff are also called on to report abuse, both to their own local authorities and to those in Sweden. The campaign website explains how local authorities and support organisations can be contacted. The Swedish authorities can be informed on the *Resekurage* (Travel Courage) website, or via a tip line (see below).

The campaign's first year (2019) was viewed as very successful. Various training courses were given, and two cases were uncovered (one in the Philippines and one in Kenya). These cases were transferred by the Swedish Gender Equality Agency to the Swedish police, who further investigate the offenders and the victims.¹² In 2020, the campaign largely ground to a halt due to COVID-19. Travel saw a severe decline, and so potential/other child sex offenders stopped travelling abroad to abuse minors. In order to use the funding as effectively as possible, it was decided to modify the campaign and redirect the resources towards combating online child sexual abuse. In 2021, the campaign continued to prioritise online child sexual abuse. Whether funding will continue to be available after 2021 is unclear. The organisations involved have expressed a desire to continue the campaign into 2022, especially since the volume of international travel will most likely increase again.

Resekurage/Travel Courage¹³

In 2015, the Swedish police launched the Travel Courage programme in conjunction with the Swedish County Administrative Boards, National Methodological Support against Prostitution and Human Trafficking (NMT), and the World Childhood Foundation. The aim of the programme was to raise awareness among Swedish holidaymakers of the fact that child abuse is a criminal offence. Research showed that only one in ten Swedish citizens would know what to do if they suspected abuse, according to an interview with the Swedish Gender Equality Agency.

Swedes are encouraged to alert the police to cases of possible abuse, either by telephone or using the Travel Courage website.¹⁴ The website, which is available in both Swedish and English, allows informers to provide information on the following:

- the location of the incident
- the time of the incident

- the grounds for suspecting abuse
- the appearance of the offender
- the appearance of the victim
- information on other possible witnesses
- information on the informer themselves

Photographs and video footage can also be shared with the police via the website.

The website's launch was widely publicised by the media. The Swedish police also urged holidaymakers to use the website to report suspicions of child sexual abuse abroad. The police look into the received reports, and if there is sufficient cause to do so, an investigation can be started.

The website is regularly re-publicised. A programme evaluation has shown that awareness in Sweden has increased: since the launch of the project, one in three Swedish residents know what to do with suspicions of child sexual abuse¹⁵

Care and treatment

In addition to the awareness campaigns, the Swedish government also invests in care and treatment for potential or existing child sex offenders. The support is not intended exclusively for people who have already committed child sexual abuse, as it is also available to those who feel strongly attracted to minors but have not yet acted on these feelings. The various aspects of healthcare are discussed below. The main specific care providers are ANOVA and *Kriminalvården*.

PrevenTell

In 2012, ANOVA launched a self-help line: PrevenTell, a number that can be called by people who have unwanted sexual feelings and are in search of help. The number is staffed on weekdays from 12-3 p.m. (Vårdanalys, 2019). Outside these hours, callers can leave a message on an answering machine, or send an e-mail. The staff endeavour to make contact with callers/e-mailers within 24 hours.¹⁶ The telephone line is staffed by ANOVA personnel, who use a protocol to speak to those seeking help. The line is conceived as a helpline, and cannot be used to validate unacceptable sexual behaviour. The staff will try to motivate the caller to accept help, either from ANOVA itself or from other providers. In principle, callers can remain anonymous, in which case ANOVA will ensure that the call cannot be traced back to the individual caller. If a caller decides to accept help and makes an appointment with ANOVA, they will eventually need to reveal their identity.

The helpline has proven to be reasonably successful, according to one interview with an ANOVA staff member. Around 4,000 telephone calls have been fielded since the launch in 2012, and around 50% of callers make an appointment with ANOVA for a more in-depth discussion. Around 25% of the 4,000 telephone calls were from people with a sexual preference for minors, including both Swedish and international minors.

ANOVA's care and treatment programmes

ANOVA, part of the Karolinska University Hospital, offers several care and treatment programmes for people with unwanted sexual desires. The programmes cover more than just a sexual preference for minors. Specific treatment plans are drawn up to meet the needs of individual patients/clients, which can consist of individual treatment, group therapy or online consultations. It all depends on what will be most effective for the patient/client.

According to an ANOVA employee, all care programmes are based on cognitive behaviour therapy (CBT), possibly in combination with medication. The rationale underpinning the treatment programmes is that unwanted sexual feelings are a product of other symptoms or conditions, such as depressive or obsessive-compulsive disorders. By targeting the underlying causes of the unwanted sexual feelings, they can be lessened. The search for the underlying cause makes each treatment plan unique and different. Some patients may benefit from a temporary or ongoing combination of CBT and medication, such as testosterone therapy or anti-depressants.¹⁷ Testosterone

is only considered effective in people who feel a strong sexual urge – in people who do not, such treatment will not work, and different medication will be required. Before including medication in a treatment plan, a check is carried out to ensure that the medication will not cause any lasting physical damage to the patient. Medications of this type, including testosterone, can affect the skeleton and other vital functions, according to one ANOVA interviewee.

All treatment plans, both CBT and medication-based, are discussed with the patient and are undertaken voluntarily. No treatment steps are taken without the patient's consent. An important prerequisite for the success of treatment programmes is the patient's willingness to solve the problem. If there is no motivation, the effects will be minimal.

Various treatment modalities are available to patients. Some only have one-on-one consultations, while others participate in both individual and group sessions, either in person or digitally. The ANOVA interviewee said that the online sessions are particularly effective. The reason for this is unclear – ANOVA plans to research the cause in the near future. The duration of treatment varies strongly between patients. Some patients are finished within several months, while others remain in treatment for years. Some patients also regularly return, due to fear of relapsing.

The ANOVA representative stressed during the interview that the treatment provided is relatively successful. Some patients are successfully helped, and will not cross the line to commit unwanted sexual behaviour. The interviewee also stated that the programmes do not work for everybody, and that the possibility cannot be excluded that some patients will go on to commit sex crimes. The provision of care is one side of the coin – patients who commit offences regardless must be criminally prosecuted.

Intermezzo – Proposed National Competence Centre

In September 2020, the Karolinska University Hospital and the Karolinska Institute submitted a joint proposal to the Swedish government for a national centre of expertise for the prevention of sex crimes: the National Competence Center for Issues Related to Unwanted Sexuality and the Prevention of Sexual Violence. The purpose of the centre is to provide individuals who display sexual risk behaviours with quality and effective medical care in order to prevent sexual violence, thus offering a quality boost to the work done by ANOVA. Individuals would be able to access the centre via the Preventell hotline, and the centre could also conduct academic research on current and potential sex offenders with a view to developing effective treatments. The hope is to have founded the competence centre by late 2021 (Karolinska Institute & Karolinska University Hospital, 2020/2021).

The SEIF programme

Care and treatment options are also available to sex offenders who are still in prison, or who are being monitored by the Probation Service. The SEIF programme has been in use since 2018. SEIF stands for 'Sex-offender programme with an individual focus.' Like ANOVA's treatment programmes, SEIF is wide-ranging and targets all those with unwanted or inappropriate sexual feelings. The interviewee estimated that around half of the programme participants had a sexual preference for minors, although no solid figures are available.

Detainees serving a sentence of at least one year are eligible to take part in the SEIF programme – those with shorter sentences are not. Participation in the programme is voluntary. In principle, detainees who do not wish to take part in treatment cannot be forced to do so. A new act was introduced on 1 May 2021 that can be used to 'motivate' detainees to take part in the programme: convicted sex offenders who wish to apply for early release (after two-thirds of their sentence, for example) must agree to follow a treatment plan. Without treatment, early release can be withheld.

The SEIF programme has limited places available, which means that not all detainees can take part. To make a selection, the detainees are assessed on whether their risk of reoffending is low, moderate, or high. Detainees with a high risk are given priority, and are admitted to the programme first. Because these patients take up a large proportion of the available capacity, a shorter programme is currently under development to help detainees with a moderate or low risk of reoffending (see below).

The SEIF programme works similarly to the programmes offered by ANOVA. SEIF care is also provided by a multidisciplinary team consisting of psychologists, psychiatrists and behavioural coaches, and the emphasis of the programme is on addressing the underlying factors that can lead to unwanted or unacceptable sexual behaviour. By removing these underlying factors, they hope to reduce the sexual feelings, according to one officer at *Kriminalvården*.

The programme consists of three phases (Kriminalvården, 2020):

- The first phase looks at the patient's care and treatment needs, and at which factors are causing the unwanted or unacceptable sexual behaviour. The patient is also asked what they would like to have achieved by the end of the programme. The setting, monitoring and achievement of goals is an important component of the SEIF programme. At the end of phase 1, an individual care plan will be ready for the patient.
- Phase 2 focuses on further analysing and changing the patient's behaviour based on dynamic factors that are closely interrelated, such as emotions, relationships, sexual feelings, and attitude. This phase of the treatment process looks at how the patient responds in various situations, how the response is generated, what the effect is, and how it can be modified. The aim is to give the patient greater insight into where such impulses come from, and how they can be more effectively managed.
- Phase 3 focuses on the development of a stable lifestyle, and aims to give the patient tools to prevent relapsing into prior behaviour. If it transpires, for example, that a patient experiences unwanted sexual feelings after excessive alcohol consumption, the patient is given tools to help them avoid drinking. By the end of phase 3, the patient has a plan for the future which should help prevent them from reoffending. The progression between the three phases is shown in figure 5.1.

Figure 5.1 Structure of the SEIF programme

Source: Ecorys, based on documentation from Kriminalvården

The structure and duration of the programme depends on the individual needs of the patient. Patients receive individual support, and take part in group sessions. Low-risk patients can access around 25-40 hours' worth of one-on-one support, and 80-100 hours of group therapy. Moderate to high-risk patients have access to around 40-100 hours' worth of individual support, and 100-250 hours of group therapy.

Patients are eligible for the programme for as long as they are in prison or under some kind of post-sentencing supervision. Once the probation/monitoring period is over, the care stops too. Former patients in need of care can contact their GP, specialist care, or ANOVA.

At the time of the interview (June 2021), no information was available on the effectiveness of the SEIF programme. It will be evaluated soon, by the programme's founders.

The Brief Sexual Offender Program

One *Kriminalvården* interviewee said that alongside the SEIF programme, the prison system is currently developing the Brief Sexual Offender Program.¹⁸ It aims to provide care to patients with a low to moderate risk of reoffending, allowing the SEIF programme to concentrate on medium to high-risk patients. The Brief Sexual Offender Program has a comparable structure to the SEIF programme, with the same phases and the same goal. The main difference is the far shorter duration, which is expected to total around 18-25 hours of treatment.

5.3.3 Risk assessment

Risk assessments are used in both police investigations and prison treatment programmes. Both are discussed below.

Risk assessment in police investigations

The Cybercrime Unit uses a risk assessment to estimate the likelihood of convicted child sex offenders of committing more offences abroad. A small, two-person team has been established within the unit to conduct these assessments. To do so, they use the Kent Risk Assessment Tool (KIRAT). Via a questionnaire, the team leaders assess whether there is a reoffending risk. If so, the person can be placed under 'covert surveillance,' which in concrete terms means that the police will be informed whenever a child sex offender travels abroad or returns to Sweden. The police have no means of preventing the offender's travel. This surveillance measure is implemented in conjunction with other operators, such as the probation service, customs, and LOs.

According to one police employee, is not easy to place convicted offenders on the list who are at risk of sexually abusing more minors abroad. Only those at extremely high risk are placed under surveillance. Because the team is very small, only convicted offenders with the highest risk can be monitored. The police team stated that they were unavailable for an interview, due to a high case load.

Risk assessment in the prison system

As discussed in Section 5.3.2, detainees are selected based on their potential risk of reoffending. They are classified as either low, moderate or high-risk. To assess this risk, the Risks, Needs, Responsivity Assessment is used (RNRA), which makes use of both static and dynamic factors. The focus on dynamic factors – such as social contacts, employment, and finances – is seen as an important part of the assessment, as they can be altered with the right treatment. The static factors – such as age – are fixed and are therefore unchangeable.

The RNRA used was developed by Sweden's own prison system. Before that, international risk assessment tools were used, however they were not considered adequate as they mainly used static factors, and thus gave insufficient insight into the possible risk, according to Swedish prisons. They therefore decided to develop their own method.

Risk of reoffending

The purpose of both risk-assessment methods is ultimately to reduce the risk that offenders will reoffend. Whether they actually do so is still unclear, as no research has been conducted as yet. There is some debate in Sweden regarding the effectiveness of the tools and the prevention of reoffending.

Although reoffending rates among sex offenders in Sweden seem low, the interviewees do have some reservations regarding the statistics. ECPAT Sweden was very critical of the statistics, and raised the question of how often repeat offences were in fact identified. Some believe that offenders learn from their mistakes, and will simply operate differently a second time. It is debatable whether the Swedish authorities pick up on repeat offences, and ECPAT Sweden had the impression that transnational child sexual abuse receives too little attention. Interviewees from *Kriminalvården* noted that the explanation for the low reoffending figures may lie elsewhere, namely in the fact that a relatively large number of first offenders are apprehended, and that part of this group is sufficiently deterred by the current measures. The impact of a prison sentence is such that offenders do not dare to make the same mistake again. However, they do question whether the more frequent offenders show up on the authorities' radar.

5.3.4 International cooperation

Sweden is part of various committees that work to combat transnational child sexual abuse (Global Alliance Against Child Sexual Abuse Online, 2014). From a prevention perspective, Sweden is very active in this regard, however Sweden's role is smaller when it comes to international investigation. The main reason is because it is difficult for Sweden to share information about individuals with other authorities, due in many cases to privacy legislation. This is also the main reason why Sweden

does not subscribe to the Interpol Green Notices system, which the Swedish authorities believe constitutes a privacy violation and is not in line with the protection of individual freedoms. In cases where a Swedish citizen travels abroad, no notice will therefore appear in the system.

Sweden does participate in the Nordic Liaison Officers initiative, however. These LOs can be deployed in destination countries to assist local authorities during investigations, and also report suspected transnational child sexual abuse by Swedish citizens to the Swedish police (see Section 5.5).

5.4 Offender profiles

As mentioned in section 5.1.2, few cases of transnational child sexual abuse are known in Sweden, which makes it difficult for the relevant parties to draw up an offender profile. Interviews with both ECPAT Sweden and the Swedish police reveal that all of the known offenders are male. They do not exclude the possibility of female offenders, however. Aside from the fact that all known offenders are male, further characterisation is difficult. Ages vary, as do the offenders' social and economic backgrounds. The Cybercrime Unit does indicate that the known offenders generally have (or have had) a profession that often brings (or brought) them into contact with minors, such as teaching or the medical profession. As soon as it becomes more difficult for these offenders to come into contact with Swedish minors (e.g. due to retirement), they decide to travel abroad to go in search of minors instead. They have the means to stay abroad for long periods, where they rent an apartment for several months, for example. Some of these offenders form part of international or other networks, with multiple offenders who reside in the same area and support each other, one police interviewee reported.

Intermezzo – Networks

One interview with the Cybercrime Unit looked at a case study: the Swedish police are aware of a group of 8-10 Swedish child sex offenders who meet with each other in Pattaya (Thailand). The Swedish police regards the group as a network of Swedish child sex offenders. The group members share information about existing or potential victims, and investigate how they can make contact with the children. The men also pay ransom for other group members whenever members are arrested by the local police. The group is also suspected of maintaining contact with Norwegian and Danish child sex offenders. The Swedish and Thai police tracked down the group, and discovered that three or four of the men had a permanent residence in Thailand. The group is still in existence, although the men no longer permanently reside in Thailand. The Swedish police found this out when they tried to launch a case against one of the men, and discovered that the group had relocated to Vietnam. This case made the Swedish police realise that networks of this type shift location whenever the police try to intercept their activities.

Both ECPAT Sweden and the Swedish police said that they are mainly aware of the preferential offenders. Their awareness of situational offenders is limited, partly because offences of this type abroad are rarely reported. Interviewees identify this as a blind spot.

The Swedish authorities and other relevant organisations claim to have a limited understanding of offender profiles. They also indicate only limited willingness to work with offender profiles, as it allows potential offenders to be more easily overlooked, and keeping an open perspective will allow many different types of offenders to be apprehended.

Both the police and ANOVA report a clear progression in the tendencies of preferential offenders in particular. Offenders generally start by viewing pornographic material portraying the abuse of minors. Once this no longer produces the desired satisfaction, offenders move on to livestreams, followed by abuse of minors in their immediate surroundings. When this becomes more problematic (due to increased vigilance in the community, or because it is more difficult for the offender to make contact with minors), they progress to abusing minors abroad. The Swedish strategy aims to halt this progression through early intervention and by ensuring that the offender does not develop any further. The care and treatment programmes on offer play an important part in this respect.

Due to the lack of information about both transnational child sex offenders and offender profiles, they are rarely used in the strategy against transnational child sexual abuse.

5.5 Information available on transnational child sexual abuse offenders

The Swedish authorities have little information on repeat transnational child sex offenders, especially if they are not yet known to the authorities. Various initiatives have been developed to gain greater insight into offenders. The key initiatives are the deployment of Nordic Liaison Officers, gathering information via Swedish embassy personnel in destination countries, and the tip line on the Travel Courage website.

Nordic Liaison Officers

Nordic Liaison Officers are deployed as part of the Nordic Police and Customs Cooperation (PTN), an alliance between the police and customs authorities of Sweden, Denmark, Norway, Finland and Iceland. The alliance focuses on stationing Nordic Liaison Officers in various countries worldwide, as well as on the rollout of joint programmes. The Nordic LOs focus specifically on combating organised and undermining crime. The alliance was created to facilitate information exchange among the five countries in order to improve crime-fighting (Council of Europe, 2003). Although the identification of transnational child sexual abuse is not a core task of the Nordic Liaison Officers, they do encounter it. Whenever they identify a case involving a Swedish citizen, they notify the Swedish police, who can also assist in the destination country where necessary.

Embassy personnel

Another potential source of information on transnational child sexual abuse is the personnel at Swedish embassies and consulates in the various countries. Swedish citizens who need assistance from the Swedish authorities can turn to the relevant embassy or consulate. Ideally, the embassy personnel would identify possible signs of child abuse and pass them on to the Swedish police. In practice, however, this is not possible, as privacy legislation prohibits embassy personnel from disclosing information on Swedish citizens to organisations in Sweden. Embassy staff therefore cannot issue reports of potential child abuse by Swedish citizens.

Both the relevant Swedish organisations and ECPAT Sweden are very critical of these laws and procedures. ECPAT Sweden in particular is trying to raise this issue with the Swedish government, asking them to amend legislation to allow this information to be shared between the various organisations. As ECPAT Sweden sees it, it is crucial for Swedish embassy personnel to be able to issue reports.

Resekurage/Travel Courage¹⁹

One final source is the above-mentioned Travel Courage website, created as part of the Travel Courage project (see Section 5.3.2). As described above, the website allows people to inform the police of potential transnational child sexual abuse. Tips are sent to the police directly. Although the campaign has raised awareness among the Swedish population, the tips themselves have triggered only few investigations as yet.

Within the NOA, the CSA Intelligence Unit is the department that reviews the reports. An interview with this department revealed that the number of reports issued since 2015 is limited. It is difficult to say why this number is so low. One theory is that holidaymakers prefer to ignore the matter, rather than getting involved in other people's business and reporting potential abuse. The reports that *are* received are often of little use. The information provided is often scant, and the descriptions of both the offender and victim extremely generic. As a result, it is hard for the police to gain a clear idea of who they should be looking for. In many cases, it is also impossible to ask for clarification from the informer, as they do not provide their contact information on the website. The police thus see no other option than to drop the investigation.

Convicted offenders

One interviewee from the Cybercrime Unit stated that if a person has a previous sex conviction and there is sufficient cause to monitor them, the authorities are permitted to gather information on their travel behaviour. As soon as a person leaves an airport, the police are entitled to ask airlines for the date of the person's return journey. The police can then inform Customs, and ask them to detain the person upon their return. Customs do need cause to suspect smuggling, however. Once this is available, customs can search the person's belongings and check their telephone or other electronics for possible signs of child abuse.

In practice this method is fairly ineffective, mainly because the group of known sex offenders under monitoring is small. Most potential abusers are still unknown, and can therefore not be detained upon their return. The offender group is now also aware of how Customs operates, and make sure that incriminating materials can no longer be found on the devices they carry with them while travelling. It is impossible to establish whether a crime was committed abroad.

5.6 Summary

Based on the information collected and interviews conducted, several conclusions can be drawn regarding the Swedish strategy. The key findings are given below.

- The chosen strategy focuses strongly on the prevention of transnational and other forms of child sexual abuse, and on providing care and treatment to current and potential offenders. Few repressive measures are available under the Swedish strategy. Criminal law allows offenders to be sentenced with a fine or imprisonment, however other measures, such as passport measures, are not possible due to the prioritisation of individual freedoms and strict privacy legislation. Individual freedom also means that Sweden does not participate in several international initiatives, such as mutual information exchange via Green Notices.
- The care on offer is available to people who fear that they may exhibit unwanted sexual behaviour, or who have already done so. In most cases, however, it is offered on a purely voluntary basis. The onus lies with the individual themselves, and there are few methods available to force people to take part in care or treatment programmes. Consequently, the programmes only reach those who are willing to undergo treatment and change their behaviour.
- Many of the care and treatment programmes have not yet been evaluated, which means that no conclusions can be drawn regarding the effectiveness of the approach. There is also debate in Sweden regarding the reliability of statistics regarding reoffenders. According to several of the interviewees, it is entirely possible that reoffenders learn from their mistakes and know how to avoid investigative authorities on subsequent occasions. It is therefore quite possible that convicted child sex offenders do reoffend, but that these offences go unnoticed. These facts make it difficult to evaluate the effectiveness of the strategy.
- Although the focus lies on the prevention of child sexual abuse and repressive measures are fairly limited, there is a clear desire within Swedish society and among the relevant organisations to tighten the measures. Various parties involved in the strategy are arguing for more measures, and their wishes have been accommodated somewhat. Legislation has become more robust over the past twenty years, for example. There are harsher sentences for sex crimes involving minors, the burden of proof in child rape cases has been simplified, allowing for evidence to be provided more easily, and the purchasing of sexual services – including from minors – has been made punishable by law. Receiving care in prison has also been made slightly less optional – offenders are encouraged to take part in treatment programmes in exchange for a reduction in their sentence.
- The investigation, prosecution and subsequent monitoring of transnational child sex offenders is subject to several challenges in Sweden. Firstly, investigative capacity is limited. The NOA teams state having more than enough cases to pursue, although they do indicate that they only see the tip of the iceberg. They are involved with both hands-on and hands-off cases, which means choices need to be made. The monitoring of outgoing child sex offenders is problematic, and is also affected by capacity shortages. Offenders are also becoming more adept, making it difficult to demonstrate reoffence (or the risk thereof). The Swedish authorities also have a limited overview of Swedish citizens who are arrested or convicted abroad for child sex offences.

Endnotes

- 1 This can include countries in South-East Asia (such as Cambodia and Thailand), but also neighbouring countries (such as Estonia, Finland and Norway).
- 2 SVT, 10 January 2013.
- 3 Reuters, 30 November 2017.
- 4 The Local, 10 January 2013; Reuters, 30 November 2017.
- 5 The Swedish Criminal Code – Official Swedish and English version.
- 6 *Säg vad du såg*, n.b. a.
- 7 When they committed the offence, they did not yet have Swedish nationality.
- 8 *Jämställdhetsmyndigheten*, n.b.
- 9 The programme is only accessible to offenders convicted abroad if they complete their sentence in Sweden. If they complete their sentence abroad, they cannot take part in the SEIF programme.
- 10 These tips primarily come from the hotel industry and from Swedish citizens while abroad (e.g. on holiday).
- 11 *Säg vad du såg*, n.b. b.
- 12 In May 2021, the Philippines case was still underway. The Swedish police is seeking the victim for questioning. The Kenya case was dismissed, due to a lack of available evidence with which to convict the offender.
- 13 *Resekurage*, n.b.; *Polisen*, n.b.
- 14 Tourism Review, 5 January 2015.
- 15 <https://www.robinnedvin.com/workjournal/travelcourage>
- 16 PrevenTell, n.b.
- 17 ANOVA, n.b.
- 18 This is a working title, and will be revised in the future.
- 19 *Resekurage*, n.b.; *Polisen*, n.b.

6 Country study: Germany

The German strategy against transnational and other forms of child sexual abuse is similar to that of the Netherlands. It consists of both preventive and repressive measures. Prevention involves a number of initiatives that allow potential child/other sex offenders to seek help. The repressive measures are varied, and include surveillance and support of convicted sex offenders for a certain period following their release. Offenders can also be made to report to the court or other designated authority, and to be included in a registry for convicted sex offenders.

Child sexual abuse is an oft-discussed topic in Germany, and several major cases have led to a desire to introduce harsher sentencing for child sex offenders. The result is a recently adopted and implemented piece of legislation: the Law to Combat Sexualised Violence against Children (*Gesetz zur Bekämpfung sexualisierter Gewalt gegen Kinder*). The law was adopted on 25 March 2021, and came into force on 22 June 2021.

General attitudes towards child and other sex offenders became more critical in the mid-1990s (Meier, 2016), when lots of media attention was devoted to scandalous cases of sexual abuse of underage girls both in Germany and abroad. Influential cases included Marc Dutroux in Belgium and various cases in Germany, in which three girls were sexually abused and murdered by offenders who had previously been convicted of sex crimes. During the same period, there was increased media attention to child sexual abuse in German institutions and shelters. Because of these incidents, the social outcry calling for tougher penalties for these 'dangerous' sex offenders intensified (Meier, 2016).

German politics responded to the outcry, introducing harsh changes to German legislation in 1998 (see Section 6.3.2). In the years thereafter, Germany continued work to improve the legislation against transnational and other forms of child sexual abuse. Recently, however, a new stream of major sexual abuse cases has rekindled the social debate regarding sex offenders, and led to a new legislative proposal for even harsher punishments for transnational and other child sex offenders. The renewed social discussion also takes a critical view of the German courts and the application of existing legal instruments, saying that judges are often too inexperienced with handling sex cases, potentially resulting in the inadequate targeted use of all available legal measures.¹

Intermezzo - Large-scale international child sexual abuse network exposed in Germany

In October 2019, the German police searched the home of the main suspect in a child abuse investigation.² The investigation focused on the distribution and possession of online child sexual abuse material, as well as gross child abuse. The network of suspects was thought to operate internationally, and to concentrate on underage victims in German-speaking countries. The members of the network were thought to have encouraged each other to abuse victims. In June 2020, it was revealed that the German authorities had found approximately 30,000 digital leads, including IP addresses of potential members of the network. It was also announced that 44 victims had already been identified and brought to safety. In July 2021, it became known that four main suspects in the case had received prison sentences of 10-14 years.³

The German social and political debate seems to be limited primarily to Germany itself, with extremely little social or political attention to cases involving German citizens who have committed child sexual abuse abroad. This observation is supported by the fact that the German ministry responsible – the Ministry of Economic Affairs and Energy – has not had a portfolio holder for transnational child sexual abuse since March 2020. The position has been vacant since that time.⁴

6.1 The scope of transnational child sexual abuse

Despite the lack of thorough research into German perpetrators of transnational child sexual abuse, based on a 2010 estimate ECPAT International (2012) posited that 20,000 Germans commit child sexual abuse abroad annually. It is unclear whether this figure represents a combination of preferential and situational offenders, or only one of these two groups. According to ECPAT, the

abuse takes place in countries located in Africa, Central and South America, South and South-East Asia, and eastern Europe.

A 2016 study by ECPAT Germany revealed that between 2005 and 2015, a total of 38 transnational child sexual abuse cases were heard in German courts (ECPAT Germany, 2016). However, in an interview ECPAT Germany stated that these were only the known cases that came before the courts, and that the actual number of cases of transnational child sexual abuse is much higher. There are no other available sources with which to estimate the number of German offenders.

6.2 Legislation and policy

The principal legislative framework that enables German investigative bodies to tackle transnational and other forms of child sexual abuse is the *Strafgesetzbuch* (Criminal Code). The recently introduced Law on Combating Sexualised Violence against Children (*Gesetz zur Bekämpfung sexualisierter Gewalt gegen Kinder*)⁵ is a supplement thereto.

Under the German Criminal Code (*Strafgesetzbuch*),⁶ abuse of minors is punishable by law (see Article 176). A 'minor' is defined as a person under fourteen years of age. The recent legislative amendments stipulate that child sex offenders can be sentenced to between one and fifteen years' imprisonment (previously this was between six months and ten years, see Article 176(1)).

Under article 176(b) of the Law on Combating Sexualised Violence against Children, attempted sexual abuse is also punishable by a sentence varying from three months to five years. The intention to commit abuse is not punishable, however, which means that German investigative bodies cannot prosecute a person based solely on their intention. This works against combating transnational child sexual abuse, as people who make preparations in Germany⁷ cannot be apprehended *before* they travel abroad.

Under Article 176(c) of the Law on Combating Sexualised Violence against Children, gross child sexual abuse is punishable by law if (1) the suspect is aged eighteen or over and has penetrated the minor, (2) the abuse took place in a group (i.e. by more than one person) or (3) the offender has damaged the minor's health or hindered their mental and/or emotional development. The minimum prison sentence in such cases is two years. Sexual abuse of a minor resulting in the victim's death is punishable by a minimum sentence of ten years' imprisonment (Article 176(d)).

According to one academic, Articles 176(a-d) can be used to punish both child sexual abuse in Germany and transnational child sexual abuse. Article 5(8) of the German Criminal Code states that it shall apply whenever the offences listed under Articles 176 et seq. are committed, regardless of where they take place, provided that they are committed by a German citizen. Residents of Germany without German citizenship do not fall under Article 5(8) and can therefore not be prosecuted. The applicability of Article 5(8) does not depend on whether the crime is a punishable offence in the country where it was committed – prosecution from Germany is always possible. In practice, however, this can lead to problems, as German criminal law proceedings require the victim to give testimony in court. Identifying the victim and obtaining their cooperation is not always possible, which prevents the case from being pursued in Germany.

The Law on Combating Sexualised Violence against Children also stipulates special criteria for family and youth court judges (Article 5), who must undergo supplementary training in order to ensure adequate treatment of cases involving the sexual abuse of a minor. Among other things, judges must have regular personal contact with the minor, for example.

Lastly, the Law on Combating Sexualised Violence against Children amends the Law on the Central Registry and Educative Measures Registry (*Gesetz über das Zentralregister und das Erziehungsregister*, the law that governs the German registration obligation for sex crimes). The former modifies the duration for which a person must remain registered in the federal systems, extending the maximum period to 20 years for those convicted of crimes related to child welfare. Convictions for gross sexual abuse of a minor are registered for life.

6.3 Strategy

This section describes the German strategy in greater detail. First, a brief description is given of the key agents within the strategy, followed by an analysis of the strategy itself, including both the preventive and treatment elements. Next, the risk-assessment system is discussed, and the section concludes with a brief look at international cooperation.

6.3.1 Agents in the strategy against transnational child sexual abuse

In Germany, a limited number of parties are actively involved in combating transnational and other forms of child sexual abuse. The key operators are described briefly below.

Government agencies and NGOs

The primary German operator in the specific field of transnational child sexual abuse is ECPAT Germany. Like other national ECPAT divisions, ECPAT Germany focuses on combating and preventing child sexual abuse. Among other things, the organisation offers education on the subject and lobbies for legal reform to enable more effective measures against child sexual abuse.

From within the German government, the work of three ministries touches on the topic of transnational/other child sexual abuse and child protection: the Federal Ministry for Economic Affairs and Climate Action, the Federal Ministry of Justice and Consumer Protection, and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. As mentioned above, the portfolio for transnational child sexual abuse resides under the first of these ministries, but the position has been vacant since March 2020. The other two ministries seem to focus specifically on combating child abuse that takes place in Germany.

Furthermore, in 2010 an independent committee was established to combat child sexual abuse in Germany. This committee – named the Independent Child Sexual Abuse Commissioners (*Unabhängige Beauftragte für Fragen des sexuellen Kindesmissbrauchs*, UBSKM) provides information and education in the field of child sexual abuse, in an attempt to improve legal and other protections for children.⁸ In 2016, the UBSKM also founded another committee for the implementation of independent research into child sexual abuse in Germany: the Independent Commission for the Investigation of Child Sexual Abuse (*Unabhängige Kommission zur Aufarbeitung sexuellen Kindesmissbrauchs*).⁹

The German Youth Institute, funded by the government, also conducts research on child sexual abuse in Germany.¹⁰ The institute's research focuses particularly on child abuse in German residential institutions for minors.

Care providers

Germany has various initiatives offering treatment on a voluntary basis to potential perpetrators of transnational or other forms of child sexual abuse. People experiencing pedophilic or hebephilic¹¹ feelings can report to organisations such as *Kein Täter werden* ('Do not become an offender') and Troubled Desire for obligation-free treatment. This latter initiative is supported by Charité University Hospital in Berlin and is part of the Prevention Project Dunkelveld, which offers confidential free therapy to people with pedophilic or hebephilic feelings to prevent them from ever acting on them. *Kein Täter werden* and Troubled Desire are explained in greater detail in Section 6.3.2.

Investigation and prosecution

The investigation and prosecution of German citizens who are suspected of transnational child sexual abuse is the responsibility of the Federal Prosecutor General (the *Generalbundesanwalt*¹²) and the German Federal Office of Criminal Investigation (the *Bundeskriminalamt*¹³). A study by ECPAT

Germany (2016) among public prosecutors and investigators revealed that between 2005 and 2015, they had pursued 38 criminal cases against German suspects of transnational child sexual abuse.

6.3.2 Strategy

The German strategy against perpetrators of transnational or other forms of child sexual abuse includes both preventive and repressive measures. Firstly this section will look at the key preventive measures: *Kein Täter werden* and Troubled Desire. *Kein Täter werden* (in English: 'Do not become an offender') is a German organisation that has been working to help potential (transnational and other) child sex offenders since 2005. The organisation presents itself as a prevention network, offering free treatment at various locations throughout Germany to people who feel sexually attracted to minors and wish to access therapeutic help. The aid that these people receive either individually or in groups is provided by qualified psychotherapists. Participants in these help programmes are protected by patient-doctor confidentiality.¹⁴

The organisation's goal is to prevent both hands-on and hands-off sexual abuse. The therapy provided by *Kein Täter werden* supports potential offenders in learning to live with their pedophilic or hebephilic preferences, to accept them, and to integrate them into their self-image. The organisation's treatment professionals thus attempt to provide potential offenders with support to enable them to deal effectively with their sexual preferences and lead fulfilling lives. The therapists draw up a personalised treatment plan for each individual.

Since its inception in 2005, *Kein Täter werden* has received over 11,000 reports, which have led to almost 4,000 clinical diagnoses. Over 1800 therapy requests have also been submitted, and 1000 people have commenced their therapy.¹⁵

Another initiative aimed at potential transnational/other child sex offenders is Troubled Desire,¹⁶ which is part of the Prevention Project Dunkelfeld. The initiative was set up by the Charité University Hospital in Berlin, and is run by a team of psychologists.¹⁷ It targets both people who experience unwanted feelings towards minors, as well as those who know somebody who feels sexually attracted to minors. The initiative offers online help to the former group: via a self-assessment, potential offenders gain insight into their sexual feelings, the underlying causes, and potential ways of limiting or mitigating them. The purpose of the project is not to change a person's sexual preferences, but to motivate participants to control and potentially modify their behaviour.

Intermezzo – Components of the Troubled Desire self-assessment

The self-assessment consists of several components. The first module contains questions that help the team to form a general impression of the participant. Questions include those about the participant's socioeconomic and other background (the 'I am' section), their sexual preferences and fantasies (the 'I feel' section), and the consequences that the participant associates with their preferences and fantasies ('I do'). The second module provides the participant with information based on their responses in the first module. For example, participants receive personal feedback on their problematic/other sexual behaviour, and the structure and composition of their sexual preferences is subjected to a deeper examination (what are they triggered by?), as are the situations in which sexual behaviour can be problematic, especially with regard to the presence/absence of mutual consent. The third module is made up of various components, and examines aspects such as acceptance, self-perception, possible triggers and situational analyses.

The responses registered as part of the self-assessment are reviewed by the team behind the initiative. Based on these responses, the team may advise the potential offender to seek professional help. This step is voluntary, however, and participants cannot be forced to seek out or accept assistance. All information shared via the self-assessment is treated confidentially, which means that the information cannot be automatically shared with investigative bodies (Institute of Sexology and Sexual Medicine, 2017). The rationale for this confidentiality is to lower the threshold for those seeking support. In addition to potential offenders, the team also hopes to reach current offenders.

Intermezzo – Results of the Prevention Project Dunkelfeld

The Prevention Project Dunkelfeld was launched in 2005. It provides therapy to people with pedophilic or hebephilic feelings, with the aim of preventing transnational and other forms of child sexual abuse (Beier et al., 2014). Via a media campaign, people with these feelings who have no prior criminal history are encouraged to apply to the PPD. The therapy offered to them is designed to strengthen their self-control, and to reduce the associated dynamic risk factors. The treatment programme lasts for one year.

Between 2005 and 2011, 319 individuals applied for the PPD (Beier et al., 2014). One study showed that the people who received treatment saw an abatement in their emotional deficits, and an increase in their sexual self-regulation. Nevertheless, five of the 25 hands-on offenders who were examined reported ongoing criminal behaviour, despite the treatment. Of the 32 hands-off offenders who were examined, no fewer than 29 reported ongoing criminal behaviour. All in all, however, the researchers concluded that the therapy offered to pedophiles and hebephiles through the PPD can in fact influence the dynamic risk factors for transnational/other child sexual abuse, and reduce the associated behaviours. More research on factors that can predict problematic sexual behaviour is required, however.

The German strategy includes the following repressive measures:

- Inclusion in a registry
- Denial or annulment of a passport, including the introduction of a reporting obligation
- Behavioural surveillance as an additional punitive measure
- Compulsory hospital orders
- Certificate of conduct

Inclusion in a registry

In Germany, it is possible for convicted perpetrators of transnational/other child sexual abuse to be included in a registry for convicted sex offenders after their release. Each federal state (*Bundesland*) has its own registry. These are not regulated federally; each state has complete power over its own registry. In practice, this means that the procedures governing inclusion in the registry, the length of registration, and other obligations vary from state to state.¹⁸ Between 2007 and 2016, all sixteen federal states set up an offender registry (with Lower Saxony as the first, and Hamburg as the last).

These registries are not interconnected, and so information cannot be exchanged between them. The local police in one state cannot consult details in another state's registry, for example. An ECPAT International interviewee stated that it may be desirable for investigative authorities to have access to all registries, in order to determine with greater accuracy whether a certain person already has a record elsewhere. It may also be desirable to have a national registry that combines the data from the sixteen local registries. The introduction of a national, overarching registry has been the subject of political debate, however all initiatives to date have run aground. Some political parties, such as the *Nationaldemokratische Partei Deutschlands* (German National Democratic Party), would like to see the introduction of a national public registry that can be consulted by anybody who wishes to do so. Until now, public availability of this information has met with little support, as it is considered to be contrary to the protection of individuals (which is a constitutional right) (*Bundesverfassungsgericht*, 2017).¹⁹

Denial or annulment of a passport, including the introduction of a reporting obligation

The German Passport Act (*Passgesetz*)²⁰ allows passport applications to be denied (Article 7) or existing passports to be annulled (Article 8), subject to certain conditions. The grounds on which a passport can be denied or annulled are listed under Article 7(1). Sexual abuse (of children or otherwise) is not listed as a reason, and no reference is made to Article 176 of the German Criminal Code. If the passport of a potential or existing offender is to be denied or annulled, alternative grounds must be found. One reason that can serve this purpose is Article 7(1)(1) (if the person constitutes an internal or external security threat to the Federal Republic of Germany). The threat must be so severe as to constitute grounds for the denial of a passport. According to one interviewed academic, invoking this stipulation in the case of potential or current perpetrators of transnational

(or other) child sexual abuse is extremely problematic, and often unsuccessful. To date, there is only one known case in which a passport has been successfully annulled.

Intermezzo – Passport annulment

In 2011, the German police succeeded in having the passport annulled of a convicted transnational child sex offender. The man had abused multiple minors in Thailand, and although the crimes had been committed in Thailand, the man was tried in Germany. During the court case it was decided to have his passport revoked, to prevent him from being able to travel abroad any longer (ECPAT Germany, 2012).

A more effective means of making it more difficult for convicted child sex offenders to travel to another country is the imposition of a reporting obligation following release, which is possible under Article 56(c)(2) of the German Criminal Code. A judge can rule that an offender must report to the court or other designated authority at set times for the length of their probation period, and the article is formulated openly enough so as to allow a very high reporting frequency. If this frequency is high enough, the offender cannot travel abroad without violating the reporting obligation. Article 56(c) can thus be indirectly used to impose a travel ban. It is not known how often this provision is applied in practice by the German authorities, according to one interviewed academic. Reporting obligations are a finite measure, and expire once the probation period is over. The maximum length of a probation period is five years (Article 56(a)(1)).

Behavioural surveillance as an additional punitive measure

The German Criminal Code (*Strafgesetzbuch*) allows for the imposition of behavioural surveillance if a person is at risk of reoffending. All surveillance of this type is governed by articles 68–68(g). Under these articles, a person can be placed under supervision orders after having received a final sentence of at least six months, for a crime that qualifies by law for behavioural surveillance. The risk of reoffending must be demonstrated, however. Behavioural surveillance is a supplementary measure, and is supplementary to a prison sentence. Article 68(b)(1) outlines the possible types of behavioural surveillance. These can include house arrest; a prohibition from visiting certain locations (such as the area surrounding a school); a prohibition from owning certain possessions that allow certain crimes to be committed; or an electronic ankle bracelet. A total of twelve possible types of behavioural surveillance are outlined in the Act. The choice of measure is up to the judge.

Article 68(c)(1) sets a two-year minimum duration for behavioural surveillance, and a five-year maximum. After that time, the surveillance period expires and the offender is free to move about as they please. However, in cases where the offender is considered a threat to public safety, refuses treatment and is at considerably high risk of reoffending, the judge may decide to extend the surveillance period indefinitely (Article 68(c)(2)).²¹

Compulsory hospital orders

Like the Netherlands, the German judiciary is authorised to impose mandatory hospital orders. Such orders are regulated by the Law to Combat Sexual Offences and other Dangerous Criminal Acts (*Gesetz zur Bekämpfung von Sexualdelikten und anderen gefährlichen Straftaten*),²² which explicitly provides for the compulsory treatment of sex offenders, the most important element of which is behavioural change therapy. The underlying rationale is that a person's behaviour and attitude can be particularly influential on their engagement in undesirable sexual behaviour, and that changing these elements will decrease the risk of engaging in such behaviour. Medication can also be prescribed if necessary.

But although the possibility exists in Germany, the system does not always work optimally. The provisions are allocated at federal state level (*Bundesland*), and the number of available treatment placements varies between provinces. Because crimes are processed at federal state level, this is also the level at which sanctions must be imposed. It is therefore not possible to transfer convicted persons from one state to another, which leads to regional differences, according to one academic. Ongoing care can also lead to implementation problems. If the offender takes medication, for example, it is unclear who must monitor the medicine intake once the compulsory hospital order has

expired. Consequently, offenders can easily stop taking their medication. Therapy also ceases at some point, leaving offenders with no professional support to fall back on.

Certificate of conduct (VOG)

If a person is engaged in professional or other activities that may bring them into contact with children, they require a Certificate of Conduct (a *Führungszeugnis* in German). The content of this document is similar to that of a *Verklaring Omtrent het Gedrag* (Certificate of Conduct, VOG) in the Netherlands. The specific criteria applicable to this certificate are set out in the *Bundeszentralregistergesetz*,²³ or the Act on the Central Criminal Register and the Educative Measures Register (BZRG). Any of the applicant's prior convictions under Article 176 of the German Criminal Code will be noted on the certificate of conduct. In practice, these measures are principally imposed on offenders who have committed a crime in Germany. There is a very limited awareness of offenders who committed crimes outside Germany, which is why imposing this measure on them is problematic. The recent legislative changes have altered the length of the registration period in federal systems (including for the certificate of conduct), extending the maximum period to 20 years for those convicted of crimes related to child welfare. Convictions for gross sexual abuse of a minor are registered for life. Previously, these registrations had been limited to a period of ten years (Article 34(1)(2) of the BZRG). After this registration period, offenders are once again free to engage in work or other activities that may bring them into contact with minors.

6.3.3 Risk assessment

Based on the information available both in writing or obtained from interviews, it is not possible to indicate whether, and if so how, German authorities use risk-assessment tools to tackle and/or combat transnational and other forms of child sexual abuse.

6.3.4 International cooperation

The interviews conducted with ECPAT revealed that the German police have stationed police LOs in various countries, who form part of the embassy personnel in the relevant country. There are currently LOs stationed in 32 countries. Their mandate is limited, however, and is primarily aimed at providing assistance in terrorism investigations and in combating drug-related crime. This mandate offers little scope to provide additional aid in researching or combating transnational child sexual abuse, as one ECPAT Germany interviewee said.

Germany participates in the Interpol Green Notices system, and in cases where a known transnational or other child sex offender wishes to leave the country, can therefore issue a warning to the authorities in the destination country. Whether this system is employed in practice, however, is not known. Equally unknown is how effective the German authorities consider the system to be.

According to current information, German investigative bodies do not participate in any other cooperative alliances for the detection or combating of transnational child sexual abuse, as no other such cooperative alliances were mentioned by any of the interviewees.

6.4 Offender profiles

Efforts are underway in Germany to gain insight into the perpetrators of transnational and other child sexual abuse, and to draw up offender profiles. There is currently only limited information available, however various interviewees stated that the group of offenders is far more diverse than the traditional notion of child sex offenders. Offenders can be either male or female. Some offenders have a clear sexual preference for minors, while others have a wider range of preferences and engage in sex with adults as well as minors. As yet, there is little that can be said about offenders' social and economic backgrounds, as these, too, seem to vary considerably.

Specific research was recently conducted on the role of women in transnational and other forms of child sexual abuse, with specific attention to the facilitating role played by women in child sexual abuse (Tozdan, Briken & Dekker, 2019). It is not yet known how the results of the study will be put to use.

6.5 Information available on transnational child sexual abuse offenders

As far as can be established, German investigative authorities seem to have little information on the perpetrators of transnational child sexual abuse. The above-mentioned police LOs are not explicitly mandated to assist with transnational child sexual abuse. They are generally not made aware of potential warning signs, and are therefore unable to take action (either directly themselves, or by alerting other authorities).

NGOs (such as ECPAT) can play a minor role in detecting transnational child sexual abuse involving German offenders. The capacity of most NGOs is limited, however, and they are therefore unable to identify many warning signs. Their role in analysing the scope of the problem is also limited, said one interviewed academic.

It cannot be established whether other opportunities exist to gain information on German perpetrators of transnational child sexual abuse.

6.6 Summary

Based on the information collected and interviews conducted, several conclusions can be drawn regarding the German strategy. The key findings are given below.

- The German strategy currently primarily targets the perpetrators of national child sexual abuse, as a consequence of several major cases of both hands-on and hands-off abuse. Because of this strong focus on the abuse within Germany itself, there is little attention to combating transnational child sexual abuse committed by German offenders. Currently (as at August 2021) there is no portfolio holder for the issue, and the position has been vacant since March 2020.
- The strategy against perpetrators of transnational or other forms of child sexual abuse includes both preventive and repressive measures. Preventive measures are aimed at helping potential offenders. The repressive measures include registration in a registry, reporting obligations, and compulsory hospital orders. Some of the repressive measures can be explicitly imposed on sex offenders (such as the hospital orders and inclusion in the registry), while other measures are of a more indirect nature. The Passport Act in particular produces problems, as it is difficult to establish a relationship between sexual abuse and national internal/external security, making the measure difficult to implement.
- Little is known about the effectiveness of the measures – virtually no statistical data has been collected or published on the application of measures, nor are they evaluated. In addition to the lack of data, the implementation of data can also vary from state to state. Criminal prosecution normally takes place at the level of individual *Bundesländer*, which means that each state can impose their own regulations. This explains, among other things, the various implementation dates of the registries, as well as the variation in how hospital orders are carried out.
- Based on the information obtained, it is currently not possible to draw any conclusions regarding the use of risk assessment instruments, offender profiles, or how much is known about sex offenders abroad.

Endnotes

1 Deutsche Welle, 9 June 2020.

2 NOS, 29 June 2020.

3 NOS, 6 July 2021.

4 This information is based on personal communication with the German Ministry of Economic Affairs and Climate Action.

5 *Bundesgesetzblatt* Online, no. 33, 22 June 2021.

- 6 The German Criminal Code can be viewed via the link below: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p1633.
- 7 Preparations such as booking plane tickets, or exploring the region.
- 8 *Unabhängigen Beauftragten für Fragen des sexuellen Kindesmissbrauchs*, n.b.
- 9 *Unabhängige Kommission zur Aufarbeitung sexuellen Kindesmissbrauchs*, n.b.
- 10 *Deutsches Jugendinstitut*, n.b.
- 11 Those with pedophilic disorder feel a sexual attraction to children without any secondary sex characteristics (such as pubic and/or armpit hair, a small penis, little to no breast development) and who have therefore not yet reached puberty (pre-pubescent children). According to the Online Child Abuse Expertise Centre (EOKM), these children are aged 6-10. Those with hebephilic disorder are sexually attracted to children with some signs of puberty that are not yet fully developed (little pubic and/or chest hair, a slightly developed penis, the onset of breast development). According to EOKM, these children are generally aged 11-14.
- 12 *Der Generalbundesanwalt beim Bundesgerichtshof*, n.b.
- 13 *Bundeskriminalamt*, n.b.
- 14 *Kein Täter werden* prevention network, n.b. a.
- 15 *Kein Täter werden* prevention network, n.b. b.
- 16 *Troubled Desire*, n.b.
- 17 More specifically: Institute of Sexology and Sexual Medicine, Charité University Hospital Berlin.
- 18 An example from Schleswig-Holstein can be viewed at: https://www.schleswig-holstein.de/DE/Landesregierung/II/Presse/PI/2017_neu/Justiz/170720mjevq_ksks.html.
- 19 View the Judgement of the Second Senate of 17 January 2017 here: https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2017/01/bs20170117_2bvb000113en.html;jsessionid=E1089A0BD6F97EE72CCE9D3A2327C0BC.2_cid506
- 20 View the Passport Act via the following link: https://www.gesetze-im-internet.de/englisch_pa_g/index.html
- 21 This applies to all crimes qualifying for behavioural surveillance.
- 22 *Bundesgesetzblatt* Online, no. 6, 30 January 1998.
- 23 View the Act on the Central Criminal Register and the Educative Measures Register (*Bundeszentralregistergesetz*) via the following link: https://www.gesetze-im-internet.de/englisch_bzrg/englisch_bzrg.html#p0194.

7 Country study: Ireland

The Irish strategy against transnational/other child sexual abuse shares similarities with those in Australia and the United States (among others). According to one interviewed academic, the Irish approach is largely based on the measures present in these countries, which have more or less been duplicated. This means that the approach is predominantly repressive, and that strict measures can be imposed on convicted transnational/other child sex offenders. The number of preventive measures is limited: the country has few awareness campaigns, and there are limited avenues for offering care and treatment to existing or potential child/other sex offenders. The treatment programmes that do exist primarily target people who already have a conviction. According to interviewees from the Irish police, these programmes cease once offenders are no longer subject to monitoring by the probation service.

Ireland has a long history of child sexual abuse, especially by the Catholic church (Murphy, 2013). Sexual abuse cases started emerging in the mid-1990s. The abuse could be traced back far into the past (at least to 1960), and involved thousands of victims. The exposure of these abuse cases has led to several far-reaching legislative changes, all of which aim to prevent convicted perpetrators from reoffending (see Section 7.2). Although the abuse cases that were uncovered have caused much outcry in both society and politics, child sexual abuse is a subject that is not discussed in public. Interviewees from an NGO, MECPATHS, stated that to date, it still remains inappropriate in Irish culture to openly discuss the history of abuse. It is common knowledge, but raising the topic for discussion is taboo.

Intermezzo – Ireland's long history of child sexual abuse¹

In 1999, the Irish government launched an inquiry into the scope and consequences of child abuse from 1936 onwards. This inquiry, the Commission to Inquire into Child Abuse (CICA), also known as the Ryan Commission, published its findings in 2009. The ten-year inquiry revealed that children residing in Irish schools, boarding schools and orphanages run by the Catholic church had been systematically sexually abused. Of the around 25,000 children who had lived in these institutions between 1936 and 1999, approximately 1,100 witnesses reported to the Commission. It was not disclosed how many of these witnesses were also victims. In total, over 800 perpetrators of child sexual abuse were identified, although they remained anonymous in the report. According to the Commission's findings, the abuse was allowed to continue for all those years due to a culture of secrecy in these institutions. After the publication of the report, the Irish inquiry established a commission in order to compensate the victims of the abuse financially for their suffering. In 2014, over 15,000 people received compensation totalling €1.5 billion. Legal reforms were also implemented as a result of the research report; in 2011 a Department of Children and Youth Affairs was founded, and the Child and Family Agency Tusla in 2014.

The above applies even more so to transnational child sexual abuse. Although it is a known fact that Irish citizens commit transnational child sexual abuse, the subject is hardly ever raised as part of social or political debate. There are also few known cases, and so media attention is scarce. There was some attention to transnational child sexual abuse in 2018, when parliamentary member Maureen O'Sullivan submitted a bill proposing stronger measures against perpetrators of transnational child sexual abuse (see also Section 7.2). This bill was not (and has not yet been) adopted by the Irish parliament in its proposed form, however, due to a change in government and the COVID-19 pandemic. Both of these events were responsible for a shift in the Irish government's priorities. It is unclear whether the bill will be adopted, and attention to the issue has also disappeared from both social and political debate.

Intermezzo – Ireland scores poorly on the strategy against human and child trafficking

The Trafficking in Persons Report 2021, drawn up annually by the American Department of State, placed Ireland on the Tier-2 Watchlist (US Department of State, 2021). The report ranks countries based on their efforts to identify and combat human trafficking. Countries are assigned to one of four tiers: Tier-1 countries score the highest, followed by Tier-2 and Tier-2 Watchlist countries. The countries that score most poorly are placed in Tier 3. In 2021 Ireland was designated a Tier-2 Watchlist country, an indication that the Irish government does not do enough to combat human

trafficking (US Department of State, 2021). Few suspects of human trafficking were prosecuted, for example, and few victims were identified or given support. In addition to Ireland, Romania was another EU country added to the Tier-2 Watchlist. Transnational and other forms of child sexual abuse can form part of human and child trafficking.

7.1 The scope of transnational child sexual abuse

According to both research by ECPAT International (2018) and interviews with the Irish police and an NGO, very little is known regarding the scope of transnational child sexual abuse committed by Irish citizens. As mentioned previously, there is little general attention to the topic. Only a very limited number of cases are brought before the court, and even these cases generate little media attention. The role of NGOs is also limited: ECPAT has no separate division in Ireland, for example, and neither does Defence for Children. There is one NGO – MECPATHS – that attempts to put the issue on the political agenda, however this organisation primarily targets human and child trafficking. Transnational child sexual abuse is only addressed indirectly. No figures are available from NGOs regarding the scope of transnational child sexual abuse committed by Irish citizens.

The Irish Central Statistics Office does not keep statistics on the number of cases involving transnational child sexual abuse. The available figures on national child sexual abuse are therefore limited – especially those pertaining to the number of offenders – making it difficult to estimate the scope of the problem. Even the police and justice departments have almost no data on the number of transnational/other child sex offenders.

7.2 Legislation and policy

A number of laws and legislative proposals are of relevance to the strategy against transnational/other child sexual abuse. The principal laws are:

- the Criminal Law (Sexual Offences) Act 2017, which criminalises the sexual abuse of minors both in Ireland and abroad;
- the 2001 Sex Offenders Act that imposes measures on the convicted sex offenders after having been convicted under the Criminal Law (Sexual Offences) Act 2017;
- the Sex Tourism Bill, a legislative proposal that intends to impose travel restrictions on convicted sex offenders.

These laws and bills are explained briefly below. For the effects of a number of specific measures, please see Section 7.3.2.

Criminal Law (Sexual Offences) Act 2017

Child sexual abuse is made punishable by law in the Criminal Law (Sexual Offences) Act 2017.² Part 2 of the Act sets out the punishable behaviours and the maximum allowable sentences. If a person has sexual contact with a minor under the age of fifteen, the maximum sentence is a life sentence, which may be reduced at the judge's discretion (Article 16). The same sentencing laws apply to offenders who attempt sexual contact with a victim.

For victims aged fifteen or sixteen, offenders can receive a maximum sentence of seven years. Offenders who are in a position of authority with respect to the victim (such as a parent) can be sentenced to a maximum of fifteen years (Article 17). Here, too, the sentencing is the same for offenders who attempt sexual contact.

Part 7 of the Act regulates issues surrounding the jurisdiction of transnational child sexual abuse, or extraterritorial legislation. Article 42 states that an Irish citizen or resident³ can be prosecuted for certain sexual acts with minors even if the acts were committed in another country. The offences listed include rape and sexual abuse (among others). They do not need to be punishable by law in the country where they were committed – the fact that they are punishable under Irish law is enough to warrant prosecution in Ireland.

However, an important limitation to the above is the principle of double jeopardy.⁴ Article 44 stipulates that a person who has already been convicted abroad for one of the offences listed in the Criminal Law Act 2017 cannot be prosecuted for the same crime in Ireland. If a person has been acquitted of, or discharged from further legal action with regard to a crime, it is no longer possible to prosecute them for it in Ireland (Article 44).

2001 Sex Offenders Act

The 2001 Sex Offenders Act⁵ introduces measures that apply to all who have been sentenced for the kinds of sexual abuse covered by the Act (Article 3(1)). These are: (1) rape, (2) sexual assault, (3) incest, (4) defilement of minors under fifteen years of age, (5) defilement of minors aged between fifteen and seventeen, and (6) other sex acts involving minors or vulnerable persons. Attempts to commit, and/or assisting with the above-mentioned offences are also covered by the Act.

The Act therefore draws no distinction between child sexual abuse and the sexual assault of adults, nor does it distinguish between sexual abuse committed in Ireland or elsewhere. This means that the Act also applies to perpetrators of transnational child sexual abuse.⁶

Intermezzo – Exceptions to the scope of the 2001 Sex Offenders Act

Although the scope of the 2001 Sex Offenders Act is broad, there are several exceptions. See Article 3(2-3). The main exceptions are as follows:

In cases of sexual assault or incest:⁷

- the victim was aged seventeen or over, and
- the offender has never received a prison sentence or other restrictive measure before.

In cases of defiling children aged under seventeen:⁸

- the victim was aged between fifteen and seventeen at the time of the offence, and
- the offender was not more than three years older than the victim.

According to Murphy (2013) and one interviewed academic, the 2001 Sex Offenders Act was introduced after the discovery of many sexual abuse cases in the mid-1990s, particularly cases of sexual abuse within the Catholic church. Society called for a longer period of monitoring following offenders' release from prison. The Act provides more opportunities to do so. Released offenders must register with the Sex Offenders' Register, report planned trips, and disclose their criminal history if they wish to work with children. The Act also allows for offenders to be placed under surveillance for a longer period (see Section 7.3.2).⁹ Responsibility for implementation of the act lies with the Irish police and the probation service (Walker, 2014).

It is important to note that the Act has no retroactive effect, according to one of the interviewed academics. This means that offenders who had already been convicted prior to the introduction of the Act fall outside its scope, and are not required to be listed in the Sex Offender Register. Older offenders in particular, who committed abuse in the past (and who were responsible for the social uproar) remain unaffected by the Act. One instance of this exception was one of Ireland's most infamous sex offenders: Larry Murphy.

Intermezzo – Uproar due to unmonitored sex offenders

In 2001, Larry Murphy was convicted of the kidnapping, sexual abuse and attempted murder of an (adult) Irish woman.¹⁰ Murphy was sentenced to fifteen years in prison, ten of which he served. Because Murphy was convicted prior to the introduction of the 2001 Sex Offenders Act, he was not subject to post-sentencing supervision orders following his release in 2010. The result was major social uproar, as Murphy never showed remorse for his actions during his time in prison, and he did not take part in any inmate treatment programmes for sex offenders, leading to a fear that he would reoffend.¹¹ After his release, Murphy lived at various locations in Europe, and it is unclear where he is currently residing. The lack of monitoring has led to social concern and speculation in the Irish media, all the more because he is suspected of having sexually assaulted multiple female victims.

The 2001 Sex Offenders Act has now been in force for twenty years. A government bill was submitted to amend it in 2018, aimed at tightening several measures and thus further restricting the freedom of convicted offenders¹² – measures which both society and politics had been calling for. Section 7.3.2 examines these amendments in greater detail. The bill has not yet been adopted (as at July 2021), due to a change in government and the COVID-19 pandemic. The latter was particularly responsible for the government's shift in priorities. The interview with the academic who was closely involved in the advisory process surrounding the bill revealed that the proposed bill will most likely be adopted, with the amendments coming into force in mid-2022.

Sex Tourism Bill

In addition to the government proposal, in 2018 a bill was submitted by an individual member of parliament (called a 'private member's bill'). Member of parliament Maureen O'Sullivan submitted a legislative proposal – the Sex Tourism Bill – that would deny convicted child (and other) sex offenders the right to travel abroad.¹³ The bill would also allow for marks to be placed in convicted child sex offenders' passports (comparable to the system in the United States).¹⁴ Ireland would thus become the first European country to make it impossible for convicted sex offenders to travel abroad. The bill has not yet been adopted, however, mainly due to the change in government. The new government seems to be less willing than its predecessor to tighten the strategy against convicted sex offenders.

The Irish government is currently looking at how to proceed with the bill. Rather than being adopted as an independent law, elements of the Bill are expected to be incorporated into the Sex Offenders Act. Exactly which elements these will be is uncertain, according to an interviewed academic. The prospect of a travel ban on convicted offenders seems most promising; it seems less likely that marking passports will be incorporated into the Act.

7.3 Strategy

This section describes the Irish strategy in greater detail. Firstly, a brief description is given of the key agents within the strategy, followed by an analysis of the strategy itself, including both the preventive and repressive measures. Next, the risk-assessment instrument in use is discussed, and the section concludes with a brief look at international cooperation.

7.3.1 Agents in the strategy against transnational child sexual abuse

In Ireland, multiple parties are actively involved in combating transnational and other forms of child sexual abuse. The key operators are described briefly below.

Government agencies

A key government operator is the probation service, which not only helps all former prisoners to reintegrate into society, but also plays a large role in the implementation of the Sex Offender Risk Assessment and Management (SORAM) programme, described in greater detail in Section 7.3.2.

Another government agency involved in the SORAM programme is Tusla, the Child and Family Agency.¹⁵ This organisation focuses on the welfare of child and family, and plays a role whenever child sex offenders are released from prison and return to society. In such cases, the organisation looks at the welfare of children in general: in addition to the interests of the victim, those of other children are also taken into consideration, with a special focus on vulnerable children.

NGOs

Ireland has one NGO that is indirectly involved in the strategy against transnational child sexual abuse: MECPATHS.¹⁶ Although working primarily to combat human and child trafficking, this NGO does see transnational child sexual abuse as one form of child trafficking, and therefore devotes some attention to it. One of MECPATHS' activities is raising awareness in the hospitality industry. It

helps educate hotel-owners in Ireland and abroad, for example, on their potential role in human and child trafficking. Another initiative involves training courses for national support providers who may come into contact with victims of human and child trafficking, such as nurses or social workers. These groups had said they did not know how to deal properly with victims. MECPATHS is a small organisation, and therefore has difficulty putting and keeping the issue (human/child trafficking and all of the associated problems) on the public agenda.

Private parties

Among other organisations, housing associations are also involved in implementing the SORAM programme. After their time in prison, some convicted offenders of transnational/other child sexual abuse no longer have a home, or cannot return to where they previously lived. Those eligible for the SORAM programme can receive assistance from housing associations to find a new place to live. In Ireland, however, this has proven to be a challenge. According to a police interviewee, a major housing shortage has raised questions from society in general as to why a convicted sex offender should be given priority over a citizen with no prior criminal record. As a result, convicted offenders cannot always find a place to live, and some of them live on the streets. Investigation and prosecution

The national unit of the Irish police (*Garda Síochána*) is charged with the detection of transnational child sexual abuse. Investigations are run by the Online Child Exploitation Unit, which deals with both hands-on and hands-off child sexual abuse. Their activities focus mainly on combating hands-off child sexual abuse. Where there are concrete indications that an Irish citizen is involved in transnational child sexual abuse, the unit will take on and investigate the case, however most of their time is devoted to addressing online abuse.

In addition to the detection of transnational/other child sexual abuse, the *Garda Síochána* is also involved in the post-sentencing care of convicted offenders. Much of the implementation of the 2001 Sex Offenders Act is the responsibility of the Sex Offender Management and Intelligence Unit (SOMIU), a team that monitors, among other things, whether released child sex offenders are listed in the registry, and whether they adhere to the statutory requirements. A specific component of the 2001 Sex Offenders Act, the implementation of the Sex Offender Risk Assessment and Management (SORAM) programme, is the responsibility of the National Sex Offender Risk Assessment and Management Office.

The Garda National Immigration Bureau – also part of the police – is stationed at the Dublin international airport. Its tasks include monitoring the travel behaviour of previously convicted transnational and other child sex offenders, for which it uses data from the convicted sex offender register. Whenever a convicted offender appears on a passenger list, the bureau relays it to the national police unit, who checks whether the offender has reported the journey, and whether the destination country needs to be alerted by means of a Green Notice. It should be noted, however, that alerting a destination country can be problematic in the case of transnational child sexual abuse, as Ireland offers no direct flights to ‘popular’ countries.

Several officers within the Irish Public Prosecution Service are charged with the responsibility of prosecuting child sex offenders. Just like the police, their mandate is broader than just transnational child sexual abuse, and they also regularly prosecute crimes related to online child sexual abuse.

7.3.2 Strategy

There are few awareness campaigns in Ireland. According to the available information, there are no campaigns aimed explicitly at raising awareness of transnational child sexual abuse. This may be related to the limited attention to the issue in both social and political debate. Ireland recently joined the *Stop it Now!* initiative, however.

Stop it Now! UK and Ireland⁷

In May 2021, Ireland joined the *Stop it Now!* initiative, an international campaign aimed at preventing child sexual abuse. The initiative is aimed partly at existing and potential victims and their families, and partly at existing and potential child sex offenders. It provides confidential support to anybody wishing to express their concern for child sexual abuse or who is experiencing unwanted sexual feelings. In this sense, it is comparable to the *Stop it Now!* initiative in the Netherlands. Those seeking assistance can make contact via a telephone number, live chat or an e-mail address. All communication is confidential and secure.

The initiative primarily focuses on Ireland itself, however existing or potential offenders of transnational child sexual abuse can also use the helpline. The initiative also targets the prevention of both hands-on and hands-off abuse. Because the initiative only launched very recently in Ireland, no conclusions can yet be drawn regarding its effectiveness. Police interviews have revealed that expectations of the programme are high, and there is hope that it will help prevent transnational and other forms of child sexual abuse.

Repressive measures

Most measures available in Ireland can be qualified as repressive, as they can only be imposed after a crime has already been committed. The measures primarily aim to 1) ensure that offenders can be monitored following their release, and 2) reduce their likelihood of reoffending. In addition to reducing the likelihood of reoffending, some of the measures are aimed at providing treatment, especially with learning to recognise and suppress the impulses that lead to sexual misconduct.

The following measures are available in Ireland:

- Registration in the Sex Offenders' Register, and the obligation to report intended travel
- Imposition of a Sex Offender Order
- Reporting obligation for convicted offenders who wish to work with children
- Admission to the Sexual Offender Risk Management Program
- Treatment programme: Building a Better Life

Registration in the Sex Offenders' Register

Under the 2001 Sex Offenders Act (Part 2, Articles 6-14), convicted child sex offenders must go to the police and lodge with the register within seven days of their release. Registrations are monitored by the police Sex Offender Management and Intelligence Unit (SOMIU).¹⁸ The register is only accessible by investigative bodies. Convicted offenders who do not register are liable for a fine or a new prison sentence.¹⁹ In addition to the offender's name, the register also includes their address and other personal information, such as their motor vehicle and employment details.

Intermezzo – Length of inclusion in the register

The length of time for which convicted sex offenders must be included in the register varies depending on their crime (Article 8(3), 2001 Sex Offenders Act). The following registration periods apply:²⁰

1. Lifelong registration for offenders who receive a lifelong prison sentence, or a sentence of two years or more;
2. Ten years for offenders who receive a prison sentence of between six months and two years, or five years for offenders aged under eighteen;
3. Seven years for offenders whose prison sentence was less than six months, or three-and-a-half years for offenders aged under eighteen;
4. Five years if the prison sentence was suspended or no prison sentence was imposed, or two-and-a-half years for offenders aged under eighteen.

After registration, offenders are also required to update their information if anything changes, such as provide a new address when they move house. Offenders must also report any travel plans at least seven days before their intended departure. This rule only applies to international trips lasting seven days or longer – shorter journeys do not need to be reported. The purpose of these reports is purely to inform the police. In principle the police cannot prohibit the intended travel, unless there is

just cause to believe that the offender will reoffend (see below). According to current information, however, the police can decide to alert the authorities in the destination country. In the case of offenders who have sexually abused minors in the past and intend to travel abroad, the police will generally issue an alert.

If the police have cause to fear that the convicted offender will sexually abuse minors abroad, they may ask the court to impose a travel ban via what is known as a 'Section 16 order.' The evidence to do so must be extremely strong, however, and in practice no travel bans are ever imposed. Still, the Irish police do claim to ask the courts with some regularity whether such an order might be imposed.

As stated previously, several legislative changes are currently under consideration. Under the updated registration and reporting obligations, convicted offenders will need to report shorter journeys abroad, with a requirement to report all journeys of three days or longer (instead of seven days). Based on the interviews conducted, this legislative change seems fairly certain.²¹

It also seems fairly certain that Ireland will make it easier to prohibit travel for convicted offenders. Even under the new law, the Irish police will still need to request a travel ban from a judge, but it is expected that by legislating the possibility, judges will be more likely to impose it. The amendment will not be implemented as a separate law, as previously proposed, but integrated into the revised Sex Offenders Act.

Imposition of Sex Offender Orders

The 2001 Sex Offenders Act (Part 3, Articles 15–24) provides for additional measures to be imposed where there is just cause to suppose that a convicted offender will reoffend. The principal goal of these measures is to protect society from convicted offenders and potential relapse (Cotter, Doyle & Linnane, 2005). Section 16 orders have already been described above. However, the possible measures extend far beyond merely requesting a travel ban, and also include house arrest, prohibition from residing or entering certain areas, and prohibition from engaging in certain activities or owning certain possessions, especially those related to the offender's prior modus operandi. One police interviewee cited the example of owning a dog. In that specific case, the offender used a dog to establish contact with minors, and so the offender was prohibited from owning a dog in order to prevent possible reoffending. 'Sex offender orders' thus have a broad scope, can include a range of different measures, and vary from case to case. The initiating body for a sex offender order is the Irish police. Generally the application runs via the SORAM team (see below), however other police units can also request an order. The request must always be submitted to a judge, who will decide whether the order will in fact be imposed. The judge also sets the duration of the order. The maximum length of an order is five years, however there are options to extend it. No legislative amendments have been proposed for this section of the 2001 Sex Offenders Act.

Reporting obligation for convicted offenders who wish to work with minors

The 2001 Sex Offenders Act (Part 4, Articles 25 and 26) also stipulates that convicted child sex offenders must disclose their criminal history to future employers if their work may bring them into contact with minors: specifically, contact with minors that is not supervised by a third party, such as a colleague or a manager. Neglecting to disclose this information leads to sanctions, such as a fine or prison sentence.

The current legislation stipulates that convicted offenders only need to disclose their history if they come into *unsupervised* contact with minors during the course of their duties. This provision is seen as an omission, and the current proposals state that convicted offenders must always report their history of abuse if there is a possibility that their work may bring them into contact with minors at all. If these changes are implemented, it is no longer relevant whether the potential contact with minors is unsupervised or not – the employer must always be informed. There is a strong expectation that this amendment will be adopted, as there is little support for the current formulation in either social or political circles, due to the potential danger to minors (even where there is third-party supervision).

Admission to the Sexual Offender Risk Management Program

One final measure introduced by the 2001 Sex Offenders Act regards the admission of offenders to a post-release supervision programme (Part 5, Articles 27-33), implemented practically as the Sexual Offender Risk Management Program. Every released sex offender is assessed to determine whether they should be admitted to the programme, and under what conditions. Some sex offenders will require stricter surveillance than others. To decide, a risk assessment is carried out to determine the likelihood of reoffending.

Perpetrators with a low likelihood of reoffending are generally monitored by one body, such as the probation service or the police (this is called a 'single-agency' approach). This agency will then regularly check in with the released offender to see how they are doing. Of the approximately 4500 offenders in the register, around 90 per cent are in this category. The remaining 10 per cent (around 450 individuals) are those who received a higher risk assessment, and were admitted to the more extensive SORAM programme. The SORAM programme is described as a 'multi-agency approach,' in which parties from various disciplines meet to determine the best strategy.

Intermezzo – Parties involved in the SORAM programme

Various parties are involved in the implementation of the SORAM programme. Two who are always involved are the police and the probation service. Other parties who are regularly involved include:

1. *Child and Family Agency Tusla*. Tusla is informed whenever a child in the vicinity of a convicted child sex offender is at risk. These may be children whose identity is known, or children who have yet to be identified. As part of its mandate to carry out child-protection assessments, Tusla can perform scans of the residential area of both the child and the offender, to investigate whether the environment is safe for the child(ren) in question.
2. Local housing associations. These associations provide those in need with accommodation, including sex offenders.
3. The prison system. The prison system is asked to participate in the SORAM programme in cases where the offender in question is still in detention, or is to be detained again due to violating the conditions of their release.

The SORAM programme is implemented by one national team and 28 local teams. The national team is part of the National Unit of the police, and is located in Dublin. The team mainly oversees the programme's implementation, and is responsible for ensuring that the various local approaches are as consistent as possible. To this end, the local teams must report on their strategies, so that the national team can draw up guidelines and, if necessary, propose and implement changes to the overall approach.

The actual monitoring takes place at local level. Released offenders are allocated to one of the 28 local teams, which will draw up a management plan. Generally, an offender will be allocated to the team active in their residential area. This management team will then supervise and support the convicted offender during their reintegration into society. If necessary, the local team may request additional measures. If the offender fails to adhere to the agreements made, the team can apply to the judge for a sex offender order. A team meeting will be held to discuss the convicted offender's progress, and whether interventions are necessary. As a rule, offenders are discussed every 6-8 weeks. This frequency may be increased, however, especially when offenders end up in a crisis situation (due to drug use or alcohol consumption, for example). In such cases, the team may decide on weekly progress monitoring.

Intermezzo – Characteristics of offenders in the SORAM programme

The SORAM 2020 annual report²² stated that in that year, 172 sex offenders were under SORAM's supervision (SORAM, 2020). These offenders were between nineteen and 77 years old, and included 172 men and one woman. Seventy-nine per cent of offenders are in Category A, and 21 per cent in category B. Twenty-four per cent of offenders scored 'high' or 'very high' on the RM2000 reoffending risk assessment. Fifty-six per cent had a 'medium' score, and fifteen per cent scored 'low.' For three per cent of offenders, the RM2000 was not a suitable risk-assessment instrument (SORAM, 2020). The RM2000 cannot be applied if the offender is female, or aged sixteen or below, for example.

In addition to monitoring by the police, the probation service or a local SORAM team, convicted sex offenders can also be allocated a support person from the Circle of Support,²³ an initiative by the probation service. A Circle of Support is made up of trained volunteers, all of whom act as a kind of 'buddy' for the offender. The volunteer will generally make weekly contact with the offender, and support them in their reintegration into society. If the volunteer believes the offender is likely to reoffend, they are obligated to report it to the probation service so that action can be taken.

One of the challenges faced by the current SORAM programme is information exchange. Some of the parties involved fall under the Irish Ministry of Justice (such as the police and the prison system). These parties can share information with one another to a certain extent, but information exchange with other parties is more difficult. Signed agreements are currently in use, however they are not always adequate. Those in the programme try to work as much as possible on a need-to-know basis; every party has enough information to fulfil their responsibilities, but no more than that. The upcoming amendments will make the SORAM programme and the multi-agency approach an explicit part of the Act. The main advantage of this inclusion is that information exchange will be provided for by law, allowing parties to share data more easily.

Treatment programme: Building a Better Life²⁴

In addition to the measures listed above – all of which are legal in nature – the Irish government also offers a treatment programme titled 'Building a Better Life' (BBL). Convicted sex offenders can participate in the programme voluntarily while serving their prison sentence. The purpose of the programme is to make offenders aware of their own behaviour, and of the circumstances that can lead to unwanted sexual feelings and behaviour. Participants also learn how to alter their behaviour, so that they do not commit another sex offence in the future. The programme therefore aims to prevent relapse. Psychologists involved in the programme report that offenders who participate are three-and-a-half times less likely to commit another sex offence than those who do not.²⁵

Not all convicted offenders are eligible for the programme. To qualify, an offender must fully confess their guilt, acknowledge the harm caused to the victim, be of stable mental health, and have been sentenced to prison for at least eighteen months.

Recent figures show that fewer and fewer detainees are taking part in the programme. In 2014, around 21 per cent of sex offenders took part, compared to twelve per cent in 2020. Of the 443 offenders who were released between 2017 and 2020, 55 participated in the programme. This drop is of concern to Irish politics, as it means that more convicted offenders will be released without treatment, constituting an additional risk to society. It is unclear whether additional measures will be taken.

7.3.3 Risk assessment

The key risk-assessment moments in the Irish strategy are at the outset and during the SORAM programme. The risk assessment is used to determine whether an offender should fall under the multi-agency approach, or whether they can be managed by a single organisation. To determine the offender's risk category, the Risk Matrix 2000 tool is used (RM2000).

Intermezzo – The RM2000

The Risk Matrix 2000 (RM2000) was developed to assess the likelihood that adult male sex offenders will reoffend. To do so, it uses three scales: one to assess the risk of reoffending via a sex crime (RM: Sexual), one for reoffending via a violent crime (RM: Violent) and one for a combination of sex and violent crimes (RM: Combined). There are four possible risk categories in each scale: 0 (low risk), 1-2 (moderate risk), 3-4 (high risk) and 5-6 (very high risk). To decide which category to place an offender in, the RM Sexual form looks first at the age of the offender, the number of sex offences, and the number of other offences. Next, the form looks at what are called 'aggravating factors', namely whether (1) there was a male victim, (2) the victim was a stranger, (3) the offender has never been married and (4) the offender had committed any prior hands-off offences. If any two of these aggravating factors are present, the offender moves up one category on the RM Sexual scale. If all

four factors are present, the offender goes up two categories. This method is used to assess the offender on all three scales, after which the scores are presented in a matrix. Based on the three scores on these three scales, a general reoffending risk is determined using a scale between 0 and 6 (Kingston, Yates, Firestone, Babchishin & Bradford, 2008).

Offenders who score 'medium' or 'high' on the RM2000 are also assessed using the 'Stable and Acute 2007' tool (Risk Management Authority, 2019). The Stable section looks at what are known as 'stable dynamic factors,' or factors that can change (i.e. are dynamic) but that generally remain stable for longer periods (such as months or years). This section defines thirteen criteria that can be assessed, which include the offender's capacity to maintain stable relationships, a lack of empathy towards others, or a hostile attitude to women. Three of the thirteen criteria relate specifically to child sex offenders: emotional identification with children, deviant sexual feelings, and sexual preoccupation. Each of the thirteen criteria are assessed on a three-point scale, with the following risk categories:

- 0 – no problem/risk
- 1 – limited problem/risk
- 2 – significant problem/risk

The Acute section looks at dynamic factors that can change suddenly – within several days, or even hours. It focuses on seven criteria, including access to victims, emotional collapse, collapse of social supports, and rejection of supervision. Each of the seven criteria are assessed on a four-point scale, with the following risk categories:

- 0 – no problem/risk
- 1 – limited problem/risk
- 2 – significant problem/risk
- IN – immediate intervention necessary

A combination of the above analyses constitutes the basis for the monitoring and management of convicted offenders. The analyses are applied to convicted offenders of transnational child sexual abuse, although they were not designed specifically for this group. It cannot be said whether this problematises the applicability of the instruments.

7.3.4 International cooperation

According to the Irish police, it is possible under Irish legislation to warn authorities in potential destination countries that convicted child sex offenders are planning to visit that country, due to the reporting obligations of convicted offenders who are listed in the registry. Alerts are sent via Green Notices, which are issued by the Irish police, specifically by the Sex Offender Management and Intelligence Unit (SOMIU). The capacity and willingness of the foreign authorities receiving the alert will determine whether any action is taken as a result. Green Notices do seem to be a relatively effective instrument, as some offenders whose arrival abroad is announced are sent back, according to the Irish police.

Currently, Irish international cooperation focuses mainly on issuing alerts. There is a need to expand and strengthen cooperation, however one academic reported a number of hurdles. Firstly, information exchange is difficult, which means that Irish authorities cannot always share the data necessary to apprehend offenders. Secondly, the Irish police force is suffering from capacity problems, making it impossible to station Irish police employees abroad. Making extensive contributions to international investigations is also problematic, as the police must give priority to national cases. Lastly, setting up international cooperation requires time and effort, the effectiveness of which can vary strongly between countries. Ireland has now decided to intensify cooperation with countries in its immediate vicinity (other EU countries and the United Kingdom), and to expand from there.

7.4 Offender profiles

Little is known in Ireland about the offender profiles of transnational or other child sex offenders. Various interviews have revealed that most are male, however their age and socioeconomic

backgrounds are not clearly defined. Ireland also conducts little research on the characteristics of transnational/other child sex offenders. Several experts do say, however, that some child sex offenders known to the police and justice system are now active as missionaries in countries such as Africa.

The extent to which the profiles of child sex offenders differ from those of offenders of associated crimes cannot be determined, due to a lack of information. As a result, offender profiles are not used in the identification or tracking of potential transnational/other child sex offenders.

7.5 Information available on transnational child sexual abuse offenders

An interviewee from the Irish police stated that the Irish authorities have little insight into Irish transnational child sex offenders. Where possible, cooperation with other countries is sought in order to establish whether Irish citizens are committing child sexual abuse abroad. One police interview revealed that the effectiveness of cooperation varies between countries. The Thai police, for example, have a specialised unit that focuses exclusively on investigating child sexual abuse committed by foreigners. The unit forwards suspicions involving Europeans to Interpol, who in turn alerts the relevant member state. Multiple suspicions of this type have been received by the Irish police, which were subsequently investigated. Not all destination countries cooperate in this manner, making it more problematic for the Irish police to identify cases.

In addition to cooperating with destination countries, the Irish police also maintains close ties with investigative bodies from other countries of origin. Several South-East Asian countries have LOs from the United States (FBI), Australia (AFP), and the United Kingdom. These LOs provide the Irish police with leads on Irish offenders. Ireland itself has no LOs stationed in potential destination countries, due to a lack of available police capacity.

Lastly, the Irish police try to gain information from within Ireland itself on possible child sexual abuse in foreign countries. One way of doing so is to view material posted online (including photographs and videos). If the police can prove that the offender is an Irish national and the abuse was demonstrably committed abroad, then the offender can be prosecuted for transnational child sexual abuse in Ireland. It is not necessary to establish the identity of the victim under Irish law, nor does the victim need to testify to have an offender convicted. Although it is possible to prosecute someone for transnational child sexual abuse without identifying the victim, in practice it does prove difficult to gather sufficient evidence otherwise, primarily due to an inability to demonstrate that the offender is Irish.

Another method used by the police to obtain information remotely on transnational child sexual abuse is via active partnerships with several Dublin-based payment services, such as PayPal and Western Union. Both parties view international transactions, and inform the police of any suspicions of child sexual abuse. It is not known how many such leads have led to cases.

Although the Irish police use multiple strategies to gain insight into offenders of transnational child sexual abuse, in practice these offenders remain difficult to identify.

7.6 Summary

Based on the information collected and interviews conducted, several conclusions can be drawn regarding the Irish strategy. The key findings are given below.

- Child sexual abuse is a touchy subject in Ireland, one that is little-discussed in social and political debate. There are occasional times when the discussion takes place, however it usually dies down again. One example of such a time is when the legislative proposals were submitted. Their submission prompted much social attention to the subject, but now that the proposals are no longer prominently featured in the media, social interest has waned.
- The scope of the issue of child sexual abuse is difficult to estimate due to the lack of available data, particularly regarding transnational child sexual abuse. It is also difficult to pinpoint the effect of the various measures that can be imposed on sex offenders, as little to no statistics are

collected. The Irish authorities also have little to no overview of Irish citizens who are arrested or convicted abroad for child sex offences.

- The Irish strategy is primarily repressive, and focuses on harsh punishments for child sex offenders. Not only can long prison sentences be imposed, but offenders can be placed under post-sentencing orders after their release. The surveillance can be for a fixed or indefinite period, depending on the severity of the abuse. Offenders who have sexually abused minors are generally added to the Sex Offenders Register. There are also various additional measures, such as an obligation to report intended travel, and also to disclose criminal history when performing work that could involve contact with minors.
- Several legislative amendments are imminent in Ireland, which will serve to tighten up the existing measures. The duration of journeys that must be reported will be reduced from seven days to three, and stricter requirements will be set for convicted offenders who work with children. In addition to strengthening existing measures, several new measures will also be introduced, allowing for travel bans to be imposed more easily, and for passports to be marked if deemed necessary. Exactly how many of the newly proposed measures will be legally adopted is still unclear.
- Child (and other) sex offenders at a high risk of reoffending can be placed under a strict surveillance programme: the SORAM programme. Offenders are monitored and can be subject to various restrictions. Various parties work closely together on the programme. Their goal is twofold: to protect society, and to offer offenders the chance to build up a new life. Released sex offenders are also placed into a buddy programme, where they receive support from a trained volunteer who helps them to re-integrate into society.

Endnotes

1 Child Rights International Network, 14 January 2020.

2 The Criminal Law (Sexual Offences) Act 2017 can be viewed at: <http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html>.

3 A person with a nationality other than Irish, but who is a permanent resident in Ireland. A person is considered a permanent resident if they have lived in the country continuously for at least 12 months.

4 The *ne bis in idem* principle.

5 The 2001 Sex Offender Act can be viewed at: <http://www.irishstatutebook.ie/eli/2001/act/18/enacted/en/html>.

6 Citizens Information, n.b.

7 This exception means that an offender whose victim was aged 17 or over at the time of the offence does not need to be added to the register, provided that no prison sentence was imposed. If the offender only receives a fine, or if no sanction is issued at all, the offender does not fall under the scope of the Act.

8 This exception applies to young offenders. The reasoning is that an offender who is within 3 years of the victim's age should not fall under the scope of the act, as the measures are regarded as too harsh (based on interviews with an academic and the police).

9 Citizens Information, n.b.

10 Independent, 12 August 2010.

11 Independent, 12 August 2010.

12 The Irish Times, 29 November 2018.

13 Independent, 27 December 2017.

14 Independent, 27 December 2017.

15 Tusla, n.b.

16 MECPATHS, n.b.

17 Stop It Now!, n.b.

18 Citizens Information, n.b.

19 If offenders fail to report changes to their circumstances, the following sanctions can be imposed: (1) Via summary proceedings: a fine of up to €5,000 (Class-A fine), a prison sentence of up to 12 months, or a combination of both; (2) via regular court proceedings (following a charge): a fine of up to €10,000, a prison sentence of up to 5 years, or a combination of both.

20 Citizens Information, n.b.

21 The main reason for shortening the period is because the United Kingdom has also reduced its reporting period from seven to three days. Because Ireland aims to align with British legislation, the period was adjusted in Ireland as well.

22 The SORAM annual report is an internal document (not publicly available).

23 Circles of Support and Accountability, n.b.

24 RTE, 15 February 2021.

25 RTE, 15 February 2021.

8 Country study: Australia

Australia is one of the few countries that has specific legislation aimed at reducing and combating transnational child sexual abuse (Curley, 2019). Transnational child sexual abuse has been on the social and political agenda in Australia since the 1990s, and various laws have been adopted since that time with the aim of combating the phenomenon (ECPAT International, 2013). Australian policy focuses on preventing repeated offences and acts of retribution.

Interviewees repeatedly stated that Australia's island geography helps to combat transnational child sexual abuse, since border controls are unavoidable. The rationale in Australia is based strongly on the notion that as a 'country of origin' (i.e., a source of offenders), Australia has a moral and ethical obligation to combat transnational child sexual abuse.

Late last century, travel became simpler and less expensive, increasing the opportunities for transnational child sexual abuse, said one interviewed academic. When Australia's position as a 'source country' became more apparent, societal pressure to combat the phenomenon rose accordingly (McNicol & Schloenhardt, 2012). Since that time, various laws have been adopted and a broad palette of measures introduced as a result.

Despite the fact that transnational child sexual abuse has been the subject of public debate in Australia for over twenty years, child sexual abuse on Australian soil has remained relatively underinvestigated. There has been more attention to the issue in recent years. In 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse was instituted to conduct research on sexual abuse of minors in Australia, and in 2019 the Australian Centre to Counter Child Exploitation (ACCCE) was established to combat child sexual abuse,¹ with a focus on preventing abuse within Australia.

Over the last ten years, the social debate in Australia has focused primarily on the sexual abuse of minors within Australia, and less on transnational child sexual abuse. The interviewees believe this may have to do with the Royal Commission. The COVID-19 outbreak also seems to have played a role, as it has sharply reduced opportunities to travel abroad.

8.1 The scope of transnational child sexual abuse

The scope of transnational child sexual abuse perpetrated from Australia is difficult to determine, the more so because of the limited insight into the group of first-time offenders (who, as such, are not yet on the radar of the authorities). Australian policy primarily aims to punish and monitor convicted offenders of transnational child sexual abuse. The interviewed parties, however – including an academic and the Home Office – suspect that this group constitutes only part of the total group of transnational child sex offenders. The predominant theory (among academics, the Home Office and others) is that a large proportion of transnational child sex crimes are committed by people who have never before been convicted.

The year between June 2019 and June 2020 saw 30 criminal cases that prosecuted suspects for committing (or preparing to commit) transnational child sexual abuse. Ultimately there were ten convictions (US Department of State, 2020). The reasons for lack of a conviction often include insufficient evidence or a lack of witnesses, according to one academic. Compared to other countries, Australia is reported to prosecute a relatively large number of people for transnational child sexual abuse (McNicol & Schloenhardt, 2012). Nevertheless, experts say that the existing prosecutions and convictions are only the tip of the iceberg when it comes to the total number of transnational child sex offenders (Curley, 2019). They estimate that much transnational child sexual abuse goes undetected.

Based on the National Child Offender System, the Australian Federal Police has drawn up a list of the top ten most popular destination countries among convicted Australian transnational child sex offenders in 2013 and 2014. At the top of the list was Indonesia (with 225 registered travellers), followed by New Zealand (122 registered travellers), Thailand (118 registered travellers), Singapore

(100 registered travellers) and Malaysia (73 registered travellers). Flights to these destinations are relatively cheap, there is a large available 'pool' of minors, and offenders in these countries can make use of organised networks (ECPAT International, 2016). Australian offenders also take advantage of the limited surveillance and poor legislative frameworks in these countries.

In total, 876 registered sex offenders travelled to these ten countries over a twelve-month period (2013–2014) (ECPAT International, 2016). It is important to note here that these registered sex offenders did not necessarily commit transnational child sexual abuse during these journeys – these are merely the details of international trips taken by registered offenders, and may also include 'ordinary' journeys. Nor do the figures give a complete picture, because (1) they do not include trips made within Australia for the purposes of committing child sexual abuse, (2) sex offenders also travel to countries other than those listed in the top ten, and (3) the figures only include previously convicted transnational child sex offenders and not first-time offenders (ECPAT International, 2016).

8.2 Legislation and policy

In addition to the moral and ethical outcry for policy combating transnational child sexual abuse, the Australian government also became increasingly frustrated with the limitations of the legislative framework at the time. The legal options available in the 1990s were not adequately suited to punishing transnational child sex offenders (Healy, 1994). The dissatisfaction with the available measures resulted in the introduction of extraterritorial legislation, more specifically the Crimes (Child Sex Tourism) Amendment Act in 1994.²

Intermezzo – Australian legislation

In Australia, laws on transnational child sexual abuse fall under federal legislation. States and territories (the second level of government division in Australia) are responsible for legislation and policy regarding child sexual abuse that occurs within Australia's borders (ECPAT International, 2016). Under Australian federal law, Australians are prohibited from having sexual contact with minors aged under sixteen within Australia or abroad.³ It is also an offence to encourage others to have sexual contact with a minor, or not to report child sexual abuse of which one has knowledge.

The purpose of the above legislation is twofold: firstly, to deter potential or existing transnational child sex offenders, and secondly, to punish existing offenders (Curley & Stanley, 2016). Penalties for child sexual abuse can vary from 15–25 years' imprisonment (2010 Amendment Act, Section 271–272).⁴ For comparison: these maximum sentences are higher than those applicable to sex crimes against adult victims.⁵

Fines can also be imposed on companies involved in the facilitation of transnational child sexual abuse (2010 Amendment Act, Section 272.6), such as travel agencies or 'facilitators' involved in organising the abuse by means such as offering trips or accommodation (Curley, 2019). Parties who facilitate digital payments, such as PayPal and WestPac bank, are also monitored by AUSTRAC (the Australian financial intelligence agency) as part of activities to monitor payments to international child sex offenders.⁶ Although the legislation refers to 'tourism,' all forms of child sexual abuse outside Australia are punishable (Curley & Stanley, 2016). The legislation is viewed by the authorities (including the Home Office) as a 'safety net,' that can be used when the local authorities in the country where the abuse occurs are unable to pursue the case (Curley & Stanley, 2016). The legislation is not based on the double-criminality⁷ principle, and therefore allows Australia to prosecute suspects for activities that are not punishable by law in the destination country.

In 2010, the Crimes (Child Sex Tourism) Amendment Act was revised⁸ to permit a more pro-active approach to transnational child sexual abuse. For example, the new law stipulates that transnational child sex offenders can be punished for 'preparatory offences' (2010 Amendment Act, Section 272.14–272.15), which denote activities carried out by an offender in preparation for transnational child sexual abuse. These may include 'grooming,' collecting information on the potential for child sexual abuse at a certain location, establishing contact with facilitators, or booking flights and accommodation (ECPAT International, 2018). Making these activities punishable offences allows the

government to intervene at an early stage, possibly even before the actual abuse has taken place (McNicol & Schloenhardt, 2012).

Intermezzo – Transactions

Research by AUSTRAC, the Australian government financial intelligence agency, has revealed cases of several Australian citizens who make payments to international facilitators of transnational child sexual abuse known to the authorities. These transactions are admissible as evidence in court, and are being increasingly used as such. In 2016, for example, a 58-year-old man from Queensland was convicted for recruiting a minor for sex and for the sexual abuse of a minor outside of Australia, among other charges (Brown, Napier & Smith, 2020).

There are several hurdles to implementing these laws, some interviewees reported. Preparatory offences, for example, are difficult to prove, as a suspect's intent to commit transnational child sexual abuse can often not be demonstrated conclusively. Authorities and academics also report that carrying out extraterritorial investigations is a complex, time-consuming and costly operation. Cases are thus sometimes dismissed due to an inability to collect enough evidence, witnesses, or because victims cannot be identified. The successful completion of an extraterritorial investigation seems to be largely dependent on the relationship between Australia and the relevant country. Problems such as corruption in the destination country are also contributing factors, says one academic. It also seems difficult to transfer a case to the Australian authorities if it cannot be successfully pursued or heard in the destination country. Extradition of suspects is especially time and resource-heavy, says the academic. In addition to legal challenges, limited police capacity can also be a factor restricting the number of cases that can be investigated (McNicol & Schloenhardt, 2012).

Lastly, the legislation only targets the group of known offenders, leaving first-time offenders outside the scope, says one academic. Some transnational child sex offenders are therefore unaffected by the Australian legislation. Scholarship is also critical of the extent to which this legislation can safeguard objective criminal proceedings. As shortcomings of the legislation, critics cite the risk of unfair proceedings resulting from the emotionally charged nature of transnational child sexual abuse, and the extensive power of the court in determining whether activities can be designated as 'preparatory offences' (McNicol & Schloenhardt, 2012; Curley & Stanley, 2016).

8.3 Strategy

This section describes the Australian strategy in greater detail. First, a brief description is given of the key agents within the strategy, followed by an analysis of the strategy itself. Next, the risk-assessment instrument in use is discussed, and the section concludes with a brief look at international cooperation.

8.3.1 Agents in the strategy against transnational child sexual abuse

The Australian strategy against transnational child sexual abuse involves various parties. Although anti-transnational child sexual abuse legislation is at federal level, both federal and state authorities are involved, as are various NGOs.

Federal government

Within the federal government, transnational child sexual abuse falls under the Child Abuse and Family Violence Section, which is part of the Department of Home Affairs. This Section oversees the creation of policy and legislation, and monitors developments and trends to see whether legislation should be amended accordingly. The Section also sees to the harmonisation and implementation of policy among the various states and territories, and shares best practices between the various jurisdictions.

The Passport Office, part of the Department of Foreign Affairs and Trade (DFAT), also contributes via the coordination and registration of revoked passports. The Passport Office forwards passport-revocation requests from the competent authorities at state/territory level to the Minister for Foreign

Affairs. If approved by the minister, the requests are registered by the Passport Office. The Department of Justice is responsible for carrying out Working With Children Checks (a system comparable to the Dutch Certificate of Conduct, or VOG).

Australian Federal Police

The Australian Federal Police (AFP) are involved in both national and international collaboration to combat transnational child sexual abuse. The national AFP cooperates with police units at state and territory level, managing a tip line and analysing trends and developments in conjunction with regional units, among other activities.

Upon receiving information on a convicted sex offender who is travelling abroad with the approval of the relevant competent authority, the AFP will inform its 'counterparts' in the destination country (including via Green Notices). The AFP also has a group of LOs who are stationed in the region (South-East Asia) in order to promote international cooperation (see also Section 8.3.4).

Australian Border Force

The Australian Border Force (comparable to the Royal Netherlands Marechaussee) is responsible for monitoring Australia's national borders, and can intercept convicted sex offenders who try to leave the country on a passport registered in its systems. Convicted sex offenders whose passports have been annulled during their stay abroad can also be intercepted by the Border Force upon their return to an Australian border, and turned over to the AFP.⁹

Competent authorities in the states and territories

The convicted sex offender registers are administered by the competent authorities at state/territory level. These authorities are responsible for entering information into the systems, modifying it, and deciding whether to revoke the passport of a convicted sex offender (see also 8.3.2). Generally, these 'competent authorities' are the various police forces, and maintain close contact with the Ministry for Foreign Affairs regarding the application of passport measures.

Australian Centre to Counter Child Exploitation

The Australian Centre to Counter Child Exploitation (ACCCE) was founded in 2018 for the purpose of combating online/other child abuse.¹⁰ The ACCCE brings together stakeholders from the various government authorities, the private sector and NGOs in order to arrive at an integrated approach. For the present, the ACCCE is focusing on combating online abuse, and child sexual abuse within Australia's borders. However they also take action whenever there is an overlap with transnational child sexual abuse.

Lastly, various NGOs work to create awareness campaigns. One such NGO, Rethink Orphanages, campaigns against volunteer work in South-East Asian and other orphanages, due to various risks including sexual abuse.¹¹ Child Wise is an NGO that provides training to professionals who work with children, to educate them on how to identify and prevent child sexual/other abuse.¹² Bravehearts is an NGO that, in addition to similar training courses, also provides a helpline to support victims and their loved ones.¹³

8.3.2 Strategy

Because Australia has specific legislation on combating transnational child sexual abuse, the authorities have a relatively broad range of options for monitoring, registering and limiting the movements of convicted transnational child sex offenders. The Australian government also invests in raising awareness among the Australian population. These measures are discussed in greater detail below. It is important to note here that most measures are not aimed specifically at transnational child sex offenders, but also apply to child and other sex offenders within Australia.

To help stop perpetrators reoffending, Australia has a variety of options for monitoring convicted transnational child sex offenders after they have completed their sentence. These options are listed below, and explained in further detail after the summary:

- The Sex Offenders Register
- Mandatory travel reporting
- The Passport Legislation Amendment
- Working with children limitations

The Sex Offenders Register

All persons convicted of a sex crime (committed against a child or adult) are added to a state or territorial register, in order to monitor them after they have served their sentence. The registers are used for various purposes, including the implementation of travel restrictions (see below), and are managed at state and territory level by the competent authorities, usually the police (ECPAT International, 2016). The registers are only accessible to the competent authorities on a need-to-know basis, which means that they (in many cases, the police) can only consult the information with good reason.

The state and territory registers contain personal and other relevant information about sex offenders. The exact information registered differs between states/territories,¹⁴ but generally includes at least the convicted person's name, date of birth and residential address, the names and ages of children with whom the offender lives or to whom they have unsupervised access, data regarding the offender's job and employer, details of membership to or involvement in organisations that organise children's activities, the registration and license plate number of the offender's car, information on tattoos or other distinctive external features, other crimes for which the offender has been convicted (and registered), any applicable supervision or custody orders, any plans to travel outside Australia, and information on their internet use (including social media).

Whenever sex offenders are convicted of sexual abuse, they may also become subject to a reporting obligation. In principle, all registered sex offenders have an active reporting obligation¹⁵ to the competent authority,¹⁶ which can differ between states/territories. In general, registered sex offenders have a limited period (usually seven days) within which to report changes to their personal information (name, address, contact details), planned journeys, contact with children, new tattoos or scars, or social media account details. Depending on the nature of the report, this information must be supplied physically, digitally or by telephone to the relevant competent authority. Within each state/territory, all registered sex offenders are subject to the same requirements applicable to reporting obligations. Neglecting to report changes is punishable by law, according to an interview with the Home Office. When convicted sex offenders move to another state or territory, their details are transferred to the register of that state or territory. To prevent 'jurisdiction hopping,' states and territories actively cooperate to exchange information. This system is comparable to the European ECRIS system, although the extent to which this information is shared at international level is unclear.

Whenever sex offenders are convicted, the court will determine the length of time for which the convicted offender's details must be stored in the register, taking into account the nature of the crime: the more serious the offence, the longer the monitoring period. Convicted sex offenders can be listed in the register¹⁷ for eight years, fifteen years, or for life.¹⁸ The details of the relevant legislation vary between states/territories.¹⁹ The Federal Home Office is working to harmonise the policy across the various regions.

Three jurisdictions – Victoria, South Australia and Western Australia – are restricted in the amount of information they can share with the public from the National Child Offender System (NCOS). In Victoria and South Australia, citizens can be informed whenever a person registered in the NCOS is missing. In these cases, the relevant information will be published on the website of the relevant state. In Western Australia, the Community Protection Act (2004) also enables citizens to request information about a person at any time, if the relevant person has unsupervised contact with children for more than three days per year. Residents of Western Australia can also request information from the NCOS on 'high-risk serious offenders' in the relevant region. 'High-risk serious offenders' are

offenders that a competent authority has deemed, with a high degree of probability, to constitute an unacceptable risk to society (Western Australia, 2020). The legislation does not precisely set out what constitutes an 'unacceptable risk to society.' Any decision in this regard grants the relevant competent authority discretionary powers. Any citizens requesting this information must identify themselves, however, and misuse of the information is punishable by law.²⁰

The federal government also has an over-arching register – the National Child Offender System (NCOS) – that combines all information from the state/territory registers, according to an interview with the Passport Office. The NCOS is administered by the Australian Criminal Intelligence Commission, which is part of the Department of Home Affairs. It sees to the management of national information-sharing systems, and also has special investigative authority. In 2016, the NCOS contained data from over 16,000 Australians convicted of sex offences against either adults or minors, in Australia or abroad. This figure (from 2016) equates to seven convicted sex offenders per 10,000 Australian citizens (ECPAT International, 2016). The WODC recidivism monitor showed that in 2015, 892 people were convicted of sexual violence against children in the Netherlands, which equates to 0.5 convicted sex offenders per 10,000 Dutch citizens.

Mandatory travel reporting

Convicted sex offenders (of crimes involving adults or minors) included in the NCOS must inform the competent authorities at least seven days in advance of any international or national travel plans (i.e., between states/territories). Offenders who neglect to do so, or who deliberately provide the competent authorities with incorrect information, can be sentenced to up to five years' imprisonment (ECPAT International, 2018).

When the competent authority receives a report, it informs the Australian Federal Police (AFP). In turn, the AFP can then inform the relevant state/territory/destination country through bilateral contacts or Green Notices. The AFP will share the convicted person's personal details, sentence, and registration period, among other information. It is then up to the destination country to decide how to deal with the incoming visitor. They may decide to monitor them, or deny them entry to the country. Between June 2018 and June 2020, a total of 1070 notifications were issued (USA Department of State, 2020).

The Australian Border Force also monitors travel documents of people listed in the NCOS. As soon as a convicted sex offender is registered in NCOS, their name and date of birth are shared with the Australian Border Force. Whenever a convicted sex offender tries to leave the country without having announced their departure, they can be halted at the border.

In 2016, over 770 registered sex offenders travelled abroad, 37% of whom had not informed the competent authority (The Parliament Of The Commonwealth Of Australia House Of Representatives, 2017). Although failure to report travel is a punishable offence, the punishments issued are generally lenient, according to the interview with the Passport Office. The Passport Legislation Amendment was introduced to address this shortcoming, according to the interview with the Home Office.

The Passport Legislation Amendment

The Passport Legislation Amendment was adopted in late 2017,²¹ and introduced changes to the Commonwealth Criminal Code Act 1995. The purpose of the new legislation was to improve protection for minors in other countries against Australian perpetrators of child sexual abuse. The legislation stipulates that convicted perpetrators of sexual abuse (committed against adults or minors), who are listed in the NCOS and who are under reporting obligations, can be made subject to international travel restrictions (for the duration of their compulsory registration). These restrictions include the possible annulment, blocking or surrender of their passport. Without a passport, Australians cannot travel abroad.²² Breaching these restrictions is punishable by a maximum of seven years' imprisonment.

The Passport Office, part of the Ministry of Foreign Affairs, is the central coordinating body for the implementation of the Passport Legislation Amendment. The Office receives requests from states

and territories to invoke the Passport Legislation Amendment, and forwards them on to the Minister for Foreign Affairs. Passport Office requests are handled by a small team. Only the competent authority, the Passport Office and the convicted offender have access to the information on the relevant case.

The decision-making process when applying the Passport Legislation Amendment involves several steps. First of all, the competent authorities in the state/territory must evaluate whether the Passport Legislation Amendment should be applied to the convicted offender listed in the state/territory register. To make this decision, a check takes place to determine whether the relevant person meets the legal criteria. According to an interview with the Passport Office, the Passport Legislation Amendment only applies if the convicted offender (1) is an Australian citizen, (2) is listed in the NCOS and (3) is under a reporting obligation. Passport-related measures no longer apply if a convicted offender ceases to satisfy one or more of the above requirements. In practice, this occurs whenever the reporting obligations are temporary, or if a convicted person loses their Australian nationality. The Passport Legislation Amendment can be applied to all sex offenders who are registered and subject to an active reporting obligation. These obligations apply with retroactive effect, and therefore also apply to sex offenders who were registered prior to the amendment's adoption in 2017.

For convicted sex offenders who satisfy the set criteria as described above, the competent authority then checks whether the convicted offender has an Australian passport, and attempts to ascertain whether they are currently in Australia or abroad. Based on this information, an assessment is made to determine whether the Passport Office is able to revoke a passport, to deny the application for a new passport, or to have a foreign passport surrendered.

Intermezzo – The Passport Legislation Amendment

- Convicted sex offenders with Australian passports who are in Australia can have their passports revoked for a certain period, preventing the offender from being able to travel abroad. Applications for new passports are also blocked. If a convicted sex offender is abroad, the Australian Passport Office can have their travel document annulled. When the person then tries to re-enter Australia, the Australian Border Force will be alerted and will inform the Passport Office and the Australian Federal Police.
- If the convicted person does not have a passport but is an Australian national, the Passport Office can create an alert (for the desired period). As soon as the convicted person applies for a passport, the system will automatically block the application and inform the Passport Office, which will then inform the competent authority in the relevant state or territory.
- If the convicted person has both an Australian and a foreign passport, the Minister of Foreign Affairs can order the foreign passport to be revoked/surrendered, in which case the Passport Office will seize the passport until the convicted person no longer satisfies the criteria. The passport will then be returned to the offender, or to the authorities in the country that issued the second passport.
- In practice, convicted persons with dual nationality could give up their Australian nationality in order to sidestep these measures. Offenders who are not (or are no longer) Australian residents require a visa or residency permit to live in Australia. In such cases, the competent authority can ask the Ministry of Foreign Affairs not to issue the relevant visa or other residency documentation, which would mean they would lose their right to live in Australia and may be deported.

The competent authority uses a risk assessment to decide whether the passport should be revoked, blocked or surrendered.

Once it is clear which measures can be imposed, the competent authority will inform the Australian Passport Office (part of the federal government). The Office will then issue a recommendation to the Minister for Foreign Affairs, who has full power to authorise a passport to be revoked, blocked or surrendered. The convicted offender has no input into this process, nor can they appeal against the decision to revoke a passport. Convicted offenders can, however, request a review of the risk assessment by the competent authority. The options for doing so differ between states and territories.

Convicted offenders whose passports have been revoked can apply to the competent authority for a temporary passport if they need to travel for work or personal reasons. The competent authority can either approve or deny the request, a decision that is also based on a risk assessment. If approved, the Passport Office can issue the convicted offender with a temporary passport. It is unclear how often temporary passports like this are issued; the Passport Office does not keep statistics. Interviews with the Passport Office revealed that the implementation of the law can sometimes differ between states or territories, especially as regards the issuing of temporary passports. Western Australia often issues passports that are valid for six months longer than the authorised travel period.²³

Intermezzo – Temporary passports

The system for approving temporary passports to convicted sex offenders is not watertight, as the interview with the Passport Office revealed. Convicted sex offenders can obtain permission to travel to foreign destination A, and then travel on to destination B on their own initiative. These secondary destinations can sometimes be hub locations where child sexual abuse is facilitated. Destination A is generally unaware of the travel restrictions that apply to the offender, and so takes no action. Using this strategy, convicted offenders can travel on to popular destination countries undetected.

When the legislation was introduced, various academics and civil-social organisations criticised the proportionality of the measure, saying that the legislation was too far-reaching and restricted too many liberties. They also said that the legislation is based on the rationale that a sex offender will always constitute a risk to society (ECPAT, 2015).²⁴ However interviewees – including staff from the Passport Office and the Western Australia Police – contradict these views, stating that the legislation is flexible enough to assess cases on an individual basis. Registration periods can vary, for example; monitoring measures can be tailored individually, and the risk assessment can be used to decide whether to impose passport measures.

Between mid-2019 and mid-2020, a total of 180 passports were revoked from sex offenders, and twenty passport applications by convicted sex offenders were rejected (USA Department of State, 2020). Due to COVID-19 and the sharp decline in international travel, the Passport Office has been unable to evaluate all aspects of the Passport Legislation Amendment. A legislative review will probably take place in 2022.

Additional monitoring

Lastly, states and territories have supplementary legislation to allow monitoring of convicted sex offenders (who have abused adults or children). Examples include the Crimes (Serious Sexual Offenders) Act (2006) in New South Wales, the Dangerous Sexual Offenders Act (2006) in Western Australia, the Working with Children Act (2005) and the Serious Sex Offenders (Detention and Supervision) Act (2009) in Victoria.

These three Acts all serve a comparable purpose: at the request of a state or territorial authority, the Supreme Court can rule that after completing their prison sentence, convicted sex offenders constitute an unacceptable risk to society. The judge must base their decision on aspects such as a psychiatric assessment and report, whether the offender in question has taken part in rehabilitation programmes, and the offender's prior criminal history. If the judge rules that the risk is unacceptable, the Supreme Court can issue a supervision order, a detention order, or a continued detention order. These orders are supplementary punitive measures imposed over and above the offender's original sentence (Western Australia, 2017).²⁵

Intermezzo – *Working with Children Check Card*

The state of Victoria has a relatively broad range of provisions for the long-term supervision of sex offenders (WODC, 2012). For example, it has the Working with Children Act (2005), stipulating that everybody who wants to work with children must undergo a check by the Victorian Department of Justice and Community Safety. If the check is clear, the recipient will receive a Working with Children Check Card, which is valid for five years. Employers and volunteer organisations must ask for the card prior to appointing any workers. The Department can then monitor all cardholders for the length

of the card's validity period (and revoke the card if necessary). This system is comparable to the Certificate of conduct (VOG) system in the Netherlands. By late 2011, 845,291 of these cards had been issued. In 482 cases, the application was denied due to former convictions, and 382 of the cards were revoked due to crimes that were discovered over the course of the Department's regular monitoring activities (WODC, 2012). It is not known how many of the rejected applications were submitted by child sex offenders.

Citizen awareness

Lastly, Australian citizens are made aware of transnational child sexual abuse in a variety of ways. Leaflets are issued along with passports outlining the legislation governing child trafficking and child sexual abuse abroad (ECPAT International, 2016; Australian Government Attorney-General's Department, n.b.). It is unclear how many leaflets have been issued, and when they were issued.

There are also various hotlines and websites where suspicions of child sexual abuse can be reported. The Australian Federal Police can be contacted directly via its website²⁶ or telephone number,²⁷ for example. There are also various state/territory-based telephone numbers where suspicions of child sexual abuse can be reported to a range of organisations, including child protection services.²⁸

8.3.3 Risk assessment

Responsibility for estimating the risk that convicted perpetrators will reoffend lies with the competent authorities in the various states and territories. This assessment is always made whenever convicted offenders report intended travel, when a new conviction is made, and when a convicted offender whose passport has been confiscated submits an application for a temporary passport. The competent authority can also revise the reoffending risk of an offender at any time by carrying out a new assessment. The explanation below is based on the interview with the competent authority (the police) of Western Australia. It is not known how similar the strategies of the other states are.

The risk assessment of convicted sex offenders by the competent authority (the police) in Western Australia includes an evaluation of both the crimes for which the offender has been convicted, and their behaviour in general. For example, experts from the police look at whether an offender is under post-sentencing supervision orders, their compliance with the imposed restrictions, and whether they are known to the police or justice system for other reasons. They also use the Risk Matrix 2000 (RM2000), an instrument designed to determine the risk of reoffending among adult male convicted sex offenders. The RM2000 allows competent authorities to estimate the reoffending risk based on a number of indicators, including the offender's criminal history and the relationship between the offender and the victim.

The interviewee from the competent authority of Western Australia stressed that the Risk Matrix 2000 is only viewed as one component of the risk assessment, especially because it is a static instrument and offers little scope for context.²⁹ The relevant authority takes the Risk Matrix 2000 result as the basis of its decision, but adjusts it based on the offender's behaviour and criminal history.

When convicted sex offenders report travel plans or apply for a temporary passport in Western Australia, the competent authority also takes the risks of the relevant destination country into consideration. As a basis, they refer to the annual Trafficking in Persons publication by the US Department of State, which sets out trends and developments in human trafficking and exploitation by country (US Department of State, 2020). Competent authorities are less inclined to approve applications/notifications concerning countries known to be popular destinations for transnational child sexual abuse. If the request is denied, the Australian Border Force will be informed so that they can enforce the decision if necessary.

In Western Australia, three people are involved in the risk assessment for each application or new conviction. If passport measures are to be imposed, the authority will contact the Department of Foreign Affairs to ascertain whether the offender is an Australian national. If so, the measure can be imposed. If not, the competent authority will advise the Department to reconsider the offender's visa or residency permit.

The Passport Legislation Amendment has been formulated broadly enough to allow for application within the legislative framework of any Australian state or territory. Consequently, however, this leaves room for interpretation on the part of the competent authorities, according to the interview with Home Affairs. The Department of Home Affairs is making efforts to streamline implementation of the legislation as much as possible.

8.3.4 International cooperation

Australia takes part in various collaborations that promote both long-term cooperation and ad hoc information exchange on investigations and reported travel plans by convicted offenders, primarily involving partners in South-East Asia. Interviewees stated that the long-term partnerships require considerable diplomatic investment, and are dependent on the political context in the relevant countries. The success of these partnerships is therefore variable.

Liaison Officers

According to the academic interviewed, since early 2000 the Australian Federal Police have been working with various LOs in key positions in South-East Asia, such as Cambodia, Indonesia, the Philippines, Thailand and Vietnam. They work with regional partners (local authorities) to help combat transnational child sexual abuse, for example by supporting local authorities when investigating a transnational child sexual abuse case involving an Australian suspect. These LOs are also often involved in raising awareness among local authorities and NGOs (ECPAT International, 2015), said one academic.

Intermezzo – Successful collaboration

One example of successful collaboration between the AFP and local authorities is the 'monitor to prevent and disrupt' strategy that was instigated in 2013 in Vietnam. The strategy aims to improve collaboration among the various parties (including the police, government, and the private sector) with regard to awareness, identification of warning signs, and combating child sexual abuse. Because this strategy has been in force now for some time, trends and developments (including hub destinations) can be identified, as well as the modi operandi of offenders (AFP & ECPAT, 2015). The partnership between a 'source country' (Australia) and a 'destination country' (Vietnam) is regarded as a success.

The Bali Process

In 2002, The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (The Bali Process) was instituted to raise regional awareness on the dangers of human trafficking, human smuggling and related forms of international crime.³⁰ The Bali Process is chaired by Australia and Indonesia and has 49 members, including the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the United Nations Office of Drugs and Crime (UNODC) and the International Labour Organization (ILO). The Netherlands has joined as an 'observer.' The aim of the alliance is to initiate a dialogue among the various countries and to facilitate information exchange and practical collaboration.

As chair, Australia is an active partner in the Bali Process and proactively combats transnational child sexual abuse. Among other activities, the Australian authorities deliver training to local police authorities (ECPAT International, 2016).

ASEAN collaboration

Australia is part of the ASEAN Regional Taskforce to Prevent Child Sex Tourism, an initiative of the Child Wise NGO (ECPAT International, 2016). Among other members, the Taskforce consists of representatives from the ten ASEAN countries³¹ and meets annually to discuss developments and best practices. Based on these discussions, the regional approaches to transnational child sexual abuse are refined. Australia played a particularly large part in setting up the ASEAN Regional Public Education Campaign, that educates tourists and local communities on how to identify transnational child sexual abuse, and where it can be reported. It is unclear how active the campaign is currently, however.

Interpol Green Notices

In addition to notifications sent by the AFP to destination countries (via bilateral contacts) in response to travel plans reported by convicted sex offenders, the AFP also uses the Green Notices system. The bilateral information exchanges are more informal in nature. The competent authority of Western Australia expresses a preference for bilateral information exchange, as it is often faster and more efficient than the Interpol Green Notices system. Bilateral channels allow for contact by e-mail and more rapid response times, while the Interpol system is more bureaucratic in nature, and therefore slower.

8.4 Offender profiles

The police in Western Australia believe that perpetrators of transnational child sexual abuse are generally men aged 45 or over, a view that was confirmed by other interviews. The interviews revealed that the approach taken by the Australian authorities focuses less on offender profiles, and more on their *modi operandi* (including grooming and volunteer work). These methods are taken into consideration when assessing the reoffending risk among convicted child sex offenders.

The competent authority in Western Australia, for example, has reported increasing numbers of travel applications from convicted sex offenders, claiming an intention to marry women in foreign countries whom they have never met in person. Some of these countries are destination countries for transnational child sexual abuse. In the interview with the Western Australian Police, the advent of online dating was also mentioned as a contributing factor.

In recent years, Australia has also seen increased attention to the dangers of orphanage tourism, as this form of tourism was once popular among Australian citizens and several child sex abuse scandals came to light involving orphanage tourism. Orphanage tourism is a form of tourism in which people travel abroad to perform volunteer work at residential institutions for children. Transnational child sexual abuse and orphanage tourism overlap somewhat, as offenders sometimes gain access to minors via volunteer work in orphanages or schools. These offenders are generally western men of various ages. Volunteer work is also used as a cover by both first-time and convicted sex offenders. The limited supervision of these kinds of volunteer work grants previously convicted sex offenders access to children. These vulnerable children often crave attention and quickly become attached to volunteers, a circumstance that child sex offenders take advantage of.

8.5 Information available on transnational child sexual abuse offenders

Australia is dependent on collaboration with other countries for information on Australian residents who are convicted abroad and subsequently return to Australia. Whenever an Australian resident is convicted abroad, Australia can be informed if the relevant country issues a report. No formal agreements exist in this regard, however, and so Australia is dependent on the willingness of other countries to issue such reports. If they do not – say the interviewees from the Passport Office and Home Office – there is a chance that Australian authorities remain unaware of the conviction. The Australian authorities therefore invest in maintaining good bilateral ties, in order to increase the likelihood that information about foreign convictions will be shared.

8.6 Summary

The Australian strategy against transnational child sexual abuse can be broadly summarised as follows:

- Australia is characterised by social and political attention to transnational child sexual abuse, and the need for a robust strategy to combat it. This attitude has led to a legislative framework and a broad range of available measures. The strategy has a primarily repressive character, and is aimed at preventing repeat offences.
- The Australian legal framework enables the Australian regional authorities to confiscate, cancel, or annul the passports of convicted sex offenders. It can also be made compulsory for convicted sex offenders to report their travel movements. The purpose of these measures is to restrict the movements of those convicted sex offenders who are deemed to be at considerable risk of reoffending. The fact that Australia is an island facilitates the enforcement of legislation and travel-restriction measures, due to unavoidable border controls.
- The available legal instruments and range of measures are generally considered satisfactory. The available measures are also applied in practice. The effectiveness of the measures is unclear, however, as they are not monitored or evaluated.
- The risk of reoffending is assessed by the competent authorities in the states and territories, using a combination of the Risk Matrix 2000 and a review of the offender's criminal history and behaviour. The authorities also take known offender modus operandi into account.
- Australia is also known for both regular and ad-hoc cooperation with destination countries in the region, in which the federal police LOs play a crucial role. Nevertheless, interviewees from Australia state that Australia has only very limited information on Australian citizens who are arrested and/or convicted abroad for the sexual abuse of minors.
- The Australian strategy against transnational child sexual abuse focuses almost exclusively on convicted offenders. Those who have not yet been convicted – such as situational offenders – remain out of reach. Academics also question the proportionality of the travel-restriction measures, however interviewees at the Passport Office stress that the legislation is flexible enough to allow measures to be customised on a case-by-case basis.

Endnotes

1 Australian Centre to Counter Child Exploitation, n.b.

2 Federal Register of Legislation, no. 105, 1994.

3 Smartraveller, n.b. a.

4 Department of Home Affairs, n.b.

5 Judicial College of Victoria, Chapter 2.7.6.1, n.b.

6 ABC News, 24 September 2019; The Guardian, 21 November 2019.

7 The principle of double criminality implies that crimes must be punishable by law in both the requesting country and the country where the relevant person is located.

8 Federal Register of Legislation, no. 42, 2010.

9 This option was mentioned in interviews when an Australian citizen is residing abroad and the decision is made to annul their Australian passport due to a conviction in Australia. It is unclear how often this measure is applied to Australian citizens who are convicted abroad.

10 Australian Centre to Counter Child Exploitation, n.b.

11 ReThink Orphanages, n.b.

12 Child Wise, n.b.

13 Bravehearts, n.b.

14 A complete overview of the applicable criteria in each state and territory is available at <https://aifs.gov.au/cfca/offender-registration-legislation-each-australian-state-and-territory>

15 A number of exceptions apply, namely: convicted persons who are in custody, who are residing abroad, who have completed their reporting obligations, who have died, and in exceptional cases, sex offenders whose reporting obligation has been suspended.

16 The competent authority is different in each state/territory, but is generally the police.

17 The registration is capped at 7.5 years for underage offenders

18 Australian Institute of Family Studies, n.b.

- 19 An overview of the criteria in each state and territory can be found at:
<https://aifs.gov.au/cfca/offender-registration-legislation-each-australian-state-and-territory>.
- 20 The Government of Western Australia, n.b.
- 21 Federal Register of Legislation, no. 73, 2017.
- 22 Smartraveller, n.b. b.
- 23 In other words: if approval is given for a one-month journey, a passport is issued for seven months.
- 24 U.S. News, 31 May 2017.
- 25 NSW Government, Crimes (Serious Sex Offenders) Act 2006 No 7, 2010; Victorian Numbered Acts, no. 91, 2009.
- 26 Australian Federal Police, n.b.
- 27 Department of Home Affairs, n.b.
- 28 Raising Children Network, n.b.
- 29 In Western Australia, 'static' means that the RM2000 offers too little scope to modify variables within the matrix.
- 30 The Bali Process, n.b.
- 31 Cambodia, the Philippines, Indonesia, Laos, Malaysia, Myanmar, Singapore, Thailand and Vietnam.

9 Country study: United States

US policy combating child and other sexual abuse is extremely repressive in nature. The aim of policy and legislation is to protect children, to prosecute offenders, and help victims to resume their lives (US Department of Justice, 2016).

Severe punishments are possible for convicted child and other sex offenders, who can remain under surveillance long after having served prison time. The rationale is that sex offenders cannot be cured, and will therefore always pose a threat to society. The community must also be informed of the risks, so that people can protect themselves.

The authorities in the United States (US) also believe it is their responsibility to protect children abroad from American child sex offenders, which has resulted in policy aimed specifically at the prevention of transnational child sexual abuse. This legislation has much in common with legislation combating child/other sexual abuse within the country's borders.

The American strategy against child sexual abuse is extremely repressive, and includes few preventive measures. The policy has supporters and opponents, as does the policy combating transnational child sexual abuse. The supporters stress the need to punish offenders harshly, and to protect the community. An interview with NCMEC revealed that they see the publication of information on convicted offenders as a preventive measure against future abuse, rather than as a punitive measure for the offender. The same attitude is expressed with respect to many other punishments imposed on convicted sex offenders. Supporters of the policy believe that offenders should be severely punished to prevent repeat offences.

Opponents, on the other hand, call for a more nuanced approach, claiming that current policy is disproportionate. In their view, the sentences imposed on convicted child and other sex offenders are too long and too severe, making it more difficult for convicted sex offenders to reintegrate into society. The stigmatisation of sex offenders also means that it is even harder for them to live a 'normal' life after a conviction. Rather than serving to prevent reoffence, the imposed measures may thus have the opposite effect (Bonnar-Kid, 2010; Rolfe, 2017), especially where juvenile sex offenders are concerned.

The American strategy also focuses exclusively on convicted offenders of sexual abuse, leaving first offenders out of reach. The current American system aims to prevent reoffence among convicted sex offenders, however opinions differ regarding the reoffending risk among convicted sex offenders. Some researchers say that convicted sex offenders have a very low risk of reoffending compared to perpetrators of other serious crimes (Bonnar-Kid, 2010; US Department of Justice, 2019, among others). Human Rights Watch (2013) is critical of the manner in which existing reoffender statistics are interpreted. Supporters of the policy also state that the low reoffender numbers are simply a consequence of underreporting by victims of sexual abuse. If victims do not report sexual abuse by offenders with a previous sex conviction, the reoffence is not registered, according to an interviewee from NCMEC. These various perspectives are illustrative of the divide in the American debate surrounding the strategy against sexual abuse.

Opponents to the policy also view the publication of sex offenders' personal information as an infringement on their privacy and civil liberties. The right to privacy is not provided for in the US constitution. It is therefore relatively easy to request and distribute information on citizens even if they have no prior convictions, and even easier for those who do, which creates psychological and practical problems for sex offenders and their families (ECPAT, 2015).

At the same time, a shift is becoming visible in several American states where aspects of sex offender legislation are being made more lenient. One such example is Washtenaw County in Michigan, where the reporting obligation for sex offenders has been modified, according to an interview with ECPAT USA. 'School exclusion zones' have been deleted from the legislation, and convicted persons can no longer be punished for accidental violations. Punishable offences must now be committed with intent (ACLU, 2021). Because modifying sexual abuse policy is an unpopular

stance for politicians, the movement is currently limited to several states. The expectation, therefore, is that American policy will remain fundamentally unchanged for a considerable period, says one interviewee from ECPAT.

9.1 The scope of transnational child sexual abuse

According to Homeland Security, 2015 American citizens were convicted of transnational child sexual abuse between 2003 and 2013 (US Department of State, 2014). More recent nationwide figures are not publicly available. The number of convictions is not an accurate indication of the total scope of the problem, however, especially in view of the following.

- First of all, sexual abuse is a 'hidden crime', or one that is characterised by low reporting rates among victims. Figures on reporting and case numbers are therefore not an adequate basis for estimation, said one interviewee from the US Department of Justice (CEOS). This is especially true for transnational child sexual abuse, as parents or other family members are themselves sometimes complicit in the minor's exploitation, which has a great impact on the willingness to report among victims or those around them.
- The total number of reports issued by Operation Angel Watch (see below) of travel movements by convicted offenders also forms an inadequate basis for estimation, as these reports only concern convicted offenders.
- Lastly, NGOs (such as ECPAT) point out that the data provision at federal and state level is of insufficient quality, making it very difficult to interpret trends and developments.

9.2 Legislation and policy

The US has had legislation governing the treatment and punishment of sex offenders since the 1930s (WODC, 2012). This legislation has been added to over the years, in some cases as a response to highly publicised cases. Some statutory provisions specifically target transnational child sexual abuse. In the United States, combating transnational child sexual abuse is a federal government responsibility. States implement federal legislation, and have some freedom to modify it. Some counties also have some power over the manner in which policy is implemented, according to an interview with SMART Office.

One of the reasons for introducing specific legislation to combat transnational child sexual abuse is the fear that convicted offenders will resort to travelling abroad once they have been convicted in the US. It is a common belief that some convicted offenders will attempt to avoid the harsh punishments in the US, according to an interviewee from the US Department of Justice (CEOS).

The Jacob Wetterling Crimes Against Children Registration Act from 1993 was the first federal law that forced states to introduce a registration system for convicted child and other sex offenders. The Act stipulates that convicted offenders are obligated to share their personal contact details (address and telephone number) and ID information (photograph and fingerprints) with local authorities, and update this information whenever they move house. The information is only accessible by police authorities.

In response to the abuse and murder of Megan Kanka, the state of New Jersey introduced Megan's Law in 1994, which stipulates that information on convicted sex offenders must be shared with the public so that citizens can protect themselves (Cohen & Jeglic, 2007). This state legislation was then reworked into an amendment to the Wetterling Act. The legislation is known as Megan's Law (1996). Since that time, for every convicted sex offender, the personal data mentioned above can be accessed by anybody who wishes to see it (exactly which details are available vary from state to state).

In 2003 another federal law, the PROTECT Act, was adopted,¹ for the purpose of combating the sexual abuse of children as part of tourism. The Act is comparable to Dutch legislation, and criminalises all sexual interaction with minors abroad.² Preparing for any such interaction is also punishable by law and can lead to conviction, even if the offender has not actually travelled anywhere (Section 105). Travel organisations that organise such trips can also be sanctioned by law. The PROTECT Act is extraterritorial legislation, which means that punishable offences do not need to be punishable abroad.

American citizens can also be tried in the US if this does not occur in another country. The maximum prison sentence is thirty years, and perpetrators with previous child sex offences can be imprisoned for life.

An interview with the US Department of Justice revealed (among other things) that American authorities prefer to see an offender of transnational child sexual abuse convicted in the destination country. However, upon their return to the US, American citizens can be convicted again for sex crimes committed abroad. The purpose of the second conviction is to ensure that perpetrators of transnational child sexual abuse are sufficiently punished, due to a fear – according to interviewees from the US Department of Justice (CEOS) and NCMEC – that other countries are more lenient with sex offenders. In practice, it is a somewhat regular occurrence for offenders to be convicted twice, according to an interview with the FBI.

Intermezzo – Dual sovereignty

In 2019, the United States Supreme Court ruled on the case of *Gamble v. United States* (139 S. Ct. 1960, 2019). In the ruling, the Supreme Court stated that the Double Jeopardy clause of the US Constitution, which prohibits a person from being convicted twice for the same offence or crime, does not prevent a sovereign entity from convicting a person of a crime if that person has already been convicted for the same crime by another sovereign entity.³ This is known as the principle of 'dual sovereignty.'⁴ In the US, the states, federal government, and foreign entities are all considered sovereign entities. A person who has been convicted of a sex crime abroad can therefore be convicted of the same crime again upon their return to the United States. The rationale behind the principle of dual sovereignty is that the various sovereign entities each have their own legislation, thus enabling the same criminal act to result in two different crimes under the legislation of different sovereign entities.⁵ The Supreme Court explained that sovereign entities have different interests when trying a suspect: a suspect might be convicted of a sex crime abroad based on the interests of the victim and the safety of the local population, for example, whereas a suspect in the US can be convicted in the interests of mandatory registration and the safety of the American population.

However, effecting a conviction for transnational child sexual abuse in the United States is a complex matter according to the FBI and other sources, as evidence must be collected abroad, and the process requires collaboration with the local foreign authorities. Such investigations are time-consuming and intensive (ECPAT International, 2016a). Another problem is that victims do not always lodge an official report, hindering the investigation process and making it difficult to locate witnesses, according to an interview with the US Department of Justice (CEOS). In the American legal system, suspects have the right to confront victims or witnesses in court (ECPAT International, 2016a).⁶ If victims or witnesses cannot give testimony (because they cannot not be found or because they cannot come to the US, for example), the case may be dismissed due to a lack of evidence or in relation to the suspect's right to a fair trial.

In 2003, the US Department of Homeland Security Investigations also launched Operation Predator in order to protect children worldwide against sexual abuse. The initiative targets American citizens who commit child sexual abuse either in the US or abroad. As part of Operation Predator, an online portal was created enabling the public to consult the child sex offender registers of the various states. Another initiative is the National Child Victim Identification System, that allows children appearing in online or other child abuse materials to be identified. There is also an Operation Predator app, enabling the public to receive notifications on suspects of child sexual abuse, and to share this information with others via e-mail and social media. The public can also use Operation Predator to submit tips on potential suspects. If desired, suspects may also be arrested based on these reports. Between 2003 and 2012, a total of 8000 people were arrested through Operation Predator (these were not exclusively suspects of transnational child sexual abuse).⁷

In 2007, the Adam Walsh Child Protection and Safety Act was introduced, broadening the range of criminalised acts.⁸ Part of this legislation is the Sex Offender Registration and Notification Act (SORNA), which makes it mandatory for all states to maintain an online register listing the personal details of sex offenders.

In 2007, another initiative was launched as part of Operation Predator: Operation Angel Watch, a programme aimed at collecting and forwarding travel information about American convicted sex offenders. Title I of the Adam Walsh Child Protection and Safety Act sets out the obligation for convicted sex offenders to report their travel movements (see also below). If the Department of Homeland Security's Immigration and Customs Enforcement (ICE) becomes aware that a convicted sex offender intends to travel abroad or to another American state, and there is a risk that they may be travelling with the intention of committing sexual abuse, ICE can send an alert to the destination country or state. In 2015, as part of Operation Angel Watch, over 2100 such alerts were sent to over ninety countries (US Immigration and Customs Enforcement, 2018). The success of this operation depends, however, on the action taken by the receiving country in response to the alert (ECPAT International, 2016a).

The International Megan's Law (see below) converted Operation Angel Watch to the Angel Watch Center, which allows the authorities not only to exchange information about the travel movements of convicted American sex offenders, but also to receive information from other countries on convicted sex offenders travelling to the US (US Immigration and Customs Enforcement, 2018). In 2019, over 3500 alerts about convicted US sex offenders were issued to 127 different countries (US Department of State, 2020).

In 2016, the International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (International Megan's Law) was adopted. It is a federal law aimed at reducing and combating transnational child sexual abuse, and providing for the possible placement of a 'unique identifier' in the passports of convicted sex offenders (Section 8). Under the Adam Walsh Child Protection and Safety Act, convicted offenders are also obliged to report their intended travel movements. The American authorities can then share this information with the destination country.

9.3 Strategy

This section describes the American strategy in greater detail. First, a brief description is given of the key agents within the strategy, followed by an analysis of the strategy itself. Next, the risk-assessment system is discussed, and the section concludes with a brief look at international cooperation.

9.3.1 Agents in the strategy against transnational child sexual abuse

The US strategy against transnational child sexual abuse involves various authorities. This case study focuses on the parties acting at federal level. Various NGOs are also involved. The figure below shows the interrelationships among the various federal and other bodies.

Figure 9.1 – Overview of agents at federal level

Federal level

Various units in the Department of Justice are involved in combating transnational child sexual abuse at federal level. When the Adam Walsh Child Protection and Safety Act was introduced in 2006, the SMART office was also created in order to support and supervise the application of the Sex Offender Registration and Notification Act (SORNA). The SMART office also offers legal support with relation to sex offender management.⁹ Convicted sex offenders can also contact the SMART office to report international travel plans. SMART can provide them with non-legal advice, and contact consulates or embassies in destination countries if necessary.

Within the Department of Justice, the Child Exploitation and Obscenity Section (CEOS) also makes a contribution. CEOS aims to combat both hands-on and hands-off child sexual abuse, with a focus on the application of criminal legal instruments. In 2016 the team consisted of lawyers, cyber-specialists and analysts, among others (US Department of Justice, 2016), who support investigations and court cases involving perpetrators of transnational and other forms of child sexual abuse. The Department of Justice also monitors the application of the current available legal instruments, and investigates the possibilities for development or improvement, focusing on the punishment of transnational and

other child sex offenders. The CEOS also has access to funding to have officials fly to destination countries in order to provide support to investigations. Between 2013 and 2015, the CEOS coordinated fourteen national and international operations that resulted in over 2600 investigations¹⁰ into American citizens, and provided leads to over 8000 suspected foreign child sexual abusers¹¹ (US Department of Justice, 2016).

The Federal Bureau of Investigation (FBI) is also involved in conducting investigations into transnational/other child sexual abuse, via its Child Exploitation Operational Unit (CEOU). The CEOU consists of six agents dedicated to combating both hands-on and hands-off child sexual abuse. They receive reports of suspected child sexual abuse, look into them, and then forward them to the FBI offices in the relevant states. If international support is required, CEOU agents can travel to the country in question to support police investigations. In such cases, officers oversee the methods for conducting investigations and gathering evidence, to ensure compatibility with the American legal system. The FBI also offers training courses to local authorities, according to one interview with the FBI.

In addition to the Department of Justice, the Department of Homeland Security also has a part to play. As part of Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) is also active as an investigative agency. HSI has eighty offices in 53 countries, a broad focus on transnational crime, and combating child exploitation is one of its main priorities under the Operation Predator programme. Operation Angel Watch and its successor, the Angel Watch Center, are also part of HSI.

The Cyber Crimes Center (C3) and the Child Exploitation Investigations Unit (CEIU) form the core of HSI's efforts to combat transnational child sexual abuse. They lead investigations on perpetrators of transnational child sexual abuse, and apply innovative investigation methods. The CEIU coordinates major investigations, trains personnel and can make additional capacity available for transnational investigations.¹²

Within the Department of Justice, the US Marshals Service (USMS, similar to the Dutch Customs Administration) plays a part due to its oversight of the United States' international borders. The USMS contributes to the detection and detainment of convicted perpetrators of transnational sexual abuse via the fugitive apprehension program and investigations conducted by the Sex Offender Investigations Branch (SOIB). Between May 2010 and May 2015, the USMS received around 10,000 requests for support to intercept a convicted offender. In around 9000 cases, the offender was successfully identified and apprehended by the USMS. During the same time frame, over 16,000 investigations into convicted child and other sex offenders were initiated, and over 2600 people were arrested¹³ for failing to comply with their reporting obligation (Department of Justice, 2016a). The USMS also played an important part in the Angel Watch Center,

and the Department of State (similar to the Dutch Ministry of Foreign Affairs) works to limit the travel movements of convicted perpetrators of transnational child sexual abuse. The International Megan's Law allows the Department of State to have unique markers placed in passports, and to revoke passports that do not have the marker.

NGOs

Various NGOs are also involved. One focus area of the National Center for Missing & Exploited Children (NCMEC)¹⁴ is combating child sexual abuse via a CyberTipline¹⁵ (the tip line is discussed in detail in the section on Strategy). The NCMEC also works closely with the FBI. An interview with NCMEC revealed that the FBI has permanently stationed several officers in the NCMEC headquarters.

ECPAT USA is also committed to combating and preventing the trafficking of children specifically, in order to combat sexual abuse (i.e. child sex trafficking).¹⁶ ECPAT USA provides education on the subject, and also lobbies for legal reforms in order to combat child sexual abuse more effectively. ECPAT USA also works closely with private sector businesses, including airlines and the hotel industry, to raise these parties' awareness of their role in human trafficking.

Lastly, the FBI notes that it works effectively with NGOs in destination countries. These NGOs serve a dual purpose in combating sexual abuse: they provide a source of information and report suspected cases, while also utilizing their local knowledge to assist the FBI and provide care to victims (including aftercare).

9.3.2 Strategy

US policy on combating transnational and other types of sexual abuse is primarily repressive in nature, accompanied by several initiatives aimed at helping the community to protect itself. ECPAT USA provides training courses for the hospitality industry, for example, and there are various educational programmes aimed at increasing the resilience of parents and children. NCMEC has similar initiatives, and emphasises that community resilience is an essential adjunct to the information provided through the offender registers.

This section discusses the following measures:

- The Sex Offenders Register
- Mandatory travel reporting
- Supervision orders
- Unique markers and annulment of passports
- The CyberTipline

The Sex Offenders Register

Megan's Law (1996) makes it compulsory for authorities to share information on convicted sex offenders with the community. In 2006, the adoption of the Adam Walsh Child Protection and Safety Act made the addition of a national register (SORNA), combining information from the individual states.

States can fulfil their obligation to share information as they like; many states opt for a publicly accessible register containing the personal data of convicted sex offenders. These registers are managed at state level, and differ in the amount of information they provide.¹⁷ In some states – such as Florida – the public has access to the offender's name, photograph, residential address, date of birth, identifying physical characteristics and current offender status.¹⁸ Other registers also provide additional details, such as the offender's car registration and information on family members.

Intermezzo – The Adam Walsh Act

The Adam Walsh Act stipulates that the following details may be shared: the offender's name, social security number, work addresses, name and address of schools attended, vehicle licence plate and registration details, physical description, passport photo, fingerprints, handprints, DNA sample, criminal record and a copy of a valid driver's licence. Other details that offenders must supply under the Adam Walsh Act are IP addresses, telephone numbers, residential addresses and date of birth.

Sex offenders are divided into three categories, or 'tiers.' Category-I offenders must remain registered for fifteen years, Category-II offenders for 25 years, and Category-III offenders for life (Section 115). Due to the nature of the abuse, perpetrators of transnational child sexual abuse are generally placed in category I or II. Inclusion in the register depends on the nature of the crime already committed, not the estimated risk of reoffending (ECPAT, 2015).

Exceptions can be made where the offence involved consensual sexual intercourse, the victim was at least thirteen years old, and the offender was no more than four years older than the victim (Section 111). Sex offenders aged under thirteen do not need to be registered. The same applies to offenders whose conviction is withdrawn (Section 111).

Offender's obligations

Convicted sex offenders must register for inclusion in the register of the relevant state. When their personal details change (due to moving house, for example) they must forward their new details to the registers themselves. A study by Lieb, Kemshall and Thomas (2011) and an interview with ECPAT USA both confirmed that this is a weakness in the system. It is a known fact that not all convicted offenders share this information with the register, and thus easily disappear from view. Failure to comply with the registration requirements can result in a one-year prison sentence (Section 113). It is

unclear how many convicted offenders do not comply with the requirements. A recent estimate by National Public Radio (NPR) arrived at 'tens of thousands of convicted offenders.'¹⁹ In May 2021, a total of 780,000 offenders were registered in the US sex offender registers.²⁰

Even when convicted sex offenders move from one state to another, they are required to submit their criminal record to the authorities in the new state, who will decide whether the convicted offender is to be included in the new state's public register. It is possible for a convicted offender to be subject to mandatory registration in one state, but not another, which can encourage so-called 'state-hopping,' according to interviews with the US Department of Justice (CEOS) and ECPAT USA.

Intermezzo – Registers

In 2016, NCMEC conducted a study among 54 states, territories and tribes, to determine the level of surveillance on registered sex offenders who move abroad. The study – according to an interview with NCMEC – revealed that 38 of the 54 registers had no uniform notification system for registered sex offenders who move abroad. Sixteen of the registers had developed their own notification system. The NCMEC also researched whether the offender registers included information on convicted offenders who came back to live in the US from abroad. Forty-six of the registers stated having no procedures for monitoring returning offenders, while eight did claim to have a procedure or protocol in place.

In 2020, 22 states and territories implemented the Adam Walsh Child Protection and Safety Act correctly and completely (SMART Office, 2020). While all states now have public registers, they do not all meet the requirements for stating the committed offence, identifying and punishing offenders who fail to comply, informing the community, and verifying and sharing information. To encourage states to fully implement the legislation, the federal government proposed a reduction in police capacity for the states that implemented the policy only in part, a reduction that would increase for each year in which the legislation was implemented incorrectly or incompletely (Rolfe, 2017).

Challenges

The interviewees reported various problems and challenges with the implementation of the registers. While sex offender registers are managed at state level, the legislation governing them is federal. The states each have their own requirements for inclusion in the register, and the information published about convicted persons varies between them. Information is shared from state level to federal level, however the information from the various states is so variable that it is difficult to combine in federal systems, according to the interviewee from the US Department of Justice (CEOS).

Questions are also being raised regarding the application of legislation on underage sex offenders. In 2013, Human Rights Watch concluded that insufficient consideration is given to the age of juvenile offenders, which can have major repercussions for their mental health. Underage offenders, moreover, experience problems with aspects such as finding work and accommodation (Human Rights Watch, 2013).

Previous research has also shown that the registers are consulted with malicious intent. In at least five known murder cases in which the victim was a registered sex offender, the perpetrator used information obtained from the sex offenders register (Logan, 2009).

Lastly, various studies have called the effectiveness of registration into question,²¹ saying that inclusion in the state registers has no significant effect on the reoffending rates of convicted offenders.

Mandatory travel reporting

Under International Megan's Law, convicted sex offenders must advise their state authorities of any intended interstate or international travel.²² The legislation surrounding compulsory travel reporting varies from state to state. There are differences, for example, regarding the longest permissible stay in other states, as well as in the designation of specific areas where convicted sex offenders are allowed to reside (such as in the vicinity of schools or childcare centres) (Rolfe, 2017). As soon as travel is reported, authorities can use the Angel Watch Center to inform the relevant destination

(state, country, etc.) of the incoming visitor. International journeys must be reported to the local authority at least 21 days in advance (US Department of Justice, 2011). The authority will then inform the US Marshals, who can decide whether to share the information with Interpol (for the purposes of a Green Notice), according to an interview with the SMART Office. Convicted sex offenders who neglect to share their travel plans can be sentenced to ten years' imprisonment or a fine (Section 6). There are no available figures on the extent to which this offence is detected or punished.

The interview with the FBI revealed that the effectiveness of travel reporting depends on the specific time at which the information can be shared by the Angel Watch Center with the destination country. If the notification is processed and shared promptly with the destination country by the Angel Watch Center, the relevant country can take action. Often, however, travel notifications do not reach the destination country until the plane has already landed, at which point the convicted offender can no longer be intercepted.

Supervision orders

After completing a prison sentence, convicted sex offenders can be placed under supervision orders, of which the US has a relatively broad range. They can be lifelong, or apply for a fixed duration.

Depending on the intended purpose of the order(s), a federal or district court will decide on which measures should be imposed and for how long. There is a broad spectrum of options, including geographic restrictions, reduced access to children, restricted internet usage, monitoring of internet usage, mandatory participation in treatment programmes, and home visitations or home searches (announced or unannounced) by a probation officer (WODC, 2012). Residential restrictions can also be imposed, limiting the areas where convicted offenders are allowed to live. Generally, this means that convicted offenders cannot live in 'buffer zones,' or zones where children congregate such as schools, childcare centres, and sports associations (WODC, 2012). Additional prison or other sentences can be imposed by means of a review on convicted sex offenders who disregard the imposed measures.

Intermezzo – Additional measures

In addition to the measures mentioned above, probation institutions can also impose additional measures on registered child (and other) sex offenders. For example, on Hallowe'en night – a popular holiday among American children – the Westchester County Department of Probation in New York obliges all registered child/other sex offenders to report to the local court for a mandatory education programme. This measure is intended to prevent offenders from coming into contact – either intentionally or accidentally – with children celebrating Hallowe'en, and who may therefore be in danger.²³

The effectiveness of this measure is difficult to ascertain. There is much debate in academic circles, as a causal effect is difficult to establish (Van der Horst, Schönbergen & Kogel, 2012).

Unique identifiers and annulment of passports

International Megan's Law also allows the Department of State to place a unique identifier in the passport of a convicted child sex offender. This legislation is only applicable to American passports, and the identifier is worded as follows: *The bearer was convicted of a sex offense against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(1)*. The law prohibits the Department of State from issuing passports to convicted child sex offenders that do not contain the identifier.

International Megan's Law also allows for the confiscation of convicted child sex offenders' passports if they do not contain a unique identifier (Section 8). In such cases, the passport is revoked until an identifier has been added. According to the interview with the US Department of Justice (CEOS), the State Department decides on the confiscation of passports. When child sex offenders are convicted and sentenced to receive a unique identifier in their passport, the ruling must be communicated to the State Department so that the passport can be confiscated until the identifier is applied.

This legislation is only applicable to American passports, however. Although the US does not acknowledge dual nationalities, they are permitted. If the passport of an American citizen with dual nationality is confiscated, the American authorities cannot prohibit them from travelling on another passport. They can, however, inform destination countries of the offender's arrival, said one interviewee from the US Department of Justice (CEOS).

The Department of Justice (CEOS) interview also revealed that in practice, identifiers are only seldom applied – the punishments for sex offenders in the US are so severe that marking or confiscation of passports is not always necessary. For offenders who are sentenced to prison time followed by decades of supervision and travel reporting obligations, passport confiscation is viewed as a less-effective strategy.

Information exchange among the various federal government units is also sub-optimal, according to an interview with the US Department of Justice (CEOS). In some cases, the State Department is not informed of a conviction, and the passport is not revoked. According to the interview with the US Department of Justice (CEOS), the State Department is currently working on more effective communication.

Lastly, the legislation cannot be implemented retroactively. The passports of offenders convicted before 2007 therefore cannot be confiscated under the new legislation.

Criticism of these measures has also been directed at their proportionality and constitutionality, said one interviewee from the Department of Justice (CEOS). Some say that the scope of the law is too broad, potentially allowing a disproportionately severe measure to be imposed on a relatively low-risk offender. There are also claims that the law is too black-and-white, and that its application should be reconsidered in special cases, such as where juvenile offenders are convicted of sexual interactions with someone they are in a relationship with and whose age is only slightly below sixteen or eighteen. The risk of reoffending among this group is also relatively low.

The SMART office has no figures on the application of identifiers in passports, or on the number of confiscated passports.

The CyberTipline

Citizens and businesses can use the NCMEC's international CyberTipline to report suspicions of exploitation and abuse. Reports are forwarded to the HSI. If a report is serious enough, NCMEC may decide to conduct additional research to support investigative services. First of all, NCMEC conducts open-source research by checking its own database for details from the report (such as IP addresses or telephone numbers). If the report includes a name, they also consult publicly available information on the suspect at state level.

Most reports submitted via the CyberTipline come from individuals or businesses outside the United States. In 2020, the NCMEC received nearly 22 million reports (National Center for Missing & Exploited Children, 2020). According to an interviewee working there, the NCMEC can use its Case Management Tool to forward reports submitted via the CyberTipline to local police authorities and Regional Security Officers (see also Section 9.3.4). Reports can also be shared as part of international partnership arrangements such as Europol, Interpol and INHOPE24.

In addition to the CyberTipline, reports can also be submitted to The National Human Trafficking Resource Center and the Regional Security Officers who represent the American authorities abroad (ECPAT International, 2016a).

9.3.3 Risk assessment

In the US, risk assessments are currently implemented at various points in the procedures. The reoffending risk plays a small role in sentencing, for example (especially where supplementary measures are concerned, as the registration obligation is determined by the court) (ECPAT, 2015).

The principal application of the risk assessment is upon the offender's release from prison, or to decide whether supervision should be terminated. At these times, a risk assessment is used to establish community supervision, treatment and accommodation measures. According to a SMART-Office interviewee, the results of the risk assessment are used to determine how the community should be made aware of a convicted sex offender's return to society (US Department of Justice, 2015).

In one publication, the US Department of Justice (2015) stated that in theory, a risk assessment can in fact be used when convicting offenders, however the role currently played by the risk assessment in this decision-making process is unclear. The SMART Office also said that risk assessments are increasingly being used prior to sentencing, in order to determine where to place the convicted offender.

Different parties carry out the risk assessment in different states. Generally it is either the probation service, the Department of Corrections, or a police unit. These parties are subject to federal law, but enjoy a certain amount of freedom in the execution of the risk assessment. They can determine which risk-assessment instrument they apply, for example. As a result, risk-assessment methods vary between states. The methods most commonly used are the Static-99R and the Minnesota Sex Offender Screening Tool – Revised (MnSOST-R).

Intermezzo – Risk-assessment instruments

The Static-99R form is an instrument used to assess the likelihood of violent sexual reoffence among adult male sex offenders upon or after their release from prison (Phenix et al., 2016). The instrument consists of ten multiple-choice questions about the offender, their personal circumstances and prior convictions. A score is awarded for each answer, and a risk estimate can be made based on the given responses and their associated scores. Offenders can achieve a maximum score of twelve points, where twelve represents the highest probability of reoffending.

The MnSOST-R form is a risk-assessment instrument developed for use on male sex offenders in prison (Epperson et al., 2005). The instrument scores the offender on sixteen variables, twelve of which are static and four of which are dynamic. The static variables relate to aspects including the offender's prior convictions. The dynamic variables look at any treatment the offender may have had. Like the Static-99R form, the variables are assessed using multiple-choice questions, with a fixed score per answer. The maximum score is 31 points.

If the risk assessment is applied upon release from prison, the focus lies on the dynamic elements of the risk assessment, including the offender's treatment needs.

The reliability of these risk-assessment instruments is the object of some criticism, claiming that they have relatively low validity and a high margin for error (Bonnar-Kid, 2010). The methods are also of such a static nature that positive changes in the lives of convicted offenders – such as participation in treatment – cannot be effectively considered, according to one interviewed academic. And if methods are modified to give weight to an additional effect, the instruments lose their objectivity.

Various states are considering removing convicted sex offenders from registers whose risk assessment shows a low risk of relapse, according to various interviewees (including one academic). It is unclear whether other states will follow suit.

9.3.4 International cooperation

The US has set up various cooperative programmes to combat transnational child sexual abuse. This section describes the main programmes.

Regional Security Officers

The Department of State works with Regional Security Officers (RSOs): police representatives who are stationed at embassies or consulates. Some RSOs are responsible for certain countries, while others oversee larger regions. The role of an RSO is to monitor and coordinate the security programmes of foreign missions,²⁵ including the provision of support to local police authorities. RSOs have no mandate to conduct investigations themselves, but maintain close contact with local authorities, according to one interview with the US Department of Justice (CEOS).

The RSO network is so extensive that American RSOs sometimes also share valuable information with the police authorities of other countries. The Irish police, for example, state that they repeatedly receive information from American RSOs on Irish perpetrators of transnational child sexual abuse.

These RSOs work in parallel with the FBI agents who are stationed at foreign embassies. Whereas RSOs are concerned with security in general, FBI agents are deployed for specific investigations. In principle, the RSOs have no involvement in the investigations themselves.

Bilateral agreements

As part of Operation Angel Watch Center, Immigration and Customs Enforcement (ICE) has signed several bilateral agreements governing the sharing of information on planned/other travel movements by registered child sex offenders. In 2015, for example, agreements were signed with the UK National Crime Agency in 2015 (ECPAT, 2015) and with the Irish Ministry of Foreign Affairs in 2018.²⁶ In addition to information sharing, these bilateral agreements also provide for mutual support and the sharing of best practices.

The Code

ECPAT USA played an important role in establishing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (ECPAT International, 2016a). The purpose of The Code is to establish an integrated approach to transnational child sexual abuse, with a strong role for the private sector. Hilton Worldwide and Wyndham Worldwide are part of the initiative, for example. The US also uses Interpol Green Notices to share information with other countries.

9.4 Offender profiles

Interviewees from the US Department of Justice (CEOS) and the literature (ECPAT International, 2016a; ECPAT, 2016b) repeatedly state that perpetrators of transnational child sexual abuse are sometimes arrested while working abroad, for example as humanitarian or military workers.

At the same time, the interviewee from the US Department of Justice (CEOS) stated that in the past, specific attention was paid to hotspots that were especially popular among transnational child sex offenders. The focus on hotspots has now been abandoned, and risk areas for transnational child sexual abuse are being examined in a broader sense. This form of abuse is not limited to certain hotspots, but can take place in any country. Developing countries are particularly vulnerable, the more so due to the financial dependence of large sections of their population, making it an attractive prospect to have minors perform sexual acts for payment.

According to several interviewees and the available literature, most of the overlap between transnational child sexual abuse and hands-off child sexual abuse lies in the manner in which offenders make contact with minors. Offenders sometimes establish contact with minors online before travelling to the destination country (ECPAT International, 2016a).

The FBI also notes that people who view child sexual abuse online can potentially develop into transnational child sex offenders. The FBI refers to studies showing that 30–40% of the Philippine-based group under examination that viewed online images of child sexual abuse were also involved in hands-on abuse (Bourke & Hernandez, 2008).

The FBI also believes that COVID-19 has caused a rise in hands-off child sexual abuse, and they fear that the increase in the consumption of hands-off abuse will lead to a rise in the number of hands-on

offenders. The FBI is anticipating a rise in transnational child sexual abuse once travel becomes more accessible again.

The interviews did not reveal whether, and if so how, offender profiles will be used as part of American policy. The literature offers no up-to-date information on the subject.

9.5 Information available on transnational child sexual abuse offenders

The US has bilateral agreements with a range of countries governing information exchange on American citizens who are arrested or convicted abroad, according to one interviewee from the US Department of Justice (CEOS). In such cases, the American embassy in the relevant country is informed and the offender in question has the right to consular support. Notifications are not always issued when an American citizen is released from prison, or when they return to the US. Whether and how the US is informed in such cases depends on its relationship with the country in question.

ECPAT USA states that the local NGO branches and RSOs sometimes make use of the English-language press in the relevant country to gather information on American citizens who are convicted there. International newspapers in Cambodia and Vietnam generally devote attention to foreign offenders who are arrested or convicted. These news sources provide valuable information to NGOs and RSOs, according to one interviewee from ECPAT USA.

9.6 Summary

The American strategy against transnational child sexual abuse can be broadly summarised as follows:

- The American approach is highly repressive in nature. Convicted perpetrators of sex crimes (against minors or adults) receive severe punishments. After completing a prison sentence, they can also be subject to years of supervision. It is not the risk of reoffending but the nature of the crime committed that determines the level of sentencing, such as the imposition of supplementary measures. Policy is based on the assumption that sex offenders cannot be 'cured.' Consequently, harsh punishments are seen as the correct solution, of which there exists a broad range. Sex offenders can also be convicted in the US even if they have already been prosecuted for a crime in another country.
- Efforts are also made to increase community resilience by making information on convicted sex offenders publicly available via state registers.
- The extent to which measures are imposed, and their effectiveness, is largely unclear due to the limited amount of research in this area. Opinions also differ regarding the risk of reoffending among convicted sex offenders. Risk-assessment instruments also appear to see only limited use.
- A major challenge in the US is collaboration at federal and state level. Sexual-abuse legislation is generally written at federal level and implemented by the states, resulting in some discrepancies between the legislation itself and the implementation thereof. Communication between the various federal authorities is also sub-optimal.
- The discussion surrounding the risk of reoffending forms part of a broader discussion on convicted sex offenders, which questions the proportionality and effectiveness of policy in general. As regards transnational child sexual abuse, it can be said that American policy focuses exclusively on child sex offenders who have already been convicted.
- America's engagement in international cooperation has received much praise, particularly their broad deployment of Regional Security Officers. These officers not only support investigations by local authorities, but also play a key role in the identification of American and other western offenders abroad. Nevertheless, interviewees from America do state that the US has only very limited information on US citizens who are arrested and/or convicted abroad for the sexual abuse of minors.

Endnotes

1 PROTECT stands for Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today.

2 A 'minor' is defined as a person under eighteen years of age.

3 Harvard Law Review, 8 November 2019.

4 Clearly Enforcement Watch, 1 July 2019.

5 Harvard Law Review, 8 November 2019.

6 As set out in the Sixth Amendment of the American Constitution.

7 U.S. Immigration and Customs Enforcement, 25 June 2012.

8 It criminalises the sale of rape drugs, for example.

9 SMART Office, n.b. a.

10 The ratio of hands-off to hands-on crimes is unclear.

11 By comparison: the population of the US was around 330 million in 2020.

12 U.S. Immigration and Customs Enforcement, n.b.

13 By comparison: the population of the US was around 330 million in 2020.

14 National Center for Missing & Exploited Children, n.b. a.

15 National Center for Missing & Exploited Children, 2021.

16 ECPAT USA, n.b.

17 National Institute of Justice, 13 November 2020.

18 Registered Offenders List, n.b.

19 National Public Radio, 25 August 2020.

20 SafeHome.org, 24 August 2021.

21 Zogba and Michel (2021).

22 SMART Office n.b. b.

23 Westchester County Government, 28 October 2019.

24 INHOPE is an international online child sexual abuse reporting hotline.

25 U.S. Embassy & Consulate in Poland, n.b.

26 The Journal, 5 July 2018.

10. Answers to research questions and conclusions

This final chapter will address the research questions and provide some conclusions. These questions can be summarised as follows: What is known about offender profiles, what measures are available in the Netherlands to prevent potential or existing child/other sex offenders from (re)offending abroad, and what can the Netherlands learn from the measures employed in the five countries under review (Sweden, Germany, Ireland, Australia and the United States)? Within the context of this study, the countries under review primarily serve as examples and a means of comparison. They were selected based on the characteristic (i.e., distinctive) nature of the measures introduced, which formed the basis for the country reviews. This section commences with a reflection on the study, followed by an analysis of offender profiles. The situation in the Netherlands and the other five countries will then be described, followed by a conclusion outlining the key lessons derived from the study.

10.1 Reflection on the study

This study consisted of two parts: the comprehensive analysis of the situation in the Netherlands, and an analysis of the situation in five previously selected countries. A wide variety of sources were consulted, and a number of limitations identified.

Firstly, it was acknowledged that information on the phenomenon of transnational child sexual abuse is in short supply, resulting in a limited understanding of both the scope of the problem and the backgrounds and characteristics of offenders. Given the severity of transnational child sexual abuse, further academic research on the issue is recommended.

Secondly, the 'effectiveness' of the measures in the Netherlands could not be tested, due to the limited practical application of the available measures to date. The Passport Act (*Paspoortwet*) can be listed as one example (see below for more details). It is therefore too soon to say whether the existing instruments are effective. The study regularly revealed a dichotomy between the available options 'on paper' and their implementation in practice.

The third and last limitation to note relates to the country studies of Sweden, Germany, Ireland, Australia and the United States. It was beyond the scope of this study to research these countries as extensively as the Netherlands. We collected as much information and spoke to as many experts as possible, however the findings are still partly tentative. In other words, describing the available legal options in each country would demand an exhaustive study, by experts who are well acquainted with the legal situation in the relevant country. The same applies to the interviewed respondents, to a greater or lesser degree. The number of interviewees was relatively low, and they did not always have a comprehensive understanding of the full scope due to their own specialisation or focus area. In the report, we have therefore tried to avoid overly definitive standpoints, instead opting for phrases such as 'according to respondents...' or 'it seems to be the case that...' For the German study, it also proved problematic to speak to the right people from the police and the ministries.

Due to the above limitations, we have labelled the study as 'exploratory.' This does not disqualify the findings; rather, it means that the results should be regarded as tentative and taken as a guideline. Comprehensiveness was never the goal of this study, and the lessons derived from the collected material should be considered accordingly.

10.2 Offender profiles

This section attempts to answer research questions 1, 2 and 7. These questions address what the national and international literature and experts in the Netherlands and abroad say about transnational child sex offender profiles, and the overlap with other types of sex offenders. As previously mentioned, very little academic research has been conducted on transnational child sex offenders, resulting in a knowledge gap. The available literature draws a distinction between two groups of offenders: preferential and situational offenders. The difference between them is that while

preferential offenders prepare for the acts of abuse and actively go in search of victims, situational offenders only engage in the abuse when the opportunity presents. The literature focuses primarily on the group of preferential offenders.

The literature and experts offer little information on the characteristics of transnational child sex offenders. The literature mentions mostly male offenders, and experts also report encountering male offenders almost exclusively. Most experts believe that the ages of offenders vary between the two groups: preferential offenders are generally described as older than sixty, while the age of situational offenders is estimated at between eighteen and forty. They warn against the 'stereotypical' image of offenders as old, white men, as it feeds into a selection bias and obscures the other (i.e., situational) offenders.

More recent research and interviewed experts emphasise that in practice, the division between the two offender groups is less black-and-white, and that they should be placed on a continuum. They state that situational offenders can develop over time, ultimately adopting a motivation and modus operandi of a more preferential nature. This calls for early intervention and preventive measures.

According to the literature, the modus operandi of transnational child sexual abusers is influenced by the length of the perpetrator's stay in the destination country (short or long), their motivation (situational or preferential) and the location (hands-off – which also includes the online environment – or hands-on). Experts stress that offenders operate in a clever fashion, adapting their modus operandi to the measures taken in destination countries and creating a 'waterbed' effect. Recent years have also seen a higher degree of organisation among offenders, involving cooperation among them to commit abuse.

The extent to which transnational child sex offenders constitute a separate group within the larger group of sex offenders is difficult to ascertain. The extremely scarce literature reveals that a higher proportion of perpetrators of transnational child sexual abuse are (or have been) victims of sexual abuse themselves, and exhibit more pedosexual and antisocial behaviours. The literature also suggests that offenders of transnational child sexual abuse seek help more readily, and believe that their own likelihood of reoffending is higher. However, more academic research on transnational child sex offenders is necessary (as mentioned in Section 10.1 above) in order to verify these tentative findings.

According to experts in the Netherlands, there is an overlap between 'general' sex offenders and perpetrators of transnational child sexual abuse. According to experts, risk factors that contribute to the fact that perpetrators of transnational sexual child abuse travel abroad to commit such crimes, while 'ordinary' perpetrators of sexual offences do not, include the absence of a social life and having the opportunity to travel abroad. Transnational child sex offenders are also more anti-social, have problems with intimacy, and have less well-developed social cognition. The experts also believe that there is an overlap between perpetrators of transnational child sexual abuse and downloaders/distributors of visual materials portraying the sexual abuse of minors. In practice, experts encounter large numbers of transnational child sex offenders who also operate in an online environment; nearly all preferential offenders possess visual materials portraying the abuse of children. Due to the lack of large-scale studies, these findings should be treated with a degree of caution.

The Dutch strategy focuses predominantly on preferential offenders, with little attention to situational offenders. The above applies mainly to detection and prosecution, but to a lesser extent also to preventive policy. Experts state that there are various reasons for this focus, including the aforementioned selection bias, the anonymity of situational offenders (it is believed that these offenders stay at their destinations for shorter periods, resulting in fewer reports), and the notion that preferential offenders create more victims. Because the strategy is aimed at preferential offenders, more of them are detected.

In the Netherlands and the countries under examination, both investigative bodies and probation/care services know little about the profiles of transnational child sex offenders. To the extent that experts could make any statements regarding the known group of offenders, they also

often proved to be older men in the countries under review. Anecdotal evidence in the United States, for example, sketches the image of a well-off, white man aged 40 or over, who has sufficient financial means to travel abroad and who knows where the legal loopholes are. Experts in the various countries state that the focus is generally on preferential offenders, mainly because their modus operandi makes them more commonly known to the police and the justice system than situational offenders.

Regarding the question of the extent to which transnational child sex offender profiles differ from the profiles of offenders who operate in their home country, several experts (including those in Sweden, Ireland and the United States) state that offenders undergo a development. In many cases, offenders start by viewing images portraying the sexual abuse of minors. When this no longer provides sufficient gratification, they move on to committing child sexual abuse in their own area. Once this is also no longer satisfying (for whatever reason), they start operating abroad (a 'criminal sex career'). The Irish experts have established a specific link with the institutionalised church abuse, for example, saying that several child sex offenders known to the police and the justice system are now active as missionaries in countries such as Africa. Swedish interviewees state that the group of transnational child sex offenders start out by committing abuse in Sweden, generally with a profession that grants relatively easy access to children (e.g. as a teacher or doctor). Retirement or resignation from these professions makes access more difficult, driving the group abroad to commit their crimes.

To call a halt to this kind of development, care providers in particular try to intervene early by talking to potential or existing offenders and helping them to resist their pedophilic/pedosexual feelings. Many experts have identified an increasing need for this approach, given the ease with which potential offenders currently commit online child sexual abuse, particularly during the COVID-19 pandemic.

Key conclusions

- In the Netherlands and the five other countries, both the literature and experts offer limited information on the group of transnational child sex offenders. The focus on preferential offenders in academic literature and among professionals would seem to have uncovered only part of the problem.
- Based on the scarce literature and expert impressions, there are suspicions that a certain overlap exists between 'general' sex offenders and transnational child sex offenders. Some even speak of a criminal sex 'career,' in which certain risk factors first prompt an individual to acquire images portraying child sexual abuse, then to abuse minors in their own country, and later to move on to the sexual abuse of minors abroad.

10.3 Measures and their application

This section addresses research questions 3, 4, 5, 6, 8, 9 and 10, which pertain to the manner in which the Netherlands and the five other countries view the phenomenon of transnational child sexual abuse, the strategy adopted, and the intended effects thereof. The element of 'country culture' affects the legislative framework in each country, resulting in a continuum of available measures ranging from fully preventive measures at one end, and fully repressive measures at the other. Next, the Dutch policy is outlined, followed by a review of each country in turn, starting with the country with the most preventive policy, and finishing with the country with the most repressive policy. When describing the Dutch policy, a distinction is drawn between legal measures (legislation and jurisprudence), instruments (risk-assessment instruments, Green Notices and ECRIS, including screening for Certificates of Conduct), collaboration agreements (LOs and NGOs), and prevention. The focus of the country studies lies on the distinctive aspects within each country, which are intended to serve as inspiration for the instruments in the Netherlands. In all countries under examination, most policies and measures are directed at sex offenders in general, of which transnational child sex offenders form a sub-category.

The Netherlands

The Netherlands lies in the middle of the continuum, as it makes use of both preventive and repressive measures. In the Netherlands, the authorities believe that repressive measures – such as travel limitations and long-term supervisory orders – are necessary alongside preventive measures in order to erect barriers against the group of known offenders.

The law

Under a range of international treaties, the Netherlands has created legislation to protect minors against various kinds of sexual exploitation and abuse, including transnational child sexual abuse. The most important legislative measure enables Dutch citizens to be prosecuted in the Netherlands if they commit unpunished sex offences abroad, as it offers a legal means by which to prosecute transnational child sex offenders. The remaining legal options have a generic character; that is, they can also be applied to other groups. The Long-Term Supervision (Behavioural Influence and Limitation of Freedoms) Act (WLT in Dutch) was adopted in 2018, for example, which allows for the long-term supervision of 'at-risk' child and other sex offenders. Special conditions that can be imposed for this purpose include reporting obligations, residential/geographic restrictions, and travel bans. The Passport Act also allows for the confiscation of passports or the denial of passport applications, making travel from the Netherlands to non-Schengen countries more difficult and throwing up a key barrier for potential transnational child sex offenders. Regarding the question of whether the aforementioned legal options are actually used to combat transnational child sexual abuse, the answer is no (or very little).

The sources consulted reveal only a few convictions of Dutch citizens in the Netherlands who have abused minors abroad. In 2018 and 2019, the WLT – and specifically the behaviour-influencing and freedom-restricting measures (GVM) – were imposed five times on criminals who had committed one or more sex crimes against victims aged under eighteen. Regarding the special conditions, it can be said that reporting obligations alone cannot prevent convicted sex offenders from leaving the country, which limits their effectiveness. Little research has been conducted on the effectiveness of residential or geographic restrictions. The limited research that *is* available does not focus specifically on transnational child sexual abuse, but shows that monitoring compliance with these restrictions is difficult in the absence of supplementary measures and/or special conditions, in particular electronic monitoring, such as the use of an ankle bracelet. A jurisprudence study reveals that travel bans are rarely applied in practice. Lastly, the interviews revealed that to date, the Passport Act has only ever been applied once in practice. One main reason for its lack of application is that a high-quality risk assessment is required in order to do so, which until now has often been unavailable (see below). Another cause is that the Passport Act lacks a clear policy framework. In a policy sense, there is still no agreement on which criteria should apply or how they should be determined in order to properly substantiate suspicions that an offender will either reoffend or attempt to evade punishment. A third reason – and one that in fact applies to any measure that might be imposed – is that although the problem of transnational child sexual abuse has been known about for some time, it has only recently shown up on the radar of the relevant organisations, and must therefore 'compete' with other priorities, such as the strategy against online child abuse. The experts state that the statutory instruments can only be applied to child/other sex offenders who have been *convicted*, and who are therefore already known to these organisations.

In conclusion, although 'on paper' the Netherlands seems to have sufficient legal instruments to combat transnational child sex offenders, to date these legal options have only seen limited application in practice, as the criteria governing their imposition and implementation have not yet fully taken shape. All things considered, at this stage it is therefore not possible to draw any conclusions regarding the effectiveness of the available legal possibilities.

The instruments

The study also revealed that three instruments are necessary (or at least desirable) to combat transnational child sexual abuse: risk-assessment instruments, Green Notices, and ECRIS (including screening for a Certificate of Conduct, or VOG). These instruments target a broader scope than this specific group. The first instrument is the risk-assessment tool discussed above. The risk

assessment is usually carried out by the probation service, as they are asked to do so by the Public Prosecution Service for sentencing purposes. The probation service has been using the revised RISC assessment since 2018: a risk-assessment instrument applicable to all suspect types. RISC is a collection of various risk-assessment instruments that can be used to evaluate a suspect's protective factors and risk of reoffending, which can then be used by the probation service to formulate a recommendation regarding the risk and any special conditions to be imposed. The revised RISC tool has been designed so that the SSA forms (Static-99R, Stable-2007 and Acute-2007) must always be completed when assessing sex offenders. The Static-99R form uses static data such as age, sex and criminal history, whereas the Stable-2007 and Acute-2007 forms look at dynamic risk factors, allowing for a more accurate assessment of the risk.

The second instrument available for use is what are known as Green Notices. A Green Notice is an international notification alerting all countries of the criminal behaviour of a convicted child or other sex offender who is known to be at high risk of reoffending. One purpose of this Interpol initiative is to deny at-risk child or other sex offenders the opportunity to travel anonymously and undetected, to emigrate, or to perform volunteer or other work with children abroad. Green Notices do not automatically list court rulings, but provide added benefit if they do, as these can then be incorporated into Certificate of Conduct (VOG) screenings and other checks. In the Netherlands, experts believe that since the introduction of Green Notices, only a handful (fewer than ten) have ever been issued on Dutch transnational child sex offenders.

The third instrument, the European Criminal Record System (ECRIS), was established by the European member states in 2012 to improve information exchange on criminal justice and court rulings. Before that time, the Netherlands only used national convictions for procedures such as the VOG screening. All international convictions remained invisible, allowing child/other sex offenders who were convicted abroad to successfully work with children in the Netherlands. Past behaviour also never constituted any objection to visa applications or to emigration, which meant that VOG screening could not prevent sex offenders from committing transnational child sexual abuse abroad. In 2016, the European Commission concluded that ECRIS works well when it comes to citizens of EU countries, but that it provides no insight into European convictions involving third-country nationals or stateless persons. Information on foreign convictions is not only important for VOG screenings; the effectiveness of the Static-99 form also depends on having as complete a picture as possible.

The documentation and experts consulted revealed the following regarding the applicability and effectiveness of the three above-mentioned instruments. Although the Public Prosecution Service asks the probation service to carry out the risk assessment for sentencing purposes, experts say that the probation service has only limited capacity to do so. In some cases, therefore, the risk assessment is carried out by the police, who also lack the necessary capacity to carry out an effective risk assessment. Moreover, the police make exclusive use of the Static-99R form, as they have neither the capacity nor the information required for the other two instruments. As a result, the risk assessment is not always carried out, or is carried out by organisations or individuals that are not adequately equipped to do so. Experts also note that the Static-99 form only has limited applicability to the target group of transnational child sex offenders, even when it is carried out by people who do have the proper qualifications. The form assigns a lower risk to older offenders (which often constitute the group of transnational child sex offenders) than they should receive according to the people who perform the assessment. Also, the necessary information (such as foreign convictions) is not always available, or the quality of the available information is insufficient in order to correctly estimate the risk of reoffending. The imposition of judicial measures is thus impeded, as these measures can only be applied if the risk of reoffending is high.

To date, Green Notices have seen only limited application on transnational child sex offenders in the Netherlands, due to the potential infringement on privacy. Sending a notification to all participating countries is viewed as a rather excessive measure (the offenders have already been convicted, after all). There is an option to alert individual countries by means of what is called a Green Diffusion, however according to the experts, this instrument has not yet been applied. Experts also note problems in the receiving countries, where expertise and infrastructure are not adequate enough to take advantage of such alerts. These countries therefore become the countries (or the most popular countries) where transnational child sexual abuse takes place.

Experts are sceptical regarding the effectiveness of ECRIS in combating transnational child sexual abuse, the greatest problem being that ECRIS does not provide any information on convictions in non-EU countries. Such information is crucial to combating transnational child sexual abuse, as these are the countries where it mostly occurs according to the literature and experts. A child sex conviction in Vietnam will not be visible in ECRIS, for example, which – following on from the above – will impact the usefulness of the Static-99 form and Green Notices. To improve this situation, the European Criminal Record Information System Third Country Nationals (ECRIS-TCN) is expected to become operational in 2022. ECRIS-TCN contains a list of the identifying data of third-country nationals (who are not EU citizens), and of EU citizens who have additional nationalities outside the EU. In June 2021, the Minister for Legal Protection also indicated that he was exploring options for incorporating final convictions issued by non-EU courts into the VOG screening process. This information pertains to the sexual abuse of minors by Dutch citizens abroad. As noted for the legal options above, it is difficult to establish for certain how effective the instruments are, due to their extremely limited use until now.

Collaboration

The study revealed various examples of partnerships and collaborative programmes that target transnational child sexual abuse either directly or indirectly.

Liaison Officers (LOs) stationed by the police in Asia and the Philippines act as operational managers for international cooperation on criminal phenomena, including transnational child sexual abuse. Currently there is a targeted strategy underway in South-East Asia, with important posts for LOs in Manila and Bangkok. In the past these were thematic LOs, but nowadays they are responsible for the entire LO portfolio, which regularly includes cases involving transnational child sexual abuse. According to experts, the presence of LOs generates several dozen reports of (suspected or real) transnational child sexual abuse per year, several of which result in concrete local investigations. Experts also state that the local network of LOs has been instrumental in the identification and rescue of victims on multiple occasions. Dutch investigation teams and police partners abroad, as well as local NGOs, also make use of the specific knowledge and experience of the LOs. From a practical point of view, this has resulted in the smoother international exchange of information, more effective initiation of local investigations, and raising local attention to and awareness of tackling child sexual abuse.

NGOs play an important part in the strategy against transnational child sexual abuse, according to the interviews and documentation. NGOs work for and with the local population, and therefore have knowledge of the local context and may also have information on potential or active child sex offenders, as evidenced by their local activities that aim to raise awareness of the problem among the tourist sector (hotels and travel organisations). An NGO (ECPAT) has also been running the Child Sex Tourism Hotline since 2018 (which was renamed 'Don't Look Away' in 2020), where citizens can report suspected cases of transnational child sexual abuse. The hotline is part of the European Don't Look Away awareness campaign, a collaboration between Germany, Austria and Switzerland, the travel sector, and Interpol. The purpose of Don't Look Away is to collect as much useful information as possible on current or potential offenders and victims for use in criminal investigations. The information is forwarded to the Dutch police, who can launch an investigation if the offender has not yet been prosecuted in another country.

Regarding the 'applicability' – or rather, the relevance of partnerships to the strategy against transnational child sexual abuse – the experts are unanimous: they are necessary. Without international cooperation, the strategy will go nowhere. They argue for more and improved collaboration with local partners (via the LOs) and the NGOs, who are the eyes and ears in the region. The experts do identify some limitations, however. First of all, the capacity of Dutch LOs is limited. The regions are too large for the available LOs, who have other portfolio duties in addition to combating transnational child sexual abuse. As yet there are no LOs stationed in developing continents such as Africa. A second reservation concerns the role of the NGOs in the identification and collection of information on potential offenders and victims. The police and Public Prosecution Service have expressed criticism of NGOs, saying that in some cases they are too involved with

'investigative activities.' In turn, the NGOs complain that they receive little to no information from the police or Public Prosecution Service after passing on their suspicions of transnational child sexual abuse. The police and Public Prosecution Service are bound to statutory regulations governing information exchange. Experts argue for clearer agreements regarding information exchange, in order to manage expectations. The number of reports per year is low, however. The experts believe that citizens/tourists are hesitant to report any warning signs. Awareness campaigns, such as those aimed at informing citizens and tourists, could give individuals more information about the status of reported incidents (including the identification of suspects and updates on their arrests and prosecution) with the aim of increasing people's willingness to report.

Prevention

In addition to the Don't Look Away hotline and awareness campaign mentioned above, the Netherlands also has the Stop it Now! hotline, aimed specifically at potential or existing child sex offenders. The telephone hotline is a free, anonymous and confidential service that aims to prevent child abuse by providing advice and referral to appropriate support. Third parties (parents, family, partners) can also call the hotline to ask questions. It does not focus specifically on transnational child sexual abuse, and from the figures it is not possible to determine how many potential transnational child sex offenders have used the hotline. Interviewees did report some usage, however. Though it is unclear whether this preventive helpline does in fact stop Dutch citizens from travelling abroad to commit child abuse, the experts do regard it as a valuable initiative.

Key conclusions

- Police capacity in the Netherlands is limited, and due to the nature and scope of the problem, it is mostly deployed to combat online child abuse rather than transnational child sexual abuse.
- In theory, the Netherlands does have sufficient legal options (i.e., the Long-Term Supervision Act, including special conditions such as reporting obligations, geographic restrictions and travel bans, and the Passport Act) that can be used either independently or in combination to erect barriers and prevent convicted offenders from travelling abroad to commit transnational child sexual abuse. As yet, however, there is little jurisprudence available (according to the few cases listed on the Rechtspraak website) to draw any conclusions on the effectiveness of the legislation.
- To date, only a limited number of Green Notices have been issued on Dutch transnational child sex offenders, making it difficult to reach any conclusions regarding their effectiveness as an instrument.
- One prerequisite for the imposition of legal measures and Green Notices is a high risk of reoffending, ascertained via a risk assessment. The information necessary to carry out such an assessment is often lacking, however. Furthermore, there is often insufficient capacity available at the relevant organisation to complete the assessment, or the assessment is performed by another – less qualified – organisation. In such cases, risk assessments are carried out incorrectly or not at all, resulting in an inaccurate risk assessment which impedes the deployment of legal options or Green Notices. The lack of information on non-EU convictions in the ECRIS system is also seen as a drawback, as this information is also of importance when making a risk assessment. In June 2021, the Minister for Legal Protection indicated that he was exploring options for incorporating final convictions issued by non-EU courts as part of the VOG screening process. This information pertains to the sexual abuse of minors by Dutch citizens abroad.
- In practice, the legal options (legislation and jurisprudence) and the three available instruments (risk assessments, Green Notices, and ECRIS including VOG screening) can only be applied to offenders who have already been convicted and are known to the police and justice system. Combating transnational child sexual abuse by first offenders requires preventive measures.
- Cooperation between the Dutch police, LOs and NGOs is of crucial importance in order to fill the existing knowledge gaps. Areas for improvement in this regard include the limited available police capacity, and necessary agreements between parties that clearly set out responsibilities and authorisations.
- The preventive strategy relies partly on citizens as potential reporters of transnational child sexual abuse. The Don't Look Away awareness campaign and hotline (called the 'Child Sex

Tourism Hotline' prior to 2020) encourage citizens to report suspicious situations. This preventive measure specifically targets transnational child sexual abuse. The preventive strategy also targets potential offenders by offering a telephone hotline that can be voluntarily called for advice on how to avoid committing abuse.

Sweden

Sweden has the most preventive policy. One aspect of the strategy focuses on preventing transnational child sexual abuse, by offering a service that potential offenders can turn to for professional help. Various voluntary treatment programmes are available that aim to reduce the likelihood of criminal activity through behavioural change. Sweden also invests in awareness campaigns, both in Sweden and the potential destination countries. By alerting the public to the potential risks, the strategy aims to increase vigilance and people's willingness to report. Another aspect offers care to convicted child sex offenders, using therapy and other treatments to try to minimise the likelihood of reoffending. The care provided focuses on treating underlying problems, with the aim of preventing unacceptable sexual behaviour. It should be noted here that all support offered in Sweden is on a voluntary basis. If current or potential offenders do not wish to accept any support, they cannot be forced to do so.

Unlike the other countries, Sweden has relatively few repressive measures that can be imposed. Once somebody has actually committed a crime, under the Swedish Criminal Code perpetrators of transnational child sexual abuse are punished via fines and/or incarceration. Additional measures, such as a compulsory hospital order, cannot be imposed. Sweden has no passport measures or travel bans, nor is there a register of convicted child sex offenders. The underlying rationale is that once a person has been convicted of a sex crime and has completed their sentence (either a fine or imprisonment), they are a free person. Unlike the view in other countries, imposing measures that limit individual freedoms is not in line with this rationale. The individual freedom central to the Swedish mindset therefore constitutes a key aspect of the Swedish system.

Based on the information collected, it is not possible to comment either on the effectiveness of the treatment and care provided, or on the prevalence of reoffending. Most treatment programmes have not been evaluated, resulting in a lack of figures and results. Some experts also question the reliability of reoffending statistics, saying that it is quite possible that offenders do reoffend, but are not detected by the investigative bodies.

Sweden has reasonably extensive extraterritorial legislation, and convicting a person for transnational child sexual abuse does not require the offence to be punishable by law in the destination country – prosecution only requires the offence to be criminal under Swedish law. Although broad powers exist for prosecuting such crimes in Sweden, doing so in practice is troublesome, primarily because evidence for the crime must be collected in the destination country. This gives rise to a range of problems in practice, and cases often stall due to a lack of evidence – a problem encountered in all of the countries under review.

Sweden belongs to various committees that aim to combat transnational child sexual abuse. From a prevention perspective Sweden is very active, however Sweden's role is smaller when it comes to international investigation. The main reason is because it is difficult for Sweden to share information about individuals with other authorities, due in many cases to privacy legislation. This is also the main reason why Sweden does not subscribe to the Interpol Green Notices system. Sweden does participate in the Nordic Liaison Officers initiative, however. These LOs can be deployed in destination countries to assist local authorities during investigations.

Germany

Like the Netherlands, Germany is situated in the centre of the continuum. Both countries employ very similar measures. It should be noted, however, that the current focus in Germany lies primarily on combating sexual abuse in Germany itself, as a consequence of several major domestic cases of both hands-on and hands-off abuse. Because of this strong focus on the abuse within Germany, there is little attention to combating transnational child sexual abuse committed by German

offenders. The Federal Ministry for Economic Affairs and Energy also currently (as at August 2021) has no portfolio holder for the issue, and the position has been vacant since March 2020.

German law does offer avenues for combating transnational child sexual abuse, however. The strategy consists of both repressive and preventive measures. Examples of repressive measures include the potential monitoring and supervision orders imposed on convicted sex offenders following their release from prison. Offenders can also be required to report regularly to the court or to another court-appointed authority, and to list themselves in a registry for convicted sex offenders after their release. These registers are administered at federal state level, and each state can set its own legislation surrounding registration, including the statutory duration and other obligations. There is no over-arching federal register. These measures not only target perpetrators of transnational child sexual abuse, but are applicable to a broad range of sex offenders. Germany has a Passport Act that allows for the confiscation of passports and the rejection of applications for new passports. Applying these laws to perpetrators of transnational child sexual abuse is problematic, however, and rarely ever occurs. It is also difficult to give an indication of the repressive measures' effectiveness.

Prevention involves a number of initiatives that allow potential child/other sex offenders to seek help. The support programmes are aimed at helping people to avoid committing crimes by trying to identify and address the underlying causes that would lead somebody to do so. All programmes are voluntary, which means that nobody can be forced to take part. The effectiveness of the programmes is difficult to determine.

Internationally, Germany has LOs stationed in various countries. Their mandate is limited, and is primarily aimed at assisting with terrorism investigations and combating drug-related crime. It offers little scope to provide additional aid in researching or combating transnational child sexual abuse. Germany participates in the Interpol Green Notices system, and can therefore issue notices to warn authorities in destination countries when a known, at-risk transnational child sex offender plans to travel abroad. Whether this system is employed in practice, however, is not known.

Ireland

Transnational child sexual abuse is a sensitive topic in Ireland, due to the past abuses that took place within the church. In society and politics, transnational child sexual abuse is an extremely sensitive subject. Prompted by the discovery of sexual abuse in the church, several harsh and far-reaching laws were adopted in order to deal with sex offenders. Currently, there is consideration to further tighten these laws and limit the freedoms of convicted perpetrators even more. The measures in Ireland are largely based on those available in Australia and the United States. This means that the approach is predominantly repressive, and that strict measures can be imposed on convicted transnational child sex offenders. In addition to long prison sentences (possibly in combination with a fine), convicted offenders can also be listed in the Sex Offenders' Register and be made subject to mandatory travel reporting. A Green Notice can then be used to warn authorities in possible destination countries of the imminent arrival of a transnational child sex offender. The capacity and willingness of the foreign authorities receiving the alert will determine whether any action is taken as a result. Other measures include the imposition of a Sex Offender Order (such as a geographic restriction), a reporting obligation for convicted offenders who wish to work with children, and participation in the Sexual Offender Risk Management Program (a monitoring programme that lasts as long as the supervision by the probation service). Several legislative amendments are imminent in Ireland, which will serve to sharpen the existing measures. The possibility of revoking the passport of a convicted child sex offender is also being considered, thus temporarily preventing them from travelling abroad.

The number of preventive measures is limited: the country has few awareness campaigns, and there are limited avenues for offering care and treatment to existing or potential child/other sex offenders. The treatment programmes that do exist primarily target people who already have a conviction. There is an offender aftercare programme, for example, with a slightly more 'moderate' policy than those of Australia or the United States. Treatment programmes end once offenders are no longer under supervision by the probation service.

The effectiveness of the various measures is difficult to determine based on the interviews conducted and data collected. Few statistics are available to give insight into the frequency with which measures are applied, and the measures have not (or not yet) been evaluated. The only known facts are that some transnational child sex offenders, for whom Green Notices have been issued, have been turned away upon arrival in other countries.

Currently, Irish international cooperation focuses mainly on issuing alerts. While there is a need to expand and strengthen cooperation, there are some barriers to be overcome. Firstly, the Irish authorities are not always authorised to share the information necessary to tackle offenders. Secondly, the Irish police force is suffering from capacity problems, making it impossible to station Irish police employees abroad.

Australia

When child sexual abuse committed by Australians abroad came to light in the 1990s, Australia acknowledged a moral responsibility to address transnational child sexual abuse, resulting in social and political attention to the need for a rigorous strategy. Unlike Sweden, the Netherlands, Germany and Ireland, Australian policy is therefore predominantly repressive, and concentrates to a lesser degree on prevention. Experts recognise that the policy only targets previously convicted offenders, and that first offenders remain largely out of reach. The Australian focus is also increasingly shifting from transnational child sexual abuse towards online child sexual abuse.

Australia has specific extraterritorial legislation that targets transnational child sexual abuse: the Crimes (Child Sex Tourism) Amendment Act (initiated in 1994). This legislation criminalises transnational child sexual abuse, and allows maximum sentencing of up to 25 years imprisonment. Fines can also be imposed on parties that facilitate transnational child sexual abuse. Additionally, in 2010, preparatory offences became punishable by law, however Australia faces several challenges when implementing the legislation. Preparatory offences are difficult to prove, for example, and extraterritorial investigations are complex, expensive and time-consuming, resulting in a limited number of actual convictions.

Australia also has various generic instruments that can be applied when combating sex offenders. Offenders can be made subject to mandatory registration for a period of eight years, fifteen years, or for life. These registers allow authorities to monitor the offenders. The registers are also used to impose restrictions limiting travel, such as revocation of a passport (the Passport Legislation Amendment, 2017). Convicted offenders can also be made subject to mandatory travel reporting obligations for interstate or international journeys. Little is known about the application or effectiveness of these instruments; hardly any data is collected on their application. Experts are generally positive about the available instruments, but do note that the law still contains several gaps, creating the risk that offenders may continue their activities undetected.

Australia works actively with countries in the region. Australian LOs are stationed in various South-East-Asian countries, for example, and Australia participates in several initiatives aimed at establishing strategic collaboration (including the Bali Process and the ASEAN task force). It is unclear how active these initiatives currently are, however interviews revealed that close collaboration with destination countries is viewed as very positive, both in terms of issuing alerts and conducting extraterritorial investigations.

The United States

The United States takes a strongly repressive approach to sex offenders in general. In addition to punishing offenders, American policy is also aimed at protecting children and helping victims to rebuild their lives. Within this repressive climate, there is little to no freedom (sometimes literally, due to the long prison sentences) for preventive policy or support programmes. This makes the United States the country with the most repressive policy of all those under review. It has therefore received some criticism. Opponents question the proportionality and effectiveness of the measures, saying that convicted child/other sex offenders are punished too harshly and for too long. Their re-integration into society is supposedly affected as a result, and made worse by the stigma that

surrounds sex offenders. The opponents say that the above may actually serve to encourage reoffending.

One example of a repressive measure is Megan's Law (1994), which stipulates that the personal information of convicted sex offenders must be shared with the community. In 2016, specific legislation was also introduced targeting transnational child sexual abuse: International Megan's Law. Under this law, sex offenders can be sentenced to having a unique identifier placed in their passport, or to having their passport temporarily annulled. Offenders are also generally punished quite harshly, and can be subject to monitoring after completing their sentence. This can include measures such as mandatory travel reporting, residential and geographic restrictions, strict monitoring by the probation service, and periodic home visitations. Sex offenders can also be convicted in different jurisdictions for the same offence.

Although prevention is not a priority within the American system, there are initiatives aimed at increasing the resilience of the community at large and of potential victims. The NCMEC also runs the CyberTipline, where citizens can report suspicions of sexual abuse.

Some measures – including post-sentencing monitoring requirements – are readily applied. There are no concrete figures available on the degree to which unique identifiers are placed in passports, however. Experts state that their application is only limited. Offenders are generally punished and monitored to such a harsh extent that international travel is completely impossible anyway, rendering the unique identifier largely superfluous.

The US has a strong network of Regional Security Officers (RSOs) stationed in various countries. They act as the 'eyes and ears' of the American authorities, and play an important role in identifying offenders, overseeing extraterritorial investigations and maintaining bilateral contacts. If RSOs become aware of arrests or convictions of American citizens abroad, they can also inform the US authorities.

Key conclusions

- Australia and the United States have specific legislation that targets transnational child sexual abuse. This legislation allows for rigorous punishments, such as fines that can be imposed for preparatory offences or on facilitating parties. However, the implementation of the legislation is hampered by laborious international investigations, difficulty obtaining evidence, and other causes.
- The repressive measures available in Ireland, Germany, Australia and the US are targeted – as they are in the Netherlands – only at the group of offenders already known to the police and the justice system.
- Some of the instruments available abroad are liberally employed, including post-sentencing supervision orders and mandatory travel reporting. However, very little data on the application of measures is collected, precluding the ability to draw any conclusions regarding their effectiveness.
- In some countries – including Germany and Sweden – police capacity is utilised more to combat online child abuse rather than transnational child sexual abuse.
- Like the Netherlands, the countries under review (Sweden, Germany, Ireland, Australia and the United States) all cooperate to some extent with other destination countries or countries of origin. The deployment of LOs is viewed as particularly beneficial. These officers can identify warning signs more quickly, contribute to international investigations, and facilitate communication with the local investigative and other authorities. Despite the above, Sweden, Germany, Ireland, the United States and Australia have only very limited information on citizens who are arrested and/or convicted abroad for the sexual abuse of minors.

10.4 Lessons for inspiration

This section addresses research questions 11 and 12: can the Netherlands learn from the strategies against transnational child sexual abuse adopted by the countries under review, and if so, how? It

should be noted, however, that none of the measures applied in the countries under review have been evaluated for 'effectiveness'. Some benefits and drawbacks have been identified, however. In addition to addressing these two research questions, lessons have also been derived that became apparent based on the current situation in the Netherlands.

Increase capacity

In both the Netherlands and the countries under review, more police capacity is used to combat online child abuse than transnational child sexual abuse. This decision is understandable given the severity of online child abuse, however the strategy against transnational child sexual abuse still deserves a major boost to capacity. It is known that these investigations are extremely time-consuming. Nevertheless, both 1) the scale at which abusers of children abroad can operate, and 2) the severity of the crime give sufficient cause to allocate additional capacity.

A second lesson that can be distilled from this exploratory study relates to the establishment of clear and workable criteria that can be used as a basis to effectuate legal instruments (such as the Passport Act) in order to prevent sex offenders from travelling abroad. As previously stated, these possibilities do already exist in theory.

Risk-assessment instruments

All countries under review expressed criticism of the available risk-assessment instruments, as convicted offenders with a genuinely high risk of reoffending were allocated a low risk in practice due to the criteria used. Under the given criteria, elderly offenders aged over sixty are allocated a lower risk, even though older offenders are in fact at a higher risk of reoffending, according to the interviewed experts. In some countries, such as Sweden and Australia, there is also a belief that the risk-assessment instruments in their current form are not suitable for use on female or very young male offenders (among other groups).

More research is therefore required on offender profiles and *modi operandi*, in order to establish whether the criteria in the risk-assessment instruments are adequate for use on (potential or existing) transnational child sex offenders. Potential characteristics for further study could include younger and female offenders. In 2016, Koning and Rijkssen-van Dijke called for more research on these offender groups. Several countries (including Australia and the United States) are already attempting to gather information on both preferential and situational offenders, by focusing on ascertaining offenders' *modi operandi*. This knowledge is essential to understand the true scope and nature of transnational child sexual abuse, in order to improve the effectiveness and the possible development of instruments and measures. Additional research on the *modi operandi* used in various cases (by offenders in both the Netherlands and in other countries) could offer further data points.

Monitoring

As mentioned above, although Dutch law provides for the monitoring of convicted offenders (such as the Passport Act, reporting obligations, and residential/geographic restrictions), these provisions are still inadequate when it comes to combating transnational child sexual abuse. Countries offering potential lessons in this regard include Australia, Ireland and the United States, as these countries allow for registration obligations and passport identifiers. Experts warn, however, that such instruments can easily lead to disproportionality.

Registration obligations

Australia, Ireland and the US all make use of mandatory offender registers. In Australia, for example, convicted sex offenders can be made subject to compulsory registration for a period of eight years, fifteen years, or for life. These registers are then used to facilitate travel restrictions, such as passport confiscation. Registered offenders can also be made subject to mandatory travel reporting obligations for interstate or international journeys. Ireland has a register that convicted offenders must sign up to upon release from prison, so that they can be monitored. The various forms of registration enable authorities to maintain surveillance on convicted offenders, to a greater or lesser

degree. Registers could offer a possible solution for the Netherlands. If such a register is considered in the Netherlands, the potential relevance of different registration periods (as employed in Australia and other countries) could also be examined. It should be noted, however, that the details in the registers in all countries under review are provided by the offenders themselves, which can result in incomplete and inaccurate data. It is therefore still uncertain whether a register will genuinely help to restrict international travel.

Passport identifiers

In the United States, unique identifiers are placed in the passports of convicted sex offenders as a means to facilitate travel restrictions. In practice this measure proves to be of little use, as the punishments for sex offenders are already so severe that international travel is already impossible. There are also movements claiming that passport identifiers constitute too great an infringement on the rights of individuals (who have already been convicted, after all).

Facilitating national and international information exchange

As mentioned above, access to accurate and up-to-date information is indispensable in order to combat transnational child sexual abuse. Connecting existing national information systems has proven to be of crucial importance. In Germany and the United States, for example, information systems exist only at federal state level, creating fragmented information exchange both within the country and internationally, and hampering the strategy against transnational child sexual abuse. All of the countries under review have claimed to experience difficulty sharing information with one another systematically at international level. No country thus far has found the ideal solution. Australia has found a potential solution by concluding bilateral treaties with risk countries, to enable this kind of information exchange on an ad-hoc basis. This system puts the Australian authorities in a better position to implement the available measures and prevent offenders from travelling abroad. The Netherlands can learn from this example, and invest more in concluding bilateral agreements. It should be noted, however, that improving the flow of information from risk countries also demands a commitment from the relevant countries themselves. If systematic information exchange is to be encouraged by bodies such as Interpol, attention to information flows from risk countries will be essential.

To date, LOs have been stationed in the Netherlands (and in other countries) as the primary conduit for information exchange. The LOs support the local authorities, including as part of investigations, by providing resources and educating the local authorities (capacity building). However, the common factor in all countries is the limited capacity of the LOs, in terms of available FTEs, their professional fields and focus areas. For this reason, it may be useful to examine the way in which Ireland and Sweden have structured the LO role. While Ireland itself stations no LOs, making use of LOs from other countries instead, the Swedish authorities have sought collaboration with other Scandinavian countries and joined forces by sending out a single LO to a specific country where they can offer support to local authorities during investigations. By employing a similar model (and collaborating with all Benelux countries, for example), the Netherlands could benefit by compensating for the limited capacity and improving the supply of information. Despite the bilateral agreements and the efforts by LOs, access to police and other information on sex offenders abroad (including convictions) remains limited in both the Netherlands and the other five countries under review. None of the countries has a system in which this kind of information is automatically shared by the country in which a crime is committed by one of its citizens. Effective contacts in the country where a crime is committed would seem to be the most effective means of obtaining this kind of information, although it currently still only occurs on an ad-hoc basis.

Strengthening public-private partnerships to improve the flow of information

In addition to that of LOs, the potential role of NGOs is also a potentially beneficial and desirable aspect that could be explored. NGOs can provide added value by means of the information that they can access. Police and NGOs do need to make and adhere to clear procedural agreements, such as which methods NGOs are allowed to use to collect such information. The Netherlands can then seek contact with organisations that have international branches or that collaborate with organisations

abroad, allowing LOs to liaise with contacts at the relevant locations and set up information collection. Examples of this type of collaboration with NGOs exist in other countries. The NCMEC – a United States organisation – uses open sources (OSINT) to conduct independent research on news reports pertaining to international convictions. The United States also uses NGOs to provide aftercare to victims of transnational child sexual abuse. Ireland's strategy against transnational child sexual abuse also involves collaboration with banks, who can monitor suspicious transactions. This measure enables early detection of potential offenders, before they travel abroad. According to one expert, it is already possible in the Netherlands to track financial data and identify 1) people who have no prior convictions, and 2) environments where offenders operate, such as foundations, orphanages, religious initiatives, etc.

Prevention

The Don't Look Away awareness campaign and hotline aim to encourage citizens to report suspicious situations both in the Netherlands and abroad, so that the police can look into the reports and launch an investigation if given sufficient cause. Sweden has a similar measure in place: a telephone hotline where suspicions of transnational child sexual abuse can be reported. Although the hotline has prompted greater discussion of transnational child sexual abuse among Swedish citizens, to date the reports received have been too generic in nature. The situation in the Netherlands is comparable. One important lesson is that citizens must be taught to recognise the relevant signs of child sexual abuse both at home and abroad, and know what will happen with their report when they call the hotline. This knowledge may increase people's willingness to make reports.

Until now, the preventive measures in the Netherlands have also been predominantly aimed at the responsibility of citizens to watch out for suspicious situations involving transnational child sexual abuse. There is therefore room for greater investments in care and treatment programmes for potential offenders, to help them resist their sexual feelings towards minors. Although these types of programmes already exist in the Netherlands, there is room for expansion, as is already the case in Sweden.

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Appendix 1 – Respondent overview

Country study: The Netherlands

Dutch National Rapporteur

One officer: senior investigator

Royal Netherlands Marechaussee (KMar)

One officer: sex crimes team manager

Ministry of Justice and Security

Six officers: three policy officers, a legal adviser, and two senior policy officers

NGOs

Child Protection Research Center: director

ECPAT: Children's Rights and Exploitation project coordinator

Terre des Hommes: adviser

National Police

Seven officers: TBKK coordinator, SECTT (KST) Liaison Officer, TBKK operational specialist, TBKK operational specialist in international cooperation, Sex Crimes senior adviser, SECTT senior Liaison Officer.

Public Prosecution Service

Four officers: SECTT (KST) policy adviser, two public prosecutors, former SECTT policy adviser

Other

Professor (Maastricht University), legal specialist, research journalist, psychotherapist, (Stop it Now!)

Country study: Sweden

Type of organisation	Organisation
NGO	ECRE, Sweden:
Police	NOA – CSA Intelligence Unit
Police	NOA – Cybercrime Unit
Government	Swedish Gender Equality Agency
Healthcare organisation	ANOVA/Preventell Sweden
Swedish Prison and Probation Service	Kriminalvården/Founder of the SEIF programme

Country study: Germany

Type of organisation	Organisation
NGO	ECPAT Germany
Government	Independent Commissioner for Child Sexual Abuse Issues (UBSKM)
NGO	ECPAT International
Academic	Martin Luther University, Halle-Wittenberg

Country study: Ireland

Type of organisation	Organisation
NGO	MECPATH
Academic ¹	University of Limerick
Police ²	Garda Síochána (Online Child Exploitation Unit)
Police	Garda Síochána (National Office for the Sex Offender Risk Assessment and Management)

Country study: Australia

Type of organisation	Organisation
Academic	University of Queensland
Academic	Griffith Law School
Government	Australian Passport Office – Department of Foreign Affairs and Trade
Government	Child Abuse and Family Violence Section – Department of Home Affairs
Police	Police of Western Australia, sex offender register unit

Country study: United States

Name	Organisation
NGO	ECPAT USA
Government	US Department of Justice (CEOS), Child Exploitation and Obscenity Section
NGO	NCMEC
Academic	University of Miami School of Law
Government	US Department of Justice (CEOS), SMART office
Government	Federal Bureau of Investigation

Endnotes

1 In addition to her work at the University of Limerick, this interviewee is also one of the experts on the advisory committee for the upcoming amendments to the Sex Offenders Act. She is therefore very well-acquainted with the upcoming amendments.

2 For years, the interviewee was actively involved in the investigation of physical transnational child sexual abuse, and is well-acquainted with the powers and challenges of the Irish police in detecting transnational child sex offenders.

Appendix 2 – Age of consent by country

Source:

<https://worldpopulationreview.com/country-rankings/age-of-consent-by-country>

Appendix 3 – Format of analysis applied to measures

The following items were used in the analysis format:

- Laws and legislation, legal measures, instruments and initiatives
- Created?/Implemented?
- Objective
- Introducing/implementing body
- Primarily/exclusively targets offender type
- Frequency of application
- Results known in the academic grey literature?
- Effectiveness
- Do people speak of results in practice?
- Effectiveness

Also in the Bekereeks series

2008

Ambtscriminaliteit aangegeven?

Een onderzoek naar het opvolgen van en kennis over de wettelijke verplichting tot aangifte van artikel 162 Sv misdrijven

Verborgene problemen

Een onderzoek naar (de aanpak van) criminaliteit onder Antillianen in Nederland

Bont en Blauw

Een onderzoek naar de strafrechtelijke behandeling van geweldszaken tegen politieambtenaren en de bejegening van slachtoffers daarvan door de politie en het openbaar ministerie

Uitstel van behandeling?

Een verkennend onderzoek naar TBS-gestelden met en zonder een combinatievonnis en de mogelijke effecten van detentie

2009

Huwelijksdwang: Een verbintenis voor het leven?

Een verkenning van de aard en aanpak van gedwongen huwelijken in Nederland

Inpakken niet nodig

Een profiel van straatrovers en straatrovers in Almere

Back on Track?

Een evaluatieonderzoek naar de onthemende projecten van de Bijzondere Jeugdbijstand in Vlaanderen

CoVa volgens plan?

Een vooronderzoek naar de mogelijkheden en reikwijdte van een effectonderzoek van de cognitieve vaardigheidstraining

Achter de schermen

Een verkennend onderzoek naar downloaders van kinderporno

2010

Tot de dood ons scheidt

Een onderzoek naar de omvang en kenmerken van moord en doodslag in huiselijke kring

Kwetsbaar beroep

Een onderzoek naar de prostitutiebranche in Amsterdam

Cameratoezicht in beweging

Ervaringen met nieuwe vormen van cameratoezicht bij de Nederlandse politie

2011

Los van drank

Procesevaluatie Haltafdoening Alcohol

Lastige verhalen

Een exploratief onderzoek naar valse aangiften van zedenmisdrijven door meisjes van 12-18 jaar

Wapenfeiten

Een onderzoek naar overvallen en overvallers in Nijmegen

Snelle jongens

Een onderzoek naar drugsrunners en daaraan gerelateerde problematiek in Limburg-Zuid

2012

De schade hersteld?

Een onderzoek naar herstelbemiddeling bij jeugdige delinquenten in Vlaanderen

Onder Controle?

Een procesevaluatie van de gedragsinterventie 'Korte Leefstijltraining voor verslaafde justitiabelen'

Planmatig en flexibel

Procesevaluatie gedragsinterventie CoVa+

Oosterse Teelt

Vietnamezen in de hennep teelt

Dierenwelzijn in het vizier

De aard en omvang van dierenwelzijnszaken en de stand van zaken van de handhaving van de regelgeving op dat gebied in Nederland

2013

Over leven na de moord

De gevolgen van moord en doodslag voor de nabestaanden van de slachtoffers en de ondersteuning door Slachtofferhulp Nederland

Met scherp schieten

Een onderzoek naar een aantal veiligheidsrisico's met betrekking tot de schietsport in Nederland

Georganiseerde voertuigcriminaliteit in Nederland

Een beeld van de omvang, kenmerken, werkwijzen en aanpak anno 2013

Het warme bad en de koude douche

Een onderzoek naar misstanden in nieuwe religieuze bewegingen en de toereikendheid van het instrumentarium voor recht en zorg

2014

Portretten van notoire ordeverstoorders

Kenmerken en achtergronden van notoire ordeverstoorders binnen het voetbal

Gelegenheidsordeverstoorders?

Analyse van rondom grootschalige rellen aangehouden verdachten

Ondergaan of ondernemen

Ontwikkelingen in de aard en aanpak van afpersing van het bedrijfsleven

Raak geschoten?

Een onderzoek naar de werking van maatregelen tegen geweld en overlast rondom het betaald voetbal

Doordringen of doordrinken

Effectevaluatie Halt-straft Alcohol Prostitutie in Nederlandse gemeenten
Een onderzoek naar aard en omvang, beleid, toezicht en handhaving in 2014

2015

Aangifte onder nummer

Implementatie, toepassing en eerste resultaten van de nieuwe regeling 'Aangifte onder nummer'

Papier en werkelijkheid

Een hypothesevormend onderzoek naar de invloed van registratie-effecten op de omvang van de geregistreerde jeugdcriminaliteit

Grensoverschrijdend slachtofferschap

Een inventarisatie van aard, omvang en aandachtspunten in verband met de effectuering van slachtofferrechten

2016

Dieren Verboden

De toepassing van het houdverbod als bijzondere voorwaarde bij een voorwaardelijke straf

Kijk op jeugdcriminaliteit

Handvatten voor het opstellen van een periodieke trendrapportage jeugd- en jongerencriminaliteit en een overzicht van veelbelovende aanpakken

Stijging meldingen verwarde personen in de regio Rotterdam

Een onderzoek naar mogelijke verklaringen en wenselijke oplossingen

Missen we iets?

Een gebiedsanalyse in Rotterdam naar de omvang en aanpak van de jeugdcriminaliteit en eventuele 'witte vlekken' in dat beeld

De draad weer oppakken

Een follow-up onderzoek onder nabestaanden van slachtoffers van levensdelicten

Hoe lopen de hazen?

De stand van zaken in de aanpak van dierenmishandeling en dierenverwaarlozing

Focus op heling

Een onderzoek naar het functioneren van de helingmarkt, het beleid tegen en de gevolgen van heling

Van cijfers naar interpretatie

Een duiding van de kwantitatieve ontwikkelingen van de jeugdcriminaliteit

Wie is het slachtoffer?

Kenmerken van de doelgroep van het Schadefonds Geweldsmisdrijven en strategieën voor een beter doelgroepbereik

Radicalisering in de gemeente Arnhem

Resultaten van onderzoek onder mentoren, welzijnswerkers en jongeren

2017

Duiding van problematisch jeugdgroepgedrag

Een theoretische verkenning en een praktische handreiking voor het veld

Prostitutie in beeld gebracht

Een onderzoek naar aard en omvang van zichtbare en onzichtbare prostitutie in Arnhem

De achterblijvers

Een evaluatie van het maatwerk voor achterblijvers van vermiste personen

2018

Realiteit of registratie-effect?

De invloed van registratie-effecten op de daling van de geregistreeerde jeugdcriminaliteit

Links-extremisme in beeld

Een verkennend onderzoek naar linksextremistische groeperingen in Nederland

Na het beslag

Een onderzoek naar door RVO inbeslaggenomen voorwerpen onderdeel Natuur en de afhandeling daarvan

Slachtoffers zoeken en vinden

Een onderzoek naar het werk van de kinderpornorechercheurs

Straatprostitutie in Nijmegen

Een evaluatie van de tippelzone en huiskamer aan de Nieuwe Marktsstraat in Nijmegen

Opschakelen

Onderzoek naar ongewenste gedragingen in de wielersport

Betonrot

Een kwalitatief onderzoek naar het fenomeen ondermijnende criminaliteit in Brabant-Zeeland, de effecten van en richtingen voor de overheidsaanpak

2019

Hoog-risico honden, een bijtend probleem?

Een fenomeenonderzoek naar bijtincidenten en hondengevechten

De politieaanpak van etnisch profileren in Amsterdam

Een onderzoek naar effecten, criteria en meetbare indicatoren

Zo ziek als een hond?

Gezondheids- en socialisatieproblemen bij puppy's in Nederland in relatie tot de herkomst

Minderjarige slachtoffers van zedenmisdrijven gehoord

Een kwalitatief onderzoek naar de verhoorpraktijk

Downloaders van kinderporno;

een literatuuronderzoek

Criminelen achter het stuur

Aard en omvang van het gebruik van huurmotorvoertuigen voor criminele activiteiten

Asielzoekers in het gareel?

Plan-, proces en effectevaluatie werking extra begeleiding- en toezichtlocaties

2020

Afspraak is afspraak?

Evaluatie van de eenduidige landelijke afspraken rondom opsporing en vervolging van geweld tegen werknemers met een publieke taak

Panden met een luchtje

Een inventarisatie van aanpakken om verhuur van panden voor criminele doeleinden tegen te gaan

Ondermijning op en rond luchthaven Schiphol

Black Box?

Een onderzoek naar opslagboxen in relatie tot criminaliteit: fenomeen en aanpak

Fietsdiefstal in Nederland

Van fenomeen naar aanpak

Sterk spul

Aard, omvang en ernst van de dopinghandel in Nederland

Voor de verandering

Een exploratief onderzoek naar pogingen tot het veranderen van seksuele gerichtheid en genderidentiteit in Nederland

2021

Werken aan werk

Een evaluatie van penitentiare arbeid

Medische missers

De gevolgen en nasleep van medische incidenten en ervaringen met de ondersteuning van de gedupeerden door het Casemanagement Medische Incidenten

Misdrijven in kinderschoenen

Een onderzoek naar de aanpak van 12- en 13-jarige misdrijfverdachten binnen en buiten het strafrecht

Taxi

Malafide activiteiten en (ondermijnende) criminaliteit in de Amsterdamse taxibranche

Voor meer informatie over uitgaven in deze reeks: bureaubeke.nl.

This report presents the results of an exploratory study on the phenomenon of transnational child sexual abuse and the instruments used to combat it. The study's main focus areas are the available instruments in the Netherlands aimed at preventing child sexual abuse abroad, and whether there are measures in use in other countries that could be of benefit to the Netherlands.

Various research methods were used in the study. Desk research was employed, and interviews were conducted with thirteen representatives from organisations involved either directly or indirectly in dealing with or combating transnational child sexual abuse. The findings of the desk research and interviews were presented to a total of sixteen experts over the course of three separate focus groups. To determine which five countries should be selected for the country study, a quick scan was carried out, followed by desk research. The five countries selected were Sweden, Germany, Ireland, Australia and the United States. In-depth desk research was then carried out on each of these five countries, as well as a total of twenty-five interviews.

The results showed that although the Netherlands theoretically has sufficient legal means and measures that can be used either independently or in combination to erect barriers and prevent convicted offenders from travelling abroad to commit transnational child sexual abuse, to date they have seen only limited application. One major cause is a lack of available information. Lessons for inspiration have been recorded from the study, both for the situation in the Netherlands and for the countries under review, to aid the prevention of transnational sexual child abuse.

Crimes without borders?!

An exploratory study on the policy instruments available for use in relation to convicted and other perpetrators of transnational child sexual abuse

Bureau Beke

Joy Wolsink
Hester de Boer
Anton van Wijk

Ecorys

Linette de Swart
Gabriëlle op 't Hoog