



Global Monitoring



Report on the

**status of action against commercial
sexual exploitation of children**

ITALY



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Contents

Glossary	4
Foreword	6
Methodology	8
Italy: Introduction	11
National Plan of Action	12
Coordination and Cooperation	13
Prevention	14
Protection	18
Priority Actions Required	26
Endnotes	28

Glossary of terms and acronyms

ADICONSUM: Italian Association for Consumers and Environment Protection (Associazione Difesa Consumatori e Ambiente)

AIDS: Acquired Immune Deficiency Syndrome

ASSOTRAVEL: Associazione Nazionale Agenzie di Viaggio e Turismo

CICLOPE: Committee for the Coordination of the Fight against Paedophilia

CIRP: Child Internet Risk Perception

CIS: Commonwealth of Independent States

Code of Conduct: A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

CRC: Convention on the Rights of the Child

CSE: Commercial sexual exploitation

CSEC: The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

CST: Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

DDA: Anti-Mafia Direction (Direzioni Distrettuali Antimafia)

EBNT: National Bilateral Tourism Board

ECPAT: End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

EU: European Union

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

ICAA: International Crime Analysis Association
ICRA: Internet Content Rating Association
ICT: Information and communication technologies
ICTSD: International Centre for Trade and Sustainable Development
ILO: International Labour Organization
ILO/IPEC: International Labour Organization/International Programme on the Elimination of Child Labour
INGO: International non-governmental organization
INHOPE: International Association of Internet Hotlines
IOM: International Organization for Migration
IRC: Internet Relay Chat
ISP: Internet service provider
IT: Information technology
MoU: Memorandum of Understanding
NGO: Non-governmental organization
NPA: National plan of action
OSCE: Organisation on Security and Cooperation in Europe
ODHIR: Office for Democratic Institutions and Human Rights
QCS: Quality of care standards
STIs: Sexually transmitted infections
UN: United Nations
UNDP: United Nations Development Programme
UNESCO: United Nations Educational, Scientific and Cultural Organisation
UNHCR: United Nations High Commissioner for Refugees
UNICEF: United Nations Children's Fund
UNICRI: United Nations Crime and Justice Research Institute
UNIFEM: United Nations Development Fund for Women
UNOHCHR: United Nations Office of the High Commissioner for Human Rights
WHO: World Health Organization
WTO: World Tourism Organization

Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

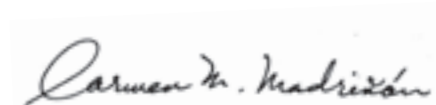
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán
Executive Director, ECPAT International

Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); and (vi) priority actions required.



ITALY

Poverty and socio-economic disadvantage are strong causal factors associated with the prostitution of children in Italy. But Italian children also take part in occasional exchanges of sexual services for money in response to marketing and social pressures to consume, and to reduce whatever feelings of material deprivation these create.¹ According to the police, no criminal organisations are currently involved in the exploitation of Italian children for the purposes of exploitation in paedophile or prostitution rings;² as such, the so-called ‘voluntary’ involvement of young people in sexual exploitation is a new challenge yet to be properly exposed and eliminated.

Italy is a country of destination and of transit for girls trafficked for sexual purposes mainly from Nigeria³ and eastern European countries such as Albania, Romania, Moldova, Bulgaria and Ukraine. Very often they are deceived with promises of well-paid jobs and forced into prostitution by criminal groups on arrival.⁴ Prostitution occurs mainly on the streets, in the case of Nigerian girls, and in flats, in the case of girls from other countries (rarely in night clubs).⁵ To prevent detection by the authorities, most exploiters keep moving the girls to other parts of town or to different towns. They also ‘sell’ or ‘rent’ them to other exploiters.⁶

A Nigerian girl trafficked for prostitution

Jessica, a young Nigerian girl, was enrolled in a programme to study in Italy. When she arrived in Turin after a long and exhausting journey, the man who had accompanied her took her passport and sold her into prostitution. For many months, Jessica saw as many as twelve customers each day, and was beaten if she protested.

Now 17 years old, Jessica has been infected with a sexually transmitted disease and may be HIV-positive. She is one of thousands of Nigerians who have been trafficked to Italy in recent years.⁷

The prostitution of boys of foreign origin also occurs in the country. It occurs mainly outdoors, especially in railway stations, and usually involves 13 to 17 year-old boys, mostly Romanians from the Roma community, but also a minority from North Africa, the

Balkans and Albania.⁸ Although apparently widespread, this particular manifestation of the commercial sexual exploitation of children (CSEC) is very much overlooked by the authorities and child rights organisations. Lack of recognition of the problem may be explained by the fact that most of the boys arrive in Italy unaccompanied and seeking employment, rather than as trafficked children or children who have fallen victim to sex rings or pimps. In terms of child sex tourism, Italy is a country of origin,⁹ and many travellers appear to leave the country with the specific intention of seeking sexual services abroad. Such individuals do not appear to target specific countries or regions, and the problem spans several travel routes. Child rights activists, however, note Kenya as one of the destinations preferred by Italian tourists seeking sexual contact with children (especially in the Ukunda region).¹⁰

National newspapers have reported several cases of possession of child pornography.¹¹ According to the Postal and Communications Police Service, a law enforcement agency responsible for monitoring online child pornography, between 1998 and 2004, 115 suspects were taken into custody or subject to other restrictions for offences related to child pornography.¹²

Italy adopted the *Stockholm Declaration and Agenda for Action* in 1996 and reaffirmed its commitment in Yokohama in 2001.

NATIONAL PLAN OF ACTION (NPA)

Italy has not developed a specific national plan of action against CSEC. However, a number of action plans and committees addressing various aspects of the commercial sexual exploitation of children have been created in recent years, regrettably without the necessary follow up and allocation of financial resources for their implementation.

The *National Plan of Action on the Protection of the Rights and Development of Children at a Formative Age*, operational since 2000, includes some provisions on CSEC. However, its implementation has been limited by a lack of sufficient funds.

A *National Plan of Action to Prevent and Combat Paedophilia* was developed in 2002 by

the Inter-ministerial Committee for the Coordination of the Fight against Paedophilia (CICLOPE).¹³ A key focus of this Plan has been improving coordination between various public and private stakeholders that are a part of the prevention and protection system, and allocating greater financial resources to the reintegration of victims. Special consideration has also been given to measures against the sexual exploitation of children online.¹⁴ Some of the planned measures, such as collaboration with the information technology industry and the adoption of regulatory instruments by such providers, have been implemented. The plan also envisaged a number of changes to Italian legislation, which have been made.

COORDINATION AND COOPERATION

Local and National Level

Despite attempts to coordinate action at national level, actual efforts remain limited. CICLOPE fulfils some of the responsibilities of a national focal point on CSEC (it deals with child abuse in general), as does the Inter-ministerial Technical Committee for an Informed Use of the Internet. However, overall specialised agencies have been inactive to date, and adequate resources have not been allocated for their operations.

The Inter-ministerial Committee for the Coordination of the Fight against Paedophilia, set up in 2002, comprises eleven ministries and is coordinated by the Ministry for Equal Opportunities.¹⁵ It seeks to implement the *National Plan to Prevent and Combat Paedophilia*. The most tangible result of CICLOPE's activities so far has been the actual development of the Plan. In 2003, CICLOPE also set up an observatory to collect data on activities and strategies for preventing and combating the sexual exploitation of children, as well as for rehabilitating both victims and perpetrators.¹⁶

On protecting children online, the Inter-ministerial Technical Committee for an Informed Use of the Internet was set up in 2002 at the Department for Innovation and Technologies. The Committee oversees coordination between relevant departments, and acts as a bridge between the public and private sectors in promoting the safe use of information and communication technologies (ICTs) by children.¹⁷

Regional and International Level

Italy has engaged in bilateral cooperation initiatives on trafficking in human beings with several countries, the main focus being on law enforcement cooperation. There has also been some cooperation in tackling child pornography.

In 2003, a Memorandum of Understanding (MoU) was signed between Italy and Nigeria to improve cooperation on judicial issues in the anti-trafficking field.¹⁸ A similar MoU was signed in 2005 with Macedonia.¹⁹ In addition, several initiatives to strengthen cooperation between Italy and the main countries of origin and transit of human trafficking have been promoted, including exchange of investigative information, training of police officers and assistance in the repatriation of trafficking survivors. Particularly fruitful in terms of anti-trafficking law enforcement, have been the police agreements with Romania and Libya.²⁰

PREVENTION

In the last few years, special emphasis has been given to preventing child pornography online. Several preventive initiatives have also involved the adoption of self-regulatory codes of conduct by the private sector, especially the tourism and the information technology (IT) industries. Though providing a framework for the protection of children, such codes of conduct sometimes fail in the implementation phase. The *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism* is the most widely adopted and comprehensive.

Communications industry slow to take preventive action

In line with the provisions of the *National Plan of Action to Prevent and Combat Paedophilia, the Internet and Children: Self-Regulatory Code of Conduct*²¹ was signed in 2003 by the Italian Internet Providers Association,²² the Ministry of Communications and the Ministry of

Innovation and Technologies. They undertook to inform their customers about online child safety through messages on their homepages (including links to related hotlines); restrict access to certain websites; provide services only to clearly identified individuals, possibly introducing systems to check the customers' age; and provide tailored online surfing services (e.g. for families, teenagers, children).²³ The signatories are also expected to collaborate with the relevant authorities (particularly the Post and Communications Police) in repressing cyber crime, mainly by identifying who is hosting illegal content within three days of notification from such authorities.²⁴ However, not many of these self-regulatory measures have been implemented to date.

A 'quasi' code of conduct, the *Self-regulatory Code of Conduct for the Provision of Premium Services and the Protection of Children*, was adopted by the Italian mobile telephone industry ("3", TIM, Vodafone and WIND) in 2005. Promoted by the Ministry of Communications, it seeks to ensure safe use of chat services by identifying sensitive content²⁵ and putting in place mechanisms²⁶ to prevent children from accessing them. Nevertheless, this Code is not strongly focused on CSEC and has limited reach, as the signatories to the Code provide the access control device for a fee; and after nearly a year since the 'adoption of the Code', support for implementing the access control services is still not properly provided. The much-needed engagement of key players within the telecommunications sector to combat the sexual exploitation of children seems to have dwindled.

Furthermore, the Government's website, www.italia.gov.it, provides a series of suggestions for safe use of the Internet with advice to children on how to avoid the risks involved. It offers free content classification software that can be used by parents as an additional tool to protect children. The filter software, developed by the Internet Content Rating Association (ICRA) at the request of the European Commission, makes it possible to check language, pictures and other materials from the web. The ICRA issues webmasters who subscribe to the initiative with a "label", which ensures that it is safe to surf their websites. Once installed in children's computers, the filter uses the label to check the content of websites and blocks access as necessary.²⁷

In 2004, Save the Children Italy began a two-year project, 'Easy', aimed at increasing awareness on the safer use of new technologies through a comprehensive communications campaign and the identification of best practices.

Prevention of child pornography has also been undertaken through the establishment of hotlines. Between 2002 and 2005, the 'Stop-it' project, run by Save the Children Italy and

the International Association of Internet Hotlines (INHOPE), provided a website²⁸ for the public to report child pornography on the Internet. Reports received were screened and forwarded to the Postal and Communications Police Service or to other INHOPE hotlines.²⁹ A similar hotline for reporting child pornography, the '114' emergency helpline, has been operating since 2004.³⁰ It is managed by the NGO Telefono Azzurro and funded by the Ministry of Equal Opportunities.

In 2004, research on child pornography was conducted by the International Crime Analysis Association (ICAA)³¹ in collaboration with Symantec, a world leader in computer security. Called the 'Child Internet Risk Perception (CIRP)' Project,³² the research identified the types of behaviour that increase the risk of children being lured into chatrooms and molested. Attitudes of adults responsible for their supervision and prevention strategies were also investigated.

Findings of the Child Internet Risk Perception Project

Questionnaires were sent out to a sample of 5,000 children between the ages of eight and 13 years old³³ from various social backgrounds, who use the Internet frequently. School children from Turin, Genoa, Rome, Naples, Reggio Calabria and Palermo were also interviewed. Furthermore, schools taking part in the distribution of the questionnaires set up focus groups for semi-structured interviews with 500 parents and 250 teachers, who were asked questions about monitoring children online.³⁴

It was found that around 27 per cent of the children interviewed surfed the Internet with little or no parental guidance, which suggests widespread underestimation of the risks involved. Also, quite a few parents were unaware of filtering systems. About 13 per cent of the children interviewed had an online encounter with an adult (suspected paedophile) in chatrooms and began a conversation on sexual topics. About 70 per cent of the children did not mention the incident to their parents for various reasons: they were embarrassed to talk about such topics; were curious about the sexual issues discussed; promised to keep the conversation secret; thought that the adults would not understand them; or thought that nothing was wrong with the conversation.³⁵

About 80 per cent of the teachers interviewed said they had informed their students about paedophilia, while 20 per cent never discussed the problem in class. About 98 per cent believed that explaining the risks of the Internet should be part of the school syllabus or included as an extra-curricular activity.

Of the parents interviewed, 66 per cent shared information with their children about the dangers of sexual exploitation by adults, while 34 per cent could not or were reluctant to

discuss the issue. All the parents involved in the survey supported the idea of including the prevention of sexual exploitation and information on the risks of the Internet in the school syllabus.³⁶

At present, online safety issues are not included in the syllabi of Italian schools.

In 2005, the National Bilateral Tourism Board (EBNT) signed the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*. The signatories include tour operators, trade unions, travel agencies, and airlines, including Virgin Express and Alitalia. Training tourism staff and tourists to become more sensitive to the issue has since been undertaken by the signatories; and trade unions have integrated the Code's provisions in the national contracts for all operators in the tourism sector, as have travel agencies, in their contracts with local counterparts. The Italian Association for Consumers and Environment Protection (ADICONSUM) distributed information kits to its partners and outgoing tourists; and Associazione Nazionale Agenzie di Viaggio e Turismo (ASSOTRAVEL) coordinated a communications campaign to promote the Code and raise funds for related projects. ECPAT Italy has held several training seminars for tourism staff, focusing on corporate social responsibility, applicable laws on child sex tourism and procedures for dealing with such cases.

In relation to trafficking in children, between 2002 and 2004, the United Nations Crime and Justice Research Institute (UNICRI) carried out a programme to contribute to the formulation and implementation of effective policies in the field of criminal justice and social prevention. The programme included preventing child trafficking for sexual purposes through broadcasting a short film called 'Let's help free them from slavery' on the three national TV channels over a four-month period. The film describes the trafficking journey of a Nigerian girl, from recruitment to commercial sexual exploitation on the streets. A National Anti-Trafficking Toll Free Number (800 290 290) was also created and is an information service dedicated to victims of trafficking in Italy;³⁷ this initiative, known as 'green number', is administered by the Ministry of Equal Opportunities and advertised in several languages throughout key Italian cities.

PROTECTION

The Government of Italy ratified the *Convention on the Rights of the Child* (CRC) in 1994, and its *Optional Protocol on the sale of children, child prostitution and child pornography* (*Optional Protocol*) in 2002; *ILO Convention No. 182* was ratified in 2000. Italy has not ratified the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (*Trafficking Protocol*). At European level, Italy signed the Council of Europe's *Convention on Action against Trafficking in Human Beings* and the *Convention on Cybercrime* in 2001, but has not ratified them.

Legislation

In January 2006, Italy strengthened its CSEC legal framework by adopting *Law No. 38 on Provisions to Fight the Sexual Exploitation of Children and Child Pornography, including through the Internet*. In addition to extending protection from exploitation in prostitution for children up to the age of 18 and broadening the range of child pornography offences, the Law also bans plea-bargaining³⁸ in cases of sexual crimes against children. It also precludes offenders convicted of such crimes from ever working in schools, other institutions and places frequented by children.

Prostitution of Children

Italian law now generally complies with the *Optional Protocol*, which requires States Parties to criminalise sexual activity with children under the age of 18 for remuneration or other forms of consideration, as well as the acts of obtaining, procuring or providing such a child for prostitution. Penalties for crimes related to the prostitution of children were made more stringent in 2006.

The age of sexual consent in Italy is 14. Penalties for engaging in sexual relations with a child under that age, regardless of whether payment or other consideration is involved, range from five to ten years' imprisonment.³⁹

Sexual acts with minors between 14 and 18 committed in exchange for payment or other economic consideration are now punishable by imprisonment for six months to three years or a fine of up to 5,164 Euros. If such crimes are committed against children between the ages of 14 and 16, punishments are higher, ranging from two to five years' imprisonment.⁴⁰ Under the previous legislation, only those children between the ages of 14 and 16 were afforded protection from exploitation in prostitution.⁴¹

Italian law punishes the procurement and promotion of children under the age of 18 for prostitution; profiting from such prostitution is also punishable by law. Penalties are imprisonment for a term of 6 to 12 years and a fine.

Trafficking in Children for Sexual Purposes

Law No. 228 on Measures against Trafficking in Persons - Italy's first law to punish the offence of human trafficking - fails to provide a complete definition of child trafficking. While it defines the offences that will be criminalised (sexual exploitation, etc), it does not define the process leading to such activities (i.e. recruitment, transportation, transfer, harbouring or receipt of a person under 18 years of age). Furthermore, while the Law provides higher penalties when trafficking involves minors, the fact that the victim is underage is not a fundamental element that defines the crime, but rather a mere aggravating circumstance. More importantly, the Law fails to protect children adequately by making the use of violence or other illicit means an essential element of the trafficking offence, thus implying that children can consent to being trafficked. Such definitional weaknesses can result in specific types of trafficking offences not being punished, and constitute a serious gap in the Italian CSEC legislative apparatus.

Law No. 228⁴² on Measures against Trafficking in Persons, was enacted in August 2003. It criminalises trafficking in persons for the purposes of sexual exploitation, forced labour, begging or other forms of exploitation. These are considered offences only when violence, threats, abuse of power or other coercive means are employed. The Law imposes severe penalties on traffickers (eight to twenty years' imprisonment); such penalties are increased by one third to 50 per cent when the offences are perpetrated against minors (under 18 years of age) or for exploitation in prostitution.

An important achievement of the Law is that, in the event of a conviction or a plea bargain for trafficking crimes, confiscation is envisaged (without prejudice to the right of payment and compensation for damage to any offended person). Where it is not possible to confiscate the proceeds of the crime, confiscation of the offender's property, up to the equivalent value

of the proceeds, is envisaged. In any case, the Law provides for the closure of any business whose activity aims at perpetrating trafficking offences, as well as the revocation of any relevant trade licenses.

Pros and cons of the new trafficking law

The *Law on Measures Against Trafficking in Persons* considers trafficking in human beings as organised crime, which falls under the jurisdiction of the Anti-mafia Direction (Direzioni Distrettuali Antimafia - DDA). This special status allows for the use of several important investigatory instruments (such as tapping telephone lines and conducting undercover activities) and for better coordination between the law enforcement agencies involved (for instance, by allowing the reconstruction of a crime from its point of origin, especially when it was perpetrated abroad).

On the other hand, this can cause problems in terms of the coordination between the DDAs and the Public Prosecution Offices, as DDAs are in charge of investigating trafficking cases but cannot investigate other related crimes, such as illegal immigration, which are still investigated by the Public Prosecution Offices. This might result in investigations being interrupted whenever a case file is forwarded to a different office or when the crime of trafficking appears to be connected to other crimes that DDAs have no power to investigate. This system causes serious overlapping and delays in investigations.

Additionally, a number of Italian Public Prosecution Offices have pointed out that Italy lacks a central institution to act as a focal point of reference for human trafficking at the national level, responsible for collecting and processing official data on human and child trafficking in the country.

Child Pornography

While Italian law covers pornographic materials, shows and virtual images, it lacks a clear definition of child pornography. This can lead to weak and varying interpretations regarding child pornography offences, by the Judiciary. In order to prevent excessive discretionary power in this regard, the *Optional Protocol* definition of child pornography should be adopted: any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes. It is very broad and includes printed material, videotape, audiotape or digital material stored on a computer. At the same time, the Italian child pornography law complies with international standards as it covers the production, distribution, dissemination and sale of child pornography. Italian law goes a step further than the *Optional Protocol* by criminalising the mere possession of child pornography, not just possession for the purposes of distribution. It is worth pointing out that *Law No. 38* introduced a number of important provisions to strengthen the protection of children against sexual exploitation online.

The Italian *Penal Code* criminalises the use of children up to 18 years old in the production of pornographic shows and materials as well as the sale of such materials. Penalties range from six to twelve years' imprisonment and a fine between 25,822 and 258,228 Euros. The distribution, dissemination or advertising of child pornography materials, as well as the circulation of information for the purpose of soliciting children, are punishable with imprisonment for one to five years and a fine. Offering or providing child pornography materials, whether or not for monetary consideration, is punished by imprisonment of up to three years or a fine. The possession of child pornography materials is punishable with imprisonment for up to three years or a fine. When child pornography offences involve large quantities of materials, penalties are increased by up to two-thirds.

In an attempt to better respond to the increasing incidence of child pornography, *Law No. 38*⁴³ places particular emphasis on child pornography offences committed via the Internet, and has introduced a mechanism to collect and monitor information on sites disseminating child pornography. The Law established a National Centre for Combating Child Pornography on the Internet, based at the Ministry of Interior, to which Internet service providers (ISPs) are required to report any information they may be aware of on the distribution, broadcast or trade of child pornography materials. Failure to comply with the reporting obligations results in fines ranging from 50,000 to 250,000 Euros. ISPs are also obligated to store the child pornography material for forty-five days and to install filters, as instructed by the Ministry of Communications, to prevent web surfers from accessing child pornography websites. If enforced in practice, this obligation has the potential of being a major achievement in the protection of children.

The Law also covers “virtual pornography”, i.e. pornographic images representing simulated children or only parts of real children, created and/or modified using morphing software. The penalties for virtual pornography offences are similar to those imposed for child pornography offences.

Finally, the Law introduced a collaboration scheme between the Italian banking system (including the Italian Change Office, the Bank of Italy and the Italian Postal System), ISPs and the Government, to facilitate investigations regarding the money flow linked to child pornography.

Police crackdown on child pornography ring

In May 2005, police carried out several raids against child pornography in 16 of Italy's 20 regions. One such raid involved 186 suspected members of a child pornography ring, including three priests, a mayor, a police officer and a social worker.

The group had downloaded pictures and films of sexually abused victims between 4 and 8 years old, from a website that could only be accessed with a password and was accessible for a maximum of nine days. The site did not have an index page and therefore could not be picked up on Internet search engines; it was also being run on an Italian server but the link led to a website based in an unidentified "eastern country".⁴⁴ Such devices are commonly used by paedophiles to avoid detection by the police.

Extraterritorial Legislation

Under Article 604 of the *Penal Code*, crimes related to the commercial sexual exploitation of children committed abroad by an Italian citizen can be prosecuted in Italy regardless of the principle of double criminality.

Since 1998, tour operators who organise or favour foreign travel promoting child prostitution or encouraging such acts are liable to a prison term of six to twelve years, in addition to fines. The responsibility extends to local partners in the country of tourism, thus obliging tour operators to hire local contractors who do not promote the prostitution of children. Involving children under 14 years of age is considered an aggravating circumstance and results in a penalty of up to eighteen years' imprisonment.⁴⁵

Law No. 38 introduced a protective measure against child sex tourism: the obligatory requirement *sine die* for tourism operators to include a warning in their advertising materials and travel documents, regarding criminal liability in Italy for offences committed abroad.

Child Protection Units

Since 1996 the Children's Office (Ufficio Minori) is the State body responsible for the protection of minors. They have staff based in every Provincial Police Headquarters (Questura), usually personnel from the State Police, specially trained to deal with children and families facing difficult situations. The Children's Office has established solid cooperation lines with social workers, neurologists, child psychiatrists, psychologists, paediatricians, doctors and volunteer associations, in order to assist child victims better.⁴⁶

The investigation of cybercrimes is carried out by the Postal and Communications Police Service, whose police officers can obtain judicial authorisation to surf the web as undercover agents, make fake purchases of child pornography, create false websites and conduct general undercover operations to suppress child pornography on the Internet.⁴⁷

One of the main challenges remaining in the fight against the online sexual exploitation of children is the actual identification of victims of child pornography, largely due to the absence of a systematic identification programme, as well as financial resources.⁴⁸ In Italy, prosecutions for child sexual abuse cases usually include seeking evidence of production of child pornography - an attempt to improve the identification of child victims of pornography - but the problem persists.

Crimes against children are prosecuted *ex officio* (i.e. exempted from official authorisation). Testimony from child victims is conducted in specially protected chambers and psychological support is provided by the Youth Welfare Services of the Juvenile Justice Department. Nevertheless, in practice, the provisions for "protected hearing" have proved inadequate, limited and not properly followed. Moreover, judges are granted significant discretionary power over the forms of protected hearing exercised in the judicial system, and often disregard the child's perspective.⁴⁹

Support Services for Children

A number of services and programmes for CSEC victims have been developed in the past few years as a result of *Act 285/1997*. In addition, Article 18 of *Law No. 286/98* offers great protection to child victims of trafficking, as it allows them to receive the 'social protection permit', to benefit from a reintegration programme, and also to remain in Italy after reaching the age of 18. The existing support could be enhanced by training shelter staff, social workers, psychologists, etc., on how to cater for the special needs of children escaping commercial sexual exploitation.

However, certain police headquarters (Questura) only issue the social protection permits if the victim provides some level of cooperation in the investigations against the traffickers. Some victims are afraid to denounce their traffickers and instead are issued a 'residence permit for under eighteens', which does not entitle them to stay in the country after they turn 18 (unless they have taken part in an NGO programme for more than three years by their 18th birthday).⁵⁰ The protection granted through Article 18, which is a model of good practice

in Europe, could be further enhanced if the authorities homogenously disregarded the requirement for cooperation to grant children the social protection permit.

Article 13 of *Law 228/2003* provides for the creation of an anti-trafficking fund/programme to support trafficked victims. Aiming at "temporarily guaranteeing adequate accommodation, food and healthcare conditions to the ... victims", the budget for the 2006 reintegration programme amounts to 2.5 million Euros.

Training Law Enforcement Personnel

There have been a number of training initiatives to promote a better understanding of sexual crimes against children among law enforcers, without a specific focus on CSEC.

The Children's Justice Department, in cooperation with Criminalpol, promoted a series of seminars on the sexual abuse of children and unaccompanied foreign children. In 2002, a national training module was attended by 40 officials from the Ministry of Justice and the police. In 2003, three modules were organised in the Department's three training schools in the north, centre and south of the country, attended by 120 staff from the Ministry of Justice and the police. The training aimed to foster the development of coordinated efforts through dissemination of information and discussions on working procedures and best practices.


In addition, the Ministry of the Interior has been involved in training at the European level, with officials taking part in the Specialised Interpol Group on crimes against children.

During the drafting of the new bill on child pornography, ECPAT Italy and other NGOs made a proposal for compulsory related legal training for law enforcers and social workers. Unfortunately this provision was not retained in the bill's final version.



PRIORITY ACTIONS REQUIRED

- New challenges raised by commercial sexual exploitation of children - in particular the involvement of young people in the exchange of sexual services for money, as well as the prostitution of foreign boys - need to be addressed by the Government as well as NGOs through specially tailored programmes, as a matter of urgency.
- The existing national plans that contain provisions related to CSEC must be reviewed and updated, with adequate resources allocated for their implementation. In addition, a specific NPA against CSEC must be developed.
- National coordination and cooperation against CSEC remains weak. Resources must be allocated to enable the work of CICLOPE or any future bodies that may fulfil the functions of a national focal point on CSEC efficiently.
- It is highly recommended that child safety on the Internet become part of the school curriculum or be included as an extra-curricular activity. This could be carried out by teachers or trained external experts.
- Ratification of the *Trafficking Protocol*, the *Convention on Cybercrime* and the Council of Europe's *Convention on Action against Trafficking in Human Beings* is also a priority.
- Italian legislation on trafficking does not clearly define child trafficking or the process leading to it, and makes the use of violence or other illicit means an essential element of the trafficking offence. These legal loopholes must be closed as certain trafficking offences may currently not be punished.
- In relation to trafficking in children, mechanisms must be put in place to improve coordination between the National Anti-Mafia Direction and the Public Prosecution Offices, given the current delays in the prosecution of related crimes.

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- A national focal point on human trafficking, within which there should be socialised focus on children, must be established, as recommended by a number of Italian Public Prosecution Offices.
 - It is important to encourage the relevant authorities to apply Article 18 of *Law 286/98* homogenously throughout Italy: many trafficked children cannot benefit from reintegration programmes because some authorities still require the children's cooperation with law enforcement to grant them a social protection permit.
 - Despite the laudable legislation passed in recent years, Italian law must be amended to ensure that all forms of child pornography materials are covered.
 - The identification of child victims of pornography must be improved through the establishment of a systematic identification programme and the allocation of sufficient financial resources.
 - Existing provisions for child-friendly procedures during criminal proceedings must be consistently applied throughout the country in order to avoid revictimisation and to respect the perspective of the child.
 - There is a need to increase cooperation and follow-up cases of CSEC victims. The existing support should also be enhanced through specialist training to shelter staff, social workers, psychologists, etc.
 - Training law enforcers and social workers on how to prevent and deal with CSEC cases should be made compulsory.

Endnotes

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