



Eurojust tactical meeting on
“Travelling child sex offenders”

Final Report



September 2011



Eurojust Tactical meeting on
“Travelling child sex offenders”

14-15 SEPTEMBER, 2011

Final Report

FOREWORD

Child abuse is a growing phenomenon, facilitated by the increasing use of the internet.

Since its establishment, Eurojust has played an active role in fighting crimes against children. In October 2007, at an informal Justice and Home Affairs meeting under the Portuguese Presidency, the Belgian Minister of Justice, Ms Laurette Onkelinx, proposed that Eurojust should appoint a Contact Point for Child Protection from amongst its National Members.

Therefore, in November 2007, the College of Eurojust decided to establish the Contact Point for Child Protection (the Contact Point) as the focal point for serious cross-border crimes committed against children. One National Member was originally appointed, who is currently supported by a small, dedicated team. The Contact Point acts as a centre of expertise on judicial cooperation in cases concerning children, takes the lead in coordinating exchange of information, collecting best practices and sharing experience in transnational investigations of cases affecting children, in particular regarding the sexual abuse of children, the trafficking of children and crimes concerning child abuse images on the internet. The Contact Point has also been informally involved in the process leading to the adoption of the Directive on child abuse. He has raised awareness, both inside and outside Eurojust, of these particularly heinous crimes, starting with the collection of statistics on Eurojust cases involving serious crimes against children which are published on the Eurojust website. The statistics show that from 2004 - 30 September 2011, Eurojust has assisted national authorities in 54 cases of sexual abuse of children, including rape and sexual exploitation, in 41 cases of trafficking in human beings who are minors, in 28 cases involving child abuse images, in 20 cases involving crimes against life, limb and personal freedom¹ of children, in 14 cases of parental abduction, in 13 cases of abduction of minors (i.e. kidnapping) and in 12 other cases² involving serious crimes against children.

In September 2011, on the initiative of the Contact Point, Eurojust held a tactical meeting on Travelling Child Sex Offenders. The goals of the meeting were to identify the most common challenges faced in judicial cooperation in the fight against travelling child sex offenders, and to suggest possible solutions. A wide range of judicial cooperation issues (e.g. regarding the exchange of information, coordination of investigations and prosecutions, resolution of conflicts of jurisdiction, relations with third States and relations with NGOs, etc.) were considered.

This Final Report contains the main outcomes of the tactical meeting.

¹ *Crime against life, limb and personal freedom* includes murder (10 cases) grievous bodily harm (8 cases) manslaughter (1 case) and slander (1 case).

² *Other* includes child alimony (3 cases), incest (1 case), theft (4 cases), robbery (1 case) and other criminal activities (3 cases).

TACTICAL MEETING ON TRAVELLING CHILD SEX OFFENDERS

WITH THE “LOST BOY” CASE AS A PLATFORM FOR DISCUSSION

Eurojust, The Hague, 14-15 September 2011

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EXECUTIVE SUMMARY : MAIN CONCLUSIONS OF THE MEETING

- The main difficulties identified pertain to the gathering and admissibility of evidence, also in connection with the safety of victims. Initial challenges for investigators are to swiftly establish contact with law enforcement authorities where the crime has been committed (*i.e.* the destination country) and to identify the victims and/or witnesses.
- Formal agreements can entail lengthy and bureaucratic procedures, which may considerably hamper the success of investigations. Personal, direct and informal contacts with law enforcement and judicial authorities in the destination country are therefore crucial.
- Particularly beneficial is cooperation with local NGOs; they can provide crucial support to (foreign) authorities investigating the case. Local NGOs possess valuable knowledge of the area and culture concerned and can therefore give advice on how to proceed while fully respecting the social, cultural and legal aspects involved. They can also assist with practical matters, e.g. authentication of documents, identification of victims, assistance during victims' and/or witnesses' interviews, gathering of evidence, etc.
- The investigators, including prosecutors, of the country of origin should be present in the destination country during the investigation. Such presence would indicate that the particular case, and also the type of offence in general, is treated as a priority, which may have positive effects on the investigation, including on the cooperation between the authorities of the countries involved.
- Relationship based on trust is crucial to fruitful cooperation.
- Eurojust's assistance in the facilitation of swift contacts, including the establishment of a platform for the exchange of information, was underlined.
- The need for (harmonised) data collection systems and mechanisms for exchange of information was stressed. Data sharing, coordinated investigations and quicker exchange of correspondence through the use of diplomatic channels are crucial in these types of cases. Resources must also be allocated. To combat *online* sexual abuse, collaboration between the financial sector, NGOs, law enforcement and internet service providers is required. To facilitate the reporting of these offences, consideration should be given to the possibility of anonymous reporting.
- "Child sex tourism" is currently not treated as a separate offence in many countries. This difference in treatment can hamper investigations, and, in particular, the prosecution of attempts to commit any such offences. For instance, the USA foresees "child sex tourism" as a separate crime, facilitating the prosecution of

attempts and conspiracy. However, complications arise when “child sex tourism” is not categorised as a crime in the destination countries.

- Capacity-building training in destination countries is required. The training would make destination countries’ authorities aware of the minimum requirements and standards governing the gathering of evidence abroad.
- The current economic situation, and in particular the lack of financial and human resources, can hinder the implementation of the measures suggested above.

INTRODUCTION

The tactical meeting on travelling child sex offenders took place at Eurojust on 14 and 15 September 2011. The meeting was organised by the Eurojust Contact Point for Child Protection and the Trafficking and Related Crimes Team.

The meeting focused on situations where child sexual abuse has taken place in a third State other than the permanent residence of the perpetrator, and where the prosecution will take place in the country of origin of the perpetrator. The “Lost Boy” case, also involving travelling child sex offenders, served as a basis for discussion.

The meeting examined the current practical obstacles faced by the Member States’ judicial authorities in the field of judicial cooperation between Member States and third States, especially when a cooperation agreement is not in place, and discussed the role of Eurojust. During the first day, practitioners presented their experiences in the field, with special emphasis on cooperation with local authorities and local NGOs. On the second day, participants were divided into workshops to discuss in greater detail cooperation with law enforcement, judicial authorities, and NGOs in third States.

One of the main outcomes of the meeting was the recognised need to closely cooperate with local NGOs, as they can provide crucial support to judicial authorities when investigating cases outside of the destination countries. Furthermore, the importance of personal and direct contacts with the local authorities, including building relationships of trust, was highlighted. Finally, the role of Eurojust in the fight against the phenomenon was also recognised.

PRESENTATIONS

3.1 Brief description and cooperation analysis of the “Lost Boy” case

The Liaison Prosecutor for Norway at Eurojust, presented the “Lost Boy” case. The case started as a local case of child grooming in Bergen, Norway, and ultimately involved approximately 30 perpetrators who abused 70 victims in 12 countries.³ The suspect, a Norwegian police officer, had chatted with a teenage boy online, claiming to be a minor. When the teenager met the man, he became suspicious and alerted the law enforcement authorities. A search of the suspect’s personal computer revealed that he was a child molester. The investigation further established links with other States and, consequently, the need to establish cooperation with third States. Because a link with Italy was identified, the Norwegian prosecutor sent a Letter of Request (LoR) to Italy. As the matter was urgent, and Italy was not responding swiftly, the Norwegian prosecutor asked the support of Eurojust via the Liaison Prosecutor for Norway. The case then expanded, and links pointing to a worldwide paedophile network were uncovered. For example, when a link with Romania was found, the Norwegian investigators gave the Romanian investigators a list with the nicknames of 12 Romanian victims requiring identification. The Romanian police gave priority to this task, and most of the victims were identified within a few weeks. The victims were then interviewed in accordance with admissibility of evidence requirements in Norway. First, the victims were interviewed by the Romanian police in the presence of Norwegian investigators. Then the Norwegian investigators were allowed to carry out interviews of the victims in Romania. However, as the court did not allow for video link interviews, the victims were required to travel to Norway.

The ex-police officer was convicted in 2010, and sentenced to 10 years of preventive prison for the sexual abuse of 17 children (the sentence can be prolonged if the prisoner is seen as a serious risk to society).

The following are the main features of the case:

- The need to swiftly establish contact with the law enforcement authorities where the crime has been committed. This task can be challenging, as certain regions are difficult to reach. For instance, a Pakistani citizen, who worked for USAID, was believed to have participated in chats among child molesters and had abused children himself. When the US authorities were contacted, they learnt that this person had quit his job and moved to the UK. The UK authorities were contacted and were able to become involved, as the suspect was believed to be abusing children in the UK.
- Priority of investigation is accorded by the authorities of the location where the crime has been committed, and greatly affects the speed of gathering of evidence and

³ The investigation in the USA also led to the discovery of a man in Brazil responsible for the abuse of approximately 100 children.

identification of victims and witnesses. The issue is then raised whether to secure witness testimony in the country where the crime was committed and the use of video link conferences with the prosecuting country (subject to legal and technical requirements), or to transfer witnesses to the prosecuting country, which is a costly option and exposes the witnesses to potential psychological and physical stress. Cooperation between the various judicial authorities involved (from Norway, the UK, the USA, Romania, Italy and other countries) was facilitated by Eurojust, in particular during coordination meetings allowing information exchange between the judicial authorities of the different countries involved.

A Chief Prosecutor in Norway, who was directly involved in the investigation and prosecution of the case, drew attention to the fact that in these cases one can easily choose to ignore international links and focus solely on the national aspect. The importance of fighting against this attitude, and the necessity to sacrifice short-term gains for long-term goals, was stressed. Because Norwegian authorities previously had good experience with Eurojust, its assistance was sought by the then Liaison Prosecutor for Norway at Eurojust. In the Lost Boy case, prosecutors from various countries were brought together and formalities were kept to a minimum, resulting in an effort from all sides to cooperate in the best possible way, and showing that the initial perception, that international links are hopeless to investigate, could be turned into an astonishing global level of accomplishment achieved through cooperation with Eurojust.

The Deputy National Member for Italy spoke about the “Italian” aspect of the case. He explained that Italy did not react swiftly to the request from Norway because the prosecutor from Milan was unaware of such request, as the authorities dealing with LoRs are within the Court of Appeal. Thanks to the involvement of Eurojust, the LoR was dealt with immediately. Searches were conducted revealing international connections. The Italian suspect was then convicted to eight years in prison and a fine of € 24,000. The sentence was relatively minor because he cooperated with the investigating prosecutors. Generally, international cooperation worked very well. One coordination meeting was held in Milan, at which foreign judicial authorities were allowed to interview the suspects directly. This kind of flexibility should be further explored by Eurojust. Crucial to the case were the prompt exchange of information and the swift coordination of activities, together with the streamlined formalities.

3.2 Establishing good cooperation with authorities and NGOs in South Asia in travelling child sex offender cases

The International Director of Justice and Care in India, reported that the key message is that these crimes are carried out by customer-driven criminal networks that are widespread, crafty and innovative.

For the past three years, Justice and Care, which consists of about 50 professionals, saved more than 500 children and other young people from all forms of trafficking and sexual exploitation, leading to more than 100 prosecution cases involving nearly 300

perpetrators. In addition, this NGO has trained 3500 law enforcement officials, prosecutors, social welfare officers, social workers, etc.

Modus operandi for travelling child sex offenders

Perpetrators tend to “behave” like child support operators. For instance, they set up shelter homes or use hotels and lodges to lure and abuse children. They also infiltrate charity organisations, often acting as major donors, volunteers, or sponsors. They abuse the foster parent system, adoption and sponsorship programmes, sometimes in combination with fake marriage to locals. Organised in sophisticated networks, perpetrators also use emergency situations (e.g. earthquakes or natural disasters) as an opportunity to set up homes, which they then use to abuse children. Certain criminal networks are becoming so sophisticated that they manage to provide a child previously “ordered”, thus satisfying “tailor-made” requests.

The nationality of the victims in south Asia has been changed recently to include victims from Europe. Today, the key source countries outside India are Bangladesh, Nepal, Azerbaijan, Ukraine, Kazakhstan, Russia, Uzbekistan, Poland, Spain, Britain, Germany, Afghanistan and Turkey. In Delhi alone, an estimated number of 400 - 500 pimps focus on European, Russian and central Asian countries. Global economic hardship plays a contributing role in this change.

Strategies to combat travelling child sex offenders

- To combat travelling child sex offenders, prosecution strategies need to be holistic, innovative and strategic.
- To successfully prosecute the entire network and its activities, a combination of different laws could be used.
- *To pursue a multiple prosecution strategy, i.e.* a coordinated action between the destination country and the country of origin of the perpetrator. For example, when the state of origin is carrying out the arrest, the child victim should simultaneously be removed from the threat situation, thereby enhancing the likelihood of successful prosecution (evidence-gathering).
- To study and *map* the relevant institutional systems in different regions in order to adjust investigations and prosecutions to the needs of the regions concerned.
- *“Core and buffer prosecution”*: together with the main prosecution of the suspect(s), other linked actions should be carried out, such as securing the crime scene, interrupting financial transactions, ensuring that all relevant authorities are promptly informed of the events to avoid flight of suspects, removing corrupt charities from charity lists, etc.

Although difficult, these strategies should be put in place from start to finish.

Recognised challenges

- The political climate between and also within countries can considerably hamper investigations and prosecutions. Reference was made to Bangladeshi children trafficked into India who at one point in the past were treated as illegal immigrants and deported.
- Cultural myths. For example, some police officers believe that male children in south Asia cannot be raped. The main reason for this perception is the belief that a rape is an act committed by a man, forcing himself on a vulnerable woman. This myth is reflected and intertwined in all aspects of society, from legislation that might not cover this type of crime, to religion in which the community is thought to be protected by the gods, and more.
- Excessive bureaucracy can sometimes delay an investigation.
- Media insensitivity is a particular problem, since coverage often discloses information that can help the perpetrators to avoid prosecution.
- Protecting children is essential, and measures should be put in place from the beginning until cessation of court proceedings. If not, perpetrators have the opportunity to manipulate the children, e.g. by using wrongful interpretation of religious texts to justify their acts of sexual abuse, to lure them into sexual acts, or to deny the violence they committed.
- Extraterritorial jurisdiction is essential, although a case might result in positive or false negative conflicts of jurisdiction. The latter occurs when authorities do not give priority to the prosecution of these crimes. When more than one country is involved, *trust* between these countries is essential and can make or break a case.

3.3 International cooperation with and without cooperation agreements in cases concerning travelling child sex offenders

The Country Director for Action Pour Les Enfants (APLE) in Cambodia, noted that originally problems arose in *convincing* the authorities that a problem existed in the first place and that action had to be taken. As a solution, the identification of recurrent patterns as indicators that a crime was being committed has been extremely useful. In 2006 APLE, signed a memorandum of understanding with the Cambodian Ministry of Interior to enhance cooperation. In 2007, a National Committee to combat human trafficking, smuggling, sexual and labour exploitation of women and children was created. APLE participates in the National Committee's Law Enforcement Working Group as co-chair. This step is remarkable, as it demonstrates that at political level partnership with relevant and committed NGOs is crucial.

The trends reported by the Director of Justice and Care, and in particular that child sex offenders are able to infiltrate "non-suspect" organisations, were confirmed. Participants were reminded of the need to verify whether a person willing to work for any such charity organisation or NGO is a registered sex offender.

Contribution from NGOs: the example of APLE

APLE works on prevention, protection, prosecution and partnership.

- Prevention mainly consists of social and educational measures.
- Protection refers to both legal assistance and rehabilitative support that are offered to victims, their families and witnesses. APLE assists victims and witnesses during and after criminal proceedings.
- Prosecution in practical terms means that APLE supports the relevant national and foreign authorities in their investigations. For instance, APLE assists in the gathering of information and evidence, and in the identification of suspicious behaviour. The involvement of recognised local NGOs in the gathering of evidence also helps to avoid the risk of corruption. For instance, bribery of the authorities for the purpose of forging documents, especially concerning a victim's age, is possible. APLE makes sure that the authenticity of documents is verified. It was further noted that effective sentencing, rather than the place of prosecution, is important. Furthermore, avoiding corrupt investigators, prosecutors and judges is extremely important. Trustworthy NGOs, if allowed, can play a significant role in finding reliable parties. Other factors to consider are effective offender management systems and the most beneficial conditions for victims.
- Partnership with relevant institutions and bodies refers to legislative and administrative instruments lobbying, and multidisciplinary approaches to enhance support and services for victims and their families.

The interview of victims/witnesses

- Cultural issues: When interviewing Cambodian victims/witnesses or informants, one first needs to secure access to individuals, which can easily be facilitated by NGOs like APLE. Local expertise in laws, beliefs and cultural practices are important factors that must be considered. Victims/witnesses may also require emotional preparation before (and during) interviews conducted by foreign law enforcement authorities. NGOs are usually well equipped for this and have specialists available.
- Language barriers can be overcome either with the support of the local NGO's workers or with independent translators (possibly suggested by the NGO).
- Documentation: if participation of victims or witnesses is required at trial abroad, documentation (*i.e.* passport and visa) is needed and NGOs like APLE can provide assistance. Travel costs and other forms of compensation (*e.g.* daily allowance) need to be paid. In these instances, threats and/or bribery should be minimised.

Requests for extradition

Cambodia has signed extradition treaties with Thailand, Lao PDR and the People's Republic of China. If no extradition treaty is in place, the provisions of Cambodia's Code of Criminal Procedure apply (chapter 2, articles 566 - 594). These articles regulate extradition requests, which, together with their supporting documents, must be submitted to the Royal Government of Cambodia. The articles allow a foreign country to demand provisional arrests, which can be carried out prior to the extradition request in urgent situations. Cambodia is now willing to extradite suspects to their home countries.

Requests for custody of evidence to Cambodia

Foreign law enforcement authorities may request custody of evidence to Cambodia. The request should be sent to the central authority, usually the Commissariat General of the National Police, by e-mail, fax or via an attaché office. However, if the evidence requested is already in the local court's possession, the court decides on such request. The handover and receipt must be done in person and with exchange of signatures.

Prerequisites for successful cooperation

- Personal contacts, informal requests and the presence of the prosecution in the country are absolutely vital. Formal channels often involve a time-consuming process (including translations and the forwarding of the request) that often results in the request being neglected. Personal contacts increase the likelihood that the Cambodian officials will contact the correct authorities and ask relevant questions, thus avoiding the risk that no further action is taken. Contact details that are included in the LoR have limited use since local officials do not efficiently use e-mail and rarely call outside the country on such matters.
- Foreign law enforcement authorities should be taking an active role in local investigations to ensure proper and successful prosecutions. This involvement often requires an agreement with the local police or prosecutors (e.g. for participation in the search of a suspect's premises), although a formal mutual legal assistance request or an extradition agreement is not mandatory.

Areas for improvement

- Cooperation with Cambodia via attaché offices or diplomatic contacts should be increased.
- Full participation of foreign law enforcement authorities and embassy officials should be achieved.
- Efficient mechanisms for information-sharing, including swift circulation of criminal records, joint operations, referrals, and law enforcement training, should be established.
- Greater collaboration is required with relevant local NGOs, thus ensuring proper investigation and prosecution as well as appropriateness of working with young victims.
- The number of cooperation agreements or (bilateral) extradition treaties should be increased to improve effectiveness in prosecuting extraditable offences.

3.4 Presentation of the replies to the questionnaire sent to the Member States, Norway and the USA regarding travelling child sex offenders

The Acting Head of the Case Analysis Unit at Eurojust, presented the findings of the questionnaire that had been sent out to the invited countries prior to the meeting.⁴

Extraterritorial jurisdiction

Extraterritorial jurisdiction over child sexual abuse offences was reported by all 29 countries. A number of Member States as well as Norway and the USA reported having such jurisdiction with respect to their citizens as well as with residents of their territory.

Specialised judicial, police or other units

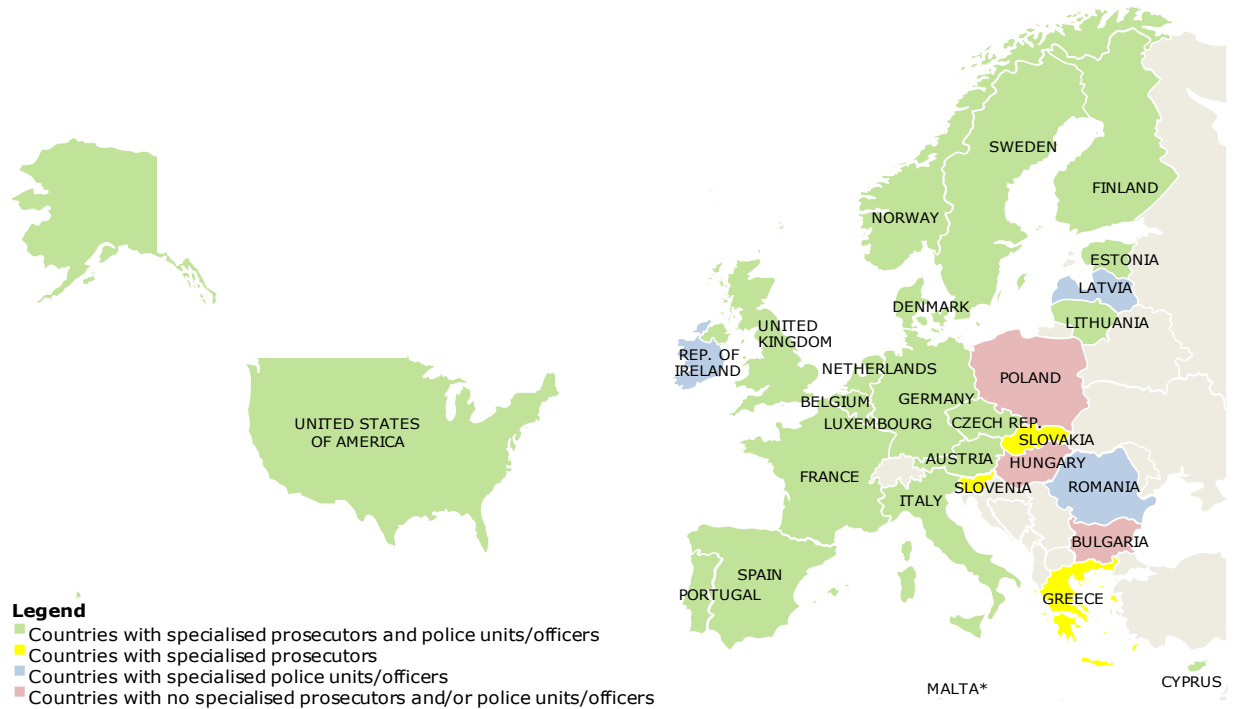
Of the 29 responding countries, 22 have specialised prosecutors for crimes against children and/or especially for child sex abuse cases; seven do not. In most countries, the specialised prosecutors operate at local level. Two countries indicated that they possess central units that either provide assistance and expertise to the local prosecutors or are responsible for child sexual abuse crimes at the federal level. One Member State, Malta, explained the particularity of its national system: within the police is a specially-designated unit to deal with such crimes and the police are also the prosecutors before the Court of Magistrates (please see note under the map below). Another Member State reported the existence of specialised courts for cases concerning minors as well as prosecutors with experience in such cases even though there is no specialised structure in the Public Prosecution Office for cases with children.

Special police units or officers responsible for investigating crimes against children and/or specifically child sexual abuse crimes were reported by 23 countries; six countries do not have such specialised units.

Both specialised prosecutors and police units/officers for such crimes were reported by 19 countries, while four have neither specialised prosecutors nor police units/officers.

⁴ The findings presented during the meeting were based on the replies to the questionnaire, which had been received prior to the meeting. The overview below has been additionally updated with information collected after the meeting. Several countries have replied only to certain, and not all, questions.

The map below illustrates the existence of specialised prosecutors and/or police units/officers in the responding countries.

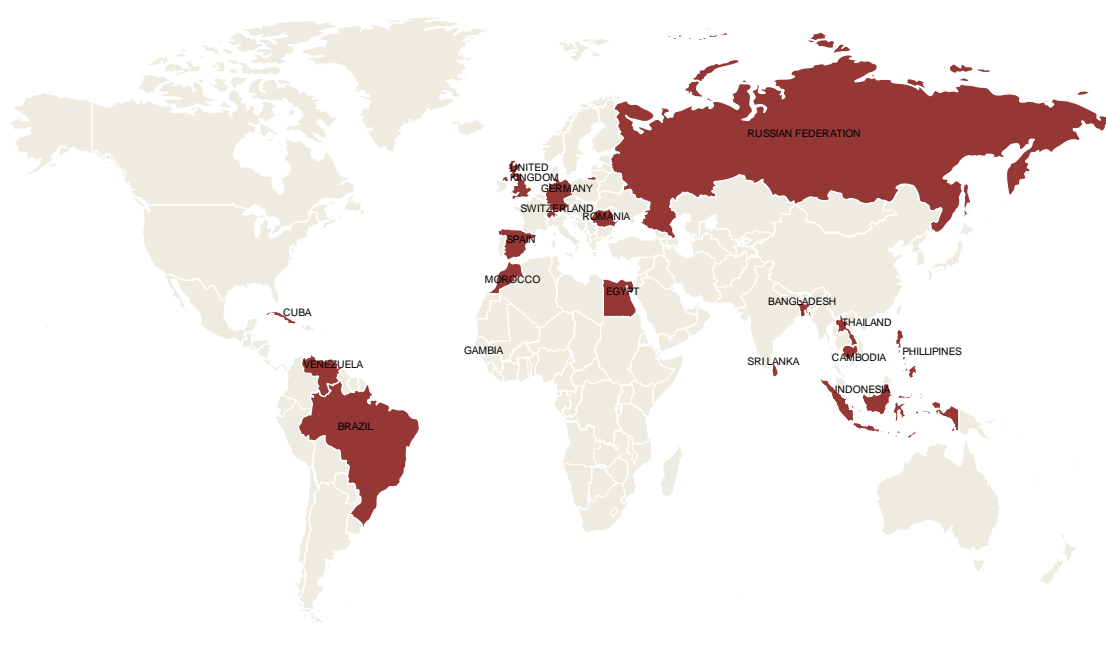


***Note:** In Malta, a specially designated unit within the police deals with such crimes. The police are also the prosecutors before the Court of Magistrates (which have competence for crimes carrying a punishment of a maximum of 10 years' imprisonment). However, prosecutors from the Office of the Attorney General, who is the prosecutor before the superior courts (including trials by jury), assist the police even when the case is still in its initial stages before the Court of Magistrates.

Number of investigations, prosecutions and sentences

Of the 29 responding countries, 19 have conducted investigations/prosecutions in cases of child sexual abuse committed abroad by their nationals or residents in their countries; four Member States have not initiated such investigations and subsequently have no prosecutions, while six countries reported that this information was not available or did not provide an answer to the question. The number of investigations and/or prosecutions varies considerably – from hundreds in the USA to just one for several of the respondents. Some countries reported also successful sentencing of the perpetrators.

The map below shows the countries in which the offences were committed. Please note that the map includes only countries mentioned at least twice in the replies.



Cooperation with third States

Six countries reported supporting criminal investigations conducted in a third State against their nationals (or persons permanently residing in their countries) on suspicion of sexual abuse of children; five Member States have not and the rest did not have information on this matter or did not provide a specific answer.

Most of the countries specified that they do not have special international agreements for combating sexual abuse of children. One Member State has, however, concluded international agreements focused solely on sex tourism. Fourteen countries referred to bilateral or multilateral agreements for cooperation in criminal matters in general and concerning extradition, which are legal instruments also applicable in judicial cooperation in cases involving extraterritorially-committed sexual abuse of children. Eight Member States indicated that they do not have cooperation agreements with countries where child abuse is committed. In the other cases, no information on the subject was available to the responder or no answer was given.

Eight countries reported having some experience with cooperation with third States with which they do not have formal agreements. The remaining countries gave a negative answer, indicating either lack of such experience or no possibility to obtain information on this subject, or no answer at all.

Challenges

The most commonly mentioned obstacles were the following: evidence-gathering in general, identification of witnesses and victims as well as establishing and maintaining contact with them, lengthy procedures in association with mutual legal assistance, and lack of treaties. The financial aspects related to the investigation of this type of crime, as well as the corruption of parties involved in the investigation in the third State, were also mentioned as obstacles.

Necessary improvements

In addition to the most common obstacles mentioned above, the replies highlighted the following areas for improvement: training of police officers, parallel proceedings, cooperation with a third State in which the action may not be considered a crime, and allocation of financial resources to local investigations. A country without jurisdiction should send initial information to an involved country, even if the offence took place in a third State.

Eurojust, Europol, Interpol, liaison officers, magistrates and NGOs

Referral to an international or European body has not occurred at all in 12 countries. Nine countries have referred cases to at least one of the above-mentioned organisations and four countries had referred cases to all the listed bodies. The Netherlands and Sweden reported referring cases to Nordic liaison officers working in the country where the abuse took place. No response was provided by the remainder of the countries.

Comments and remarks

The need for (harmonised) data collection systems and mechanisms for information exchange was stressed. Data sharing, coordinated investigations and quicker exchange of correspondence through the use of diplomatic channels are crucial in these cases. Resources must also be allocated. To combat online sexual abuse, collaboration among the financial sector, NGOs, law enforcement and internet service providers is required. To facilitate the reporting of these offences, consideration should be given to anonymous reporting, as is done in the Netherlands.

3.5 Evidence collection and admissibility in travelling sex offender cases

A trial Attorney at the US Department of Justice, Child Exploitation and Obscenity Section, together with the Section Chief, Homeland Security Investigations, Child Exploitation Investigations Centre, USA, presented the topic.

Sex travel is internet-facilitated. Perpetrators use the internet to obtain information on where to go, make arrangements, distribute materials and broadcast the abuse live through so-called “virtual sex tourism” chats. The characteristics of a typical perpetrator are: male, between the ages of 35 and 70; travelling without family. Suspects usually travel alone, but might also be accompanied by a child upon return to the USA. The suspect’s passport can show travel to countries normally considered as “typical destination countries”, e.g. Southeast Asia, Latin America, Eastern Europe, the Philippines and Southern Africa. Luggage may contain sexual aids and children’s items, such as toys.

The investigation: issues to consider

When investigating a travelling child sex offender case, several important issues should be considered: the possibility for the suspect to destroy evidence, the safety of victims, the gathering of “strong” evidence, the location where the prosecution will take place, the possibility that the victims’ family members are often complicit in the exploitation, and the existence of cultural issues, including language issues. For all these reasons, building good relationships with local law enforcement agencies and NGOs is essential. In addition, victims’ and witnesses’ interviews should be conducted by trained personnel (e.g. US Child Forensic Interviewer). Video or audio recordings may be the best way to secure high-quality evidence, so that at trial the veracity and accuracy of the testimony cannot be challenged. Victims/witnesses may still be called to testify in court, as is normally required, unless the case can be proven without witness testimony, e.g. concerning production of child pornography.

Legislation issues

Certain legal notions may be unfamiliar to some jurisdictions. For example, US law foresees attempt and conspiracy to travel abroad for the purpose of sexually abusing children. If the destination country is unfamiliar with the concept of either attempt or conspiracy, problems might occur with the gathering of evidence needed to prove the intent and the substantial steps the suspect took towards the completion of the crime (for attempt). For conspiracy, the court must prove that the person entered into an agreement with others to commit the crime.

Application of the Fourth Amendment abroad – unreasonable searches and seizures

The Fourth Amendment prohibits unreasonable searches or seizures. One way courts enforce the Fourth Amendment is through the use of the exclusionary rule, which provides that evidence obtained through a violation of the Fourth Amendment is generally not admissible. However, when the search is conducted by a foreign authority, the amendment is only applicable in the following two situations: when US law enforcement authorities

substantially participated in the search (“joint venture”) and when the foreign officials’ actions “shock the judicial conscience”.

The determination of whether US authorities had a joint venture with the foreign authorities is made on the assessment of certain factors, for example how the target was discovered, or who is responsible for decisions in different stages of the investigation, or how the investigation strategy was determined. Locations to be searched and items to be seized, as well as actual participation in the search, are indications of a joint venture. During a search, the foreign country’s law is followed to determine if the search is to be regarded as reasonable.⁵

Shocking the judicial conscience means that the conduct needs to violate “fundamental international norms of decency”, a stronger concept than the breach of the notion of due process.⁶ An example is provided by *U.S. v. Toscanino*,⁷ in which the target was abducted, tortured, interrogated for 17 days and drugged before being returned to the USA for trial.

Application of Fifth Amendment – target interviews

According to the “Miranda rule”, a suspect must receive warnings before law enforcement authorities begin their interrogation. If the interrogation is carried out by foreign officials only, the rule does not apply.⁸ Should, however, a US official participate in the investigation, the Miranda rule may apply,⁹ since the interview may then be considered as an indicator of a joint venture. If the interview is conducted completely by US law enforcement authorities, the Miranda rule fully applies.

Capacity-building and training

Establishing relationships with the local authorities in the destination countries helps when gathering admissible evidence. When the destination country authorities carry out an investigation, training the local officials to safely secure the evidence in the manner required by the prosecuting country is beneficial. To better support the destination country’s investigation, consideration should be given to the provision of both training and resources. By increasing the likelihood of offenders being caught and prosecuted, the so-called “hot spots” are swiftly dismantled.

Cooperation without agreements

To a certain extent, cooperation agreements can hamper the effectiveness of an investigation or exchange of information if, for example, the exchange of documents are subject to formal and lengthy proceedings. Alternatively, the establishment of good relationships with law enforcement authorities is essential in the absence of cooperation agreements. The USA has adopted this strategy recently, and it has proved very successful.

⁵ *U.S. v. Barona*, 56 F. 3d 1087 (9th Cir. 1995).

⁶ *U.S. v. Mitro*, 880 F. 2d 1480 (1st Cir. 1989).

⁷ *U.S. v. Toscanino*, 500 F. 2d 267 (2d Cir. 1974 Abduct the target).

⁸ *U.S. v. Chavarria*, 443 F. 2d 904 (9th Cir. 1971).

⁹ *U.S. v. Covington*, 783 F 2d 1052, 1056 (9th Cir. 1986).

3.6 The assistance of the Europol Child Sex Exploitation Group

A Specialist in Child Exploitation from Europol underlined the need for good and smooth cooperation between Member States and third States to effectively tackle the sexual exploitation of children.

At the moment, no homogeneous approach to the gathering of information on travelling child sex offenders has been found, despite the seriousness of the crime. Moreover, although child exploitation is criminalised in the European Union, Member States still take different approaches to a variety of issues, including the level of penalties, jurisdiction, age of consent for sexual activity, etc.

With Project HAVEN (Halting Europeans Abusing Victims in Every Nation), launched in November 2010, Europol attempts to detect and disrupt travelling child sex offenders originating from the European Union who exploit children both within and outside Europe. One of the means to accomplish the goals of HAVEN is to provide support to the Member States, for example in the form of coordinated actions.

The first Project HAVEN Joint Action Day was held in March 2011. This operation was planned and executed by Europol in cooperation with national police forces, customs and border authorities at the main airports of several countries. In addition to operational outcomes, this action gave additional value to cooperation between different authorities both at national and European level. Further actions are planned in line with the objectives of the project, which ultimately include the establishment of permanent and proactive notification systems on travelling child sex offenders originating from the European Union.

3.7 The Swedish specialised Investigation Unit concerning Travelling Child Sex Offenders

The Head of the specialist unit responsible for travelling child sex offenders at the National Criminal Investigation Department, Sweden, stressed the need to take action in the destination countries, where crimes are committed.

Each year, three million children are exploited for sexual purposes related to tourism and travelling with the intent to abuse children. Child sex offenders go abroad on vacation, business trips or to reside, and buy sexual services from children. Often, offenders try to justify their acts, for instance by pretending that, for example, African girls normally have sexual relations at the age of fourteen.

Though destination countries vary, these offenders often travel to places experiencing extreme poverty, with children out on the streets, such as in the Southeast Asian regions. In these countries, parents sometimes tolerate sexual exploitation of their children in return of financial gain to support the entire family.

Assessing whether the fight against commercial child sexual exploitation is an issue of supply or demand is crucial. Does the main responsibility for prosecuting such crimes rest upon the destination countries or the states of origin of the alleged perpetrators?

In Sweden, four dedicated law enforcement officers are involved in fighting travelling child sex offences. They gather and analyse relevant information, and manage the investigations of the perpetrators (especially Swedish offenders). They work in close cooperation with the relevant (foreign) authorities, such as liaison officers, law enforcement agencies and other national authorities.

The necessity to cooperate with local NGOs that operate in “hot spot” areas was highlighted. These NGOs need financial support.

Many obstacles remain in the fight against travelling child offences, including the lack of mutual legal assistance treaties and differences in investigatory procedures. Lack of manpower could become one of the main issues, due to the limited number of law enforcement agents in destination countries.

3.8 Extraterritorial investigations: a UK case example

The Group Leader for Intelligence, Child Exploitation and Online Protection Centre, UK, introduced this topic.

The Child Exploitation and Online Protection Centre (CEOP), part of the Serious Organised Crime Agency (SOCA), works to bring to justice child sex offenders, including those involved in the production, distribution and viewing of child abuse material online.

A case showing how a local investigation can easily turn into an international case was presented.

In 2007, M was arrested in Hertfordshire for purchasing child abuse images. He was subsequently released on bail. Forensic examination of his computer revealed many images, 108 of which were of a 9-10-year-old girl living in India. Specialist officers within CEOP’s victim identification team attempted to identify the victim. A strategy involving NGOs was deployed to deal with this case, taking into account many factors, such as the involvement of a foreign government, policing, and available care services. In June 2008, the girl was identified and the UK sent a letter of request to India to interview her. Because the request was denied, the interview took place in India. The UK police travelled to India to be present, together with the NGO Justice and Care, while the local police conducted the interview. The investigations revealed that the victim had been drugged and almost suffocated as a result of oral rape. In addition, offences committed against her sister were later discovered.

Several difficult issues arose during the investigation. For instance, extensive delays (up to two years) were experienced regarding the execution of the letters of request. During this time, M was not prevented from travelling and possibly could have abused other children.

Finally, in April 2011, M pleaded guilty in court and was sentenced to life imprisonment (eligible for early release after the seven-year minimum period set by the judge).

Essential factors identified:

- Cooperation through liaison officers was essential in the case, and generally in the fight against travelling child sex offenders;
- Support of local NGOs is crucial, especially in countries where law enforcement authorities adopt different working methods. NGOs are vital links to establish a connection between the authorities of the country of origin of the perpetrator and the authorities and relevant bodies (care services) of the destination country. In the case presented, the NGO Justice and Care was highly active, particularly in the identification of the victim and in giving general advice on cultural and social aspects. For instance, because family members were probably involved and profited from the abuses, the NGO recommended not launching the prosecution in India, as in such situations, the police would arrest the family members and the victim would not testify against them.

THE WORKSHOPS' CONCLUSIONS

Workshops 1 and 2 focused on ways to gather evidence in a foreign jurisdiction so that it is admissible in the Member States.

Workshops 3 and 4 focused on methods of presenting evidence in the court of the country of origin of the alleged perpetrator.

The detailed conclusions of the workshops have been grouped by subject below.

4.1 Definition of the crime

- “Travelling child sex offender” is often referred to as “child sex tourism”. Use of the former term is preferable, as it better describes the facts and purpose behind this offence.
- The offence is currently not foreseen as a separate offence in many jurisdictions. In the USA, travelling (to sexually abuse children) is an offence, meaning that even an attempt to travel with the intent to commit such an offence can be prosecuted. The alleged perpetrator could then be arrested at the point of departure, before arrival in the destination country.
- In 2010, the European Commission presented a proposal for a new Directive on combating sexual abuse, sexual exploitation of children and child pornography,¹⁰ which lays down common minimum rules for Member States concerning the definition of criminal offences and sanctions in the area of sexual exploitation of children.¹¹

4.2 Cooperation with NGOs and local authorities in destination countries

Cooperation with NGOs

- Improving cooperation with NGOs in destination countries is essential. Local NGOs are good interlocutors between the law enforcement and judicial authorities of the countries involved. They often more easily understand the approach of the prosecuting foreign country and are well aware of and sensitive to the social and cultural aspects of the destination country. They can also assist in convincing the destination countries' authorities to take action when the seriousness of the crimes is not fully appreciated.
- Local NGOs provide staff specialised in fighting travelling child sex offenders, and are experienced in establishing contacts with victims, witnesses and the at-risk population. They contribute to the identification of victims, witnesses, at-risk population, and offenders. They also actively assist in the gathering of evidence, while protecting and

¹⁰ See Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA of 29 March 2010, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0094:FIN:EN:PDF>

¹¹ The Directive was adopted at the beginning of November 2011. See footnote 1 above.

supporting the victims and witnesses before, throughout and after criminal proceedings. Moreover, they normally provide aftercare plans for victims and assist in preventing their re-victimisation.

- NGOs operate flexibly, and can actively look for evidence even before the Member States' law enforcement authorities reach the destination country.

Cooperation with local authorities

Cooperation with local authorities is particularly relevant:

- When the transfer of criminal proceedings that were initiated in a destination country is at stake. Early identification of the authority that will exercise jurisdiction avoids many of the problems normally encountered.
- To ensure information flow related to the arrest of EU citizens. When a citizen of a Member State is arrested, the authorities of his/her Member State are not informed. Because of this lack of communication, cases cannot always be initiated by the authorities of the countries of origin.
- To secure the evidence's custody chain, and requires support from the local law enforcement agencies from the start, and a partnership between foreign and local authorities sharing protocols and practices.
- To work efficiently, with or without official agreements in place. Informal and personal contacts are always constructive, at any stage in the criminal proceedings. A solution could be to carry out certain actions informally and eventually confirm them subsequently by formal mutual legal assistance requests.
- The current financial situation makes such efforts particularly difficult.

4.3 Evidence

- Issues pertaining to the admissibility of evidence differ depending on whether the destination country, especially a third State, is directly involved in the investigation. In such a situation, Eurojust can play a role in assisting the relevant authorities with coordination.
- Some participants concluded that the Member States' authorities should be present when evidence is gathered in destination countries; otherwise, the risk is high that evidence will not be admissible. Other participants concluded that such presence is not needed if the local prosecutor is available to provide *ad hoc* guidance. In any case, prosecutors from both countries should work together and "train" each other in their respective countries' standards and requirements.
- Destination countries' authorities should be made aware of the requirements and standards on the gathering of evidence abroad, including technical aspects. This type of "training" should preferably take place through casework.

- In this connection, local prosecutors moving abroad specifically to follow any such training could negatively affect their career at home. Therefore, any such training should be given in the destination countries by prosecutors (rather than liaison officers).
- Evidence-gathering in common law countries is a “substantive issue” rather than a formalistic one. As a consequence, the quality (and not necessarily respect of formal criteria) of the authorities’ work determines the admissibility of the evidence gathered.
- Photographs provide strong evidence (although sometimes the age of the victim is difficult to determine).
- Medical examinations also constitute relevant evidence, although these must be carried out by qualified staff (NGOs can play a role in identifying qualified professionals).
- Often, victims and witnesses are unwilling to testify and/or to travel abroad. This unwillingness poses a real obstacle to successful prosecution of travelling child sex offenders, as their testimony provides some of the strongest evidence available.
 - Interviews should be conducted *in loco*. If the local authorities carry out the interviews, they should be assisted and guided by the country of origin’s investigative authorities. Interviews, especially the first ones, should always be videotaped or recorded. By doing so, issues relating to translation and interpretation are easily resolved. Furthermore, NGOs can assist in finding trustworthy interpreters.
 - Victims should travel as infrequently as possible, to avoid imposing an additional burden on them and to secure their safety. The following alternatives were suggested: move only the suspect abroad; move victims to a city nearby in the same region or to a neighbouring country; and use video conferences as much as possible. Member States and Eurojust should encourage reluctant countries to accept video link evidence in court. However, video conferences might be affected by technical issues, and differences in time zones.
 - Victims and witnesses should be protected during investigations, and until well after trial, to avoid pressure, intimidation, interference and corruption. This aspect is particularly crucial in destination countries.
- Joint investigation teams (JITs) have played no role in the investigation and prosecution of these crimes. Since JITs have proved to be efficient tools in the investigation of criminal networks, testing the establishment of a JIT in an investigation on travelling child sex offenders, using Eurojust as facilitator, was recommended.

4.4 Role of Eurojust and its contact points in investigations and prosecutions

- The role of Eurojust in the fight against travelling child sex offences was widely recognised, including in connection with the need to build trust with local authorities and NGOs in destination countries.
- Eurojust should become a centre of knowledge and expertise in this area, in particular by gathering best practices. Notably, Eurojust could convene annual meetings of practitioners in this field, also in close cooperation with Europol.

- By collecting and sharing best practices and relevant information, Eurojust could play an important role in supporting the Member States' authorities in preventing the occurrence of such crimes. At operational level, Eurojust plays a crucial role in coordination as well as in detecting potential links with cases in other countries. A good example is the "Lost Boy" case.
- By allowing better and faster communication of information, Eurojust can speed up proceedings, which would 1) stop the abuse earlier, and 2) limit the risk of losing evidence. If the national authorities are able to work faster, fewer cases will arise in which the perpetrators are aware of the investigation before important evidence has been gathered.
- By obtaining the broadest possible information from the Member States and from EU and international law enforcement bodies like Europol and Interpol, Eurojust would become more efficient in supporting the national authorities. However, several participants stressed the fact that international contact platforms sometimes have heavy procedural requirements that considerably slow down the sharing of information. Other methods of sharing information should also be considered.
- Eurojust should also consider initiating cooperation with local NGOs in destination countries.
- Member States and third States should involve Eurojust more often in assisting with the transfer of criminal proceedings that were initiated in a destination country. In addition, countries should make more use of liaison officers (at police and/or judiciary level) and embassies in cases of travelling child sex offenders.
- Eurojust could also organise or support the preparation of trainings, particularly for judicial authorities in the destination countries.
- A blacklist of "hot spots" should be drafted in connection with the possibility to establish contact points in destination countries. A suggestion was made that the Pilot Project on Eurojust Liaison Magistrates could focus on these countries.

4.5 The use of the media as a deterrent

- The use of media as a means of deterrent or prevention was discussed. This is a controversial issue because, on the one hand, the media could be used to put pressure on local authorities that perhaps do not consider an investigation of these crimes a priority, but, on the other hand, a risk arises that situations involving the sexual abuse of children are used to boost audience numbers, thus subjecting victims to secondary victimisation.
- The possibility for anonymous reporting of these types of crimes was further considered, although some participants expressed scepticism about its real effectiveness.

GENERAL CONCLUSIONS OF THE MEETING

The Contact Point for Child Protection, Chair of the Trafficking and Related Crimes Team and National Member for Sweden underlined the necessity that Member States' authorities are present in destination countries, and they must be in touch with the local authorities as well as the NGOs. All relevant actors should work together, strengthening their cooperation and most of all building trusting relationships.

The fight against travelling child sex offenders is a very complex issue, and the role of Eurojust in this fight was appreciated.

The main issues revolve around the gathering of evidence, its admissibility in a foreign court, the safety of victims and the need to fight corruption. The crucial role of local NGOs, which can effectively support EU authorities in conducting investigations in destination countries, was further stressed.

He concluded by underlining the usefulness of the video link conference as one of the best tools to gather evidence, and expressed his regret that the legislation of a few Member States still requires the presence of victims and witnesses in court. He called for Eurojust to highlight the benefits of this tool to the Member States and relevant EU institutions.

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