



Submission concerning the human rights situation in **Sweden** on

the Sexual Exploitation of Children

submitted by

ECPAT Sweden

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ECPAT Sweden

Address: Sankt Göransgatan 66 112 33 Stockholm Sweden

Email: info@ecpat.se

Website: <https://www.ecpat.se/>



ECPAT Sweden is a non-profit child's rights organization working to eradicate sexual exploitation of children. We are part of ECPAT International which is the leading global network of civil society organizations in this subject matter. For the past 28 years, ECPAT has advocated for robust international measures to protect children from sexual exploitation. ECPAT Sweden was established in 1996 when the first world congress against sexual exploitation of children was held in Stockholm, Sweden. ECPAT Sweden possesses extensive knowledge on the situation regarding sexual exploitation and abuse in Sweden and with links to Sweden. We work continuously with knowledge sharing and advocacy. ECPAT Sweden receives information through meeting with children, parents, law enforcement representatives, private sector representatives in key industries as for example the travel industry and the finance industry, other specialists and professionals who come into contact with the issue at hand, decision makers at various levels, through reviewing reports and research and through the ECPAT Sweden Hotline. The ECPAT Sweden Hotline is an online service that offers a way to anonymously report what one perceives to be child sexual abuse material, suspected trafficking of children and suspected sexual exploitation in the context of travel and tourism. The Hotline will ensure that the matter is reviewed and if found to be illegal the information will be passed to the relevant law enforcement agency. If applicable the Hotline also contacts the Internet service provider hosting the content with a request for takedown.

Acronyms

CRC	the Convention on the Rights of the Child
CSAM	Child Sexual Abuse Material
OCSE	Online Child Sexual Exploitation
OPSC	Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography
SDG	Sustainable Development Goals
SEC	Sexual Exploitation of Children
SECTT	Sexual Exploitation of Children in the Context of Travel and Tourism

ECPAT Sweden (ECPAT) welcomes that the Swedish parliament in June 2018 adopted the bill “Incorporation of the UN Convention on the rights of the child”¹ regarding incorporation of the Convention on the Rights of the Child (CRC)² into Swedish domestic law. The bill is projected to enter into force by January 1, 2020. However, ECPAT makes the assessment from our ongoing work as a national child’s rights organization that much work remains in Sweden in order to protect children from all forms of sexual exploitation and sexual abuse in accordance with CRC and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)³.

26 percent of Swedish children (40 percent of girls and ten percent of boys) who participated in a nationwide study in 2016 reported that they had been sexually abused on one or more occasions.⁴ The Sustainable Development Goals (SDG)⁵ universally apply to all people and act as a call to action for all countries. SDG 16.2 on ending abuse, exploitation, trafficking, and all forms of violence against and torture of children makes it imperative to increase the efforts made to allow all children to grow up without sexual exploitation.

In this report ECPAT give brief summaries of areas of concern regarding sexual exploitation of children (SEC) in Sweden today and give recommendations that would make a substantial difference for children, within Sweden but also worldwide.

1. A national plan to prevent sexual exploitation in children

A holistic and multisectoral approach to prevention is crucial, with the civil society organizations and the private sector as indispensable partners to law enforcement and other government agencies. Child’s rights organizations, the financial institutes, the Internet service providers and the travel industry are key in preventing children from being victims to sexual exploitation. Children’s participation is also imperative, and a fundamental right regulated in CRC^{2,6}.

There is still a lack of focus on prevention of SEC in Sweden. Sweden has earlier had temporary plans for protecting children from trafficking and sexual exploitation, the latest being a plan for the years of 2016 - 2018.⁷ However, as of today no national plan exists. A long-term national plan without an end date that is updated yearly and sufficiently funded is of crucial importance in the work against SEC in Sweden. ECPAT hence repeats the recommendation from the Second Cycle of Universal Periodic Review (UPR) to establish a long-term strategy against SEC.⁸ This national plan should also be published in a very legible edition in accordance with CRC.⁹

The Swedish Government should:

- Adopt a long-term strategic national plan of action with the purpose of combating SEC in all its forms with a holistic and multisectoral approach, and provide the adequate human,

technical and financial resources for its implementation.

- Mandate the government agency put in charge of instituting the national plan to have children participating in the process and to have children’s participation as a pervading principle in all of the actions included in the plan.

2. Child marriage

Egypt recommended Sweden in the Second Cycle of UPR to raise the age of entry into marriage to 18 years in accordance with the definition of a child in the CRC.¹⁰ Since July 2014 children under the age of 18 cannot enter into marriage in Sweden. The laws regarding the recognition of child marriages established abroad has also recently (January 2019) been strengthened. No marriages involving a person under the age of 18 is now considered valid in Sweden.¹¹

Sweden has of today no separate penal provisions regarding a person marrying a child or being complicit in the marriage of a child. In August 2018 a governmental inquiry presented a report¹² recommending that child marriage should be criminalised with the responsibility being borne by the person who induces or permits the child to enter into a marriage. Informal marriages are also suggested to be covered by the provision. ECPAT concurs with this.

The Swedish Government should:

- Accept the proposal of the inquiry SOU 2018:69 to introduce a penal provision regarding child marriage and incorporate the suggestions made regarding this in the inquiry into national legislation.

3. Child sexual abuse material (CSAM)

To produce, possess, view and distribute documented sexual abuse against children under the age of 18 is criminalised in Sweden and termed “*child pornography crime*”. However, this is not seen as a sexual offence (chapter 6 of the Swedish Penal Code¹³). Instead, it is classified as a crime against public order (chapter 16 of the Swedish Penal Code¹³). ECPAT recommended the Swedish Government to move the offence to chapter 6 of the Swedish Penal Code in the Second Cycle of UPR⁹ and it is still our opinion that this is imperative.

The demand for CSAM is an impelling factor in children being subjected to sexual abuse. Behind the documentation there is almost always an actual child, whose human rights, health and dignity is being severely violated by sexual exploitation. Defining the offence as a sexual offence against a child would create more stable prerequisites for the abused child to be seen as an injured person in the

legal process. It would also serve as an acknowledgement of the violation a child depicted in CSAM is exposed to. It probably would also entail that the investigations of these offences would be given higher priority. In 2017 ECPAT assigned two scientists at the Department of Law at Stockholm University to do an independent research study regarding this offence.¹⁴ They concluded that children's rights probably would be strengthened if the offence were to be moved to chapter 6 of the Swedish Penal Code. As for sexual depictions of fictitious children, for example animated pictures or videos, this could still be regulated as an offence of itself in chapter 16 of the Swedish Penal Code.

ECPAT is also of the opinion that Swedish legislation should use appropriate terminology regarding CSAM. It is important to use the term "child sexual abuse material" rather than "child pornography" to more accurately describe the criminal nature of such material and the fact that children can never consent to participation in this kind of material. The European Parliament, in its Resolution on Child Sexual Abuse Online of 11 March 2015, made the statement that it "is essential to use the correct terminology for crimes against children, including the description of images of sexual abuse of children, and to use the appropriate term 'child sexual abuse material' rather than 'child pornography'."¹⁵ Using adequate terminology could lead to increased attention given to the issue of identification of the children being victims, by clarifying the actual crime behind the documentation and hence increasing the sense of urgency.

The Swedish Government should:

- Define CSAM depicting actual children as a sexual offence against these children instead of a crime against public order, by placing the offence in chapter 6 of the Swedish Penal Code.
- Change the term used in the Swedish legislation to describe criminality involving documented sexual abuse against children from "*child pornography crime*" to "*documented child sexual abuse*".

4. Equal protection for all children and sanctions proportionate to the severity of the crime

All children must be equally protected against sexual exploitation, regardless of sexual self-determination and sexual maturity. However, today not all children are treated equally in Swedish legislation. The crime "*exploitation of a child for sexual posing*"¹⁶ does not protect children above the age of 15 in the same way as younger children. When the victim of the crime is a child above the age of 15, the legislation requires that the court can establish that the posing by its nature is likely to damage the child's health or development.¹⁶

It is illegal to pay for sexual services in Sweden, with the classification of the crime being "*purchase of a sexual act of a child*"¹⁷ when the victim of the crime is a child under the age of 18. In a study done 2014 in Swedish schools; 0,9 percent of the pupils stated that they had been subjected to someone

buying them for sexual purposes.¹⁷ The minimum sanction for the crime “*purchase of a sexual act of a child*” is a pecuniary penalty - which under no circumstances can be proportionate for a crime involving the act of paying for sexually abusing a child. Sweden must ensure that all sanctions for sexual crimes against children are proportionate to the severity of these crimes. As in the Second Cycle of UPR⁸, it is the position of ECPAT that the Swedish Government should eliminate all pecuniary penalties for sexual crimes against children. Sex buyers also should have a strict liability to ensure that the victim of the offence they are committing is not a child and be held responsible to undertake every possible precaution not to sexually abuse a child.¹⁸ This was also put forward by ECPAT in the previous cycle of UPR.⁸

The Swedish Government should:

- Make the required changes to the definition of the crime “*exploitation of a child for sexual posing*” so that all children under the age of 18 are guaranteed the same legal protection.
- Make the required changes to the legislation so that perpetrators have a strict liability and are prosecuted and convicted for “*purchase of a sexual act of a child*” when the victim of the crime is a child under the age of 18 regardless if the perpetrator knew or could suspect this at the time of the criminal act or not.
- Eliminate all pecuniary penalties for sexual crimes against children so that the minimum sanctions reflect the severity of these crimes.

5. Incorporation of the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC)

ECPAT welcomes the Swedish Government's decision to incorporate the CRC into Swedish legislation in January 2020.¹ The inquiry on the rights of the child was tasked with “surveying, within particularly important areas, how the application of laws and other regulations complies with the rights of the child under the CRC and the two Optional Protocols to which Sweden has acceded”¹⁹ but the decision to incorporate the CRC into Swedish legislation does not include the OPSC.

In the previous cycle of UPR Sweden accepted the recommendation from Bahrain to “take all necessary measures to implement the Convention on the Rights of the Child, particularly to combat the sale, exploitation, and prostitution of children”.²⁰ However, by not including the OPSC in the proposal for the act on the incorporation of the CRC Sweden has not fulfilled this commitment. Furthermore, this proposal is not compatible with the overall perspective of the CRC nor the Child Rights Committee's clear position on the status of the CRC and the universal, indivisible rights of the child.

The Swedish Government should:

- Incorporate the OPSC into national legislation.

6. International efforts to work against sexual exploitation of children (SEC)

In Sweden in 2018 a total of 57 children were identified as being victims or suspected victims of trafficking, with girls most commonly being subjected to sexual exploitation.²¹ That same year only two convictions were made regarding trafficking of children.²² The governmental institutions working with human trafficking are clearly stating that the number of undetected victims is large and that the more working hours spent on the issue; the more victims of trafficking and sexual exploitation are identified.²³

Trafficking is an international issue. The sexual abuse and exploitation of children takes many forms, but these days Internet is often a factor. The online environment is borderless and makes the criminality international by nature. Sexual exploitation of children in travel and tourism (SECTT) is also an international issue. We know that Swedes travel abroad every year to sexually abuse children, though the extent of this is unknown due to lack of data.

Sweden accepted recommendations about SECTT from several countries in the review in 2015.²⁴ Sweden also accepted the recommendation from Lebanon to continue international efforts to work against sexual abuse and exploitation of children.²⁵ Sweden has since then appointed an ambassador at large to strengthen the Swedish international cooperation regarding human trafficking and also continued a public awareness campaign that encourages the general public to report suspected sexual exploitation of children when travelling abroad. The Swedish Government also had an action plan 2016-2018 with several other actions to protect children from trafficking and sexual exploitation⁷, but as of 2019 there is no national action plan.

In order to work effectively against all sexual abuse and exploitation of children, and as a Pathfinder country to end violence against children²⁶, Sweden must ensure a global multi-stakeholder, cross-sectoral approach. The Swedish Government should aim to be supporting children all over the world by leading by example.

The Swedish Government should:

- Institute a position in strategically important embassies around the world and task the people recruited with supporting the embassy regarding issues concerning SEC, work close together with local and regional child's rights organizations, in general facilitate cooperation on an international and regional level and function as advocate regarding children's

rights. The people recruited should have ample knowledge in the field of children's rights, especially children's participation, and in the subject of sexual exploitation of children.

7. Online child sexual exploitation (OCSE)

In Sweden last year 49 percent of 2-year-olds used the Internet daily, and at 10 years of age 90 percent of Swedish children had their own mobile phone with 44 percent of children aged 8-10 using Internet in a phone daily.²⁷ The Internet is essentially a positive thing for children. But it has also created a large increase in the number of opportunities for those who would harm children. It has never been easier for perpetrators to contact children, access and share child sexual abuse material and inspire each other to commit further crimes. ECPAT International and INTERPOL writes in a report from 2018 that this has resulted in perhaps millions of children being sexually exploited in recent years.²⁸

The consequences for the child are the same regardless if the sexual abuse is physical or non-physical, and for an abused child the dissemination and circulation of material on the Internet means that the suffering never ends.²⁹ Sweden should ensure that law enforcement has access to necessary legal and technical tools as well as human resources to discover and investigate OCSE.

The Swedish Government should:

- Ratify the Convention on Cybercrime of the Council of Europe³⁰.
- Ensure that new regulations such as the ePrivacy regulation³¹ does not impose obstacles to criminal investigations regarding SEC.
- Strengthen corporate liability and create legal incentives to proactively prevent and discover hosting of illegal material such as mandatory reporting and proactive detection of child sexual abuse material for Internet service providers.

8. Preventive treatment for potential offenders

Preventive measures for people with a sexual interest in children such as treatment programs for paedophilia and anonymous helplines are vital in order to prevent sexual abuse of children before it occurs. Spokespersons for the Swedish Police and the detention services stress the need for easy access to specialised treatments for people with a sexual interest in children that are at risk of committing offences. The treatments need to be available throughout Sweden and, if possible, scientifically proven to be effective. ECPAT raised this issue in the Second Cycle of UPR⁸ and still believe this is incremental to preventing SEC.

The Swedish Government should:

- Adopt an evidence-based prevention, treatment and follow-up programme targeting people who have a sexual interest in children and make sure that it is available within the health care system in every Swedish county.
- Establish a national research centre for preventive treatments for people with a sexual interest in children.

9. Systematic collection of data

There is currently no systematic data collection on SEC in Sweden or of the extent of SEC by Swedish perpetrators. Current and reliable data is lacking for almost all forms of sexual exploitation of children; such as the number of children sexually exploited in Sweden, or of sexual exploitation of children in the context of travel and tourism. Furthermore, Sweden does not collect data on OCSE, and it is not possible to follow a criminal case from report to dismissal or verdict.

As a consequence of the lack of data, the prevention of children being subjected to sexual exploitation is not as efficient as it could be. The more we know about these crimes, the victims and the perpetrators, the more powerful society's response may be. ECPAT hence repeats its request from the Second Cycle of UPR⁸ to establish a system for systematic collection of data regarding SEC.

The Swedish Government should:

- Establish a mechanism for the systematic collection of data regarding SEC disaggregated by age and sex of the victim and the perpetrator.
- Establish a mechanism for the systematic collection of data on reported, conducted and dismissed preliminary investigations disaggregated by type of offence and possible use of information and communications technology.



Endnotes

¹ Government Offices of Sweden (2014-10-03 - 2019-01-20). Convention on the Rights of the Child will become Swedish law. Accessed 2 July 2019, at <https://www.government.se/articles/2018/03/new-legislative-proposal-on-the-convention-on-the-rights-of-the-child/>

² UN General Assembly (opened for signature 20 November 1989, entered into force 2 September 1990). Convention on the Rights of the Child. Accessed 2 July 2019, at <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

³ UN General Assembly (opened for signature 25 May 2000, entered into force 18 January 2002). Optional Protocol to Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Accessed 2 July 2019, at <https://www.ohchr.org/Documents/ProfessionalInterest/crc-sale.pdf>

⁴ Stiftelsen Allmänna Barnhuset (2017). Violence against children in Sweden 2016 – a national survey. Stockholm: The Children’s Welfare Foundation Sweden. Accessed 26 June 2019, at: <http://www.allmannabarnhuset.se/wp-content/uploads/2018/03/A-national-survey-Violence-against-children-2016.pdf>

⁵ UN General Assembly (adopted 25 September 2015). Transforming our world: the 2030 Agenda for Sustainable Development. Accessed 2 July 2019, at https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

⁶ “The Committee encourages States parties to consult with children in the development and implementation of legislative, policy, educational and other measures to address all forms of violence.” UN Committee on the Rights of the Child (2009-07-01). General comment no. 12 (2009) – the right of the child to be heard. Page 23. Accessed at 9 July 2019, at: <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

⁷ Regeringens skrivelse 2015/16:192 (2016). Handlingsplan 2016–2018 till skydd för barn mot människohandel, exploatering och sexuella övergrepp. Accessed 28 June 2019, at: <https://data.riksdagen.se/fil/03767622-261A-4090-929B-6D60B7F13647>

⁸ ECPAT Sweden (n. d.). Comments by ECPAT Sweden to the Universal Periodic Review of Sweden January 2015. Accessed 28 June 2019, at: https://www.upr-info.org/sites/default/files/document/sweden/session_21_-_january_2015/ecpat_sweden_-_ecpat_sweden.pdf

⁹ UN Committee on the Rights of the Child (2009-07-01). General comment no. 12 (2009) – the right of the child to be heard. Accessed at 9 July 2019, at: <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>



¹⁰ Recommendation 145.125 made by Egypt during the Second Review of Sweden in Universal Periodic Review, Session 21. A/HRC/29/13 - Para. 145.

¹¹ SFS 1904:26 s.1. Lag om vissa internationella rättsförhållanden rörande äktenskap och förmynderskap. Justitiedepartementet. Accessed 3 July 2019, at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-190426-s1-om-vissa-internationella_sfs-1904-26%20s.1

¹² Statens offentliga utredningar (2018). Ökat skydd mot hedersrelaterad brottslighet (SOU 2018:69). Accessed 24 June 2019, at: http://www.sou.gov.se/wp-content/uploads/2018/08/SOU_2018_69_webb.pdf

¹³ SFS 1962:700. Brottsbalk. Justitiedepartementet. Accessed 27 June 2019, at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/brottsbalk-1962700_sfs-1962-700

¹⁴ ECPAT Sweden (2017). Barnpornografibrottet – det straffrättsliga skyddet mot dokumenterade sexuella övergrepp mot barn. Accessed 26 June 2019, at: https://www.ecpat.se/uploads/2.PDF/Rapporter/ECPAT_Barnpornografibrottet_2017.pdf

¹⁵ European Parliament resolution of 11 March 2015 on child sexual abuse online, 2015/2564 (RSP) 2016/C 316/12. Article 12. Accessed 27 June 2019, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015IP0070>

¹⁶ Ministry of Justice Sweden (2018-10-05). Chapter 6 of the Swedish Penal Code (unofficial translation). Accessed 10 July 2019, at: <https://www.government.se/4a95e7/contentassets/602a1b5a8d65426496402d99e19325d5/chapter-6-of-the-swedish-penal-code-unofficial-translation-20181005>

¹⁷ Stiftelsen Allmänna Barnhuset (2015). Det gäller en av fem – fakta om barn, sexuella övergrepp och sexuell exploatering i Sverige 2014. Accessed 24 June 2019, at: <http://www.allmannabarnhuset.se/wp-content/uploads/2015/11/Det-g%C3%A4ller-1-av-5.pdf>

¹⁸ Today it is too easy for the offender to claim that he or she believed that the person was an adult, often with arguments related to the sexual maturity of the child victim.

¹⁹ Statens offentliga utredningar (2016). Barnkonventionen blir svensk lag (SOU 2016:19). Page 51. Accessed 19 June 2019, at: https://www.regeringen.se/contentassets/7bcd0fe8815345aeb2ff0d9678896e11/barnkonventionen-blir-svensk-lag-sou-2016_19.pdf



²⁰ Recommendation 145.111 made by Bahrain during the Second Review of Sweden in Universal Periodic Review, Session 21. A/HRC/29/13 - Para. 145.

²¹ Jämställdhetsmyndigheten (n. d.). Statistik – misstänkta fall för människohandel i Sverige 2018 – barn. Accessed 24 June 2019. At: <https://www.jamstalldhetsmyndigheten.se/wp-content/uploads/2019/04/statistik-manniskohandel-2018-barn.pdf>

²² Jämställdhetsmyndigheten (2019). Barn i människohandel – slutredovisning av regeringsuppdraget att samordna arbetet mot människohandel och exploatering av barn. Göteborg: Jämställdhetsmyndigheten. Accessed 27 June 2019, at: <https://www.jamstalldhetsmyndigheten.se/wp-content/uploads/2019/05/barn-i-manniskohandel-slutrapport-2019-04-30.pdf>

²³ Nationellt metodstödsteam (2019-04-29). Allt fler offer för människohandel identifieras. Accessed 26 June 2019, at: <https://www.nmtsverige.se/nyheter/2019/allt-fler-offer-manniskohandel-identifieras>

²⁴ Recommendation 145.108 made by Romania, recommendation 145.109 made by Sri Lanka, recommendation 145.110 made by Senegal and recommendation 145.112 made by Lithuania during the Second Review of Sweden in Universal Periodic Review, Session 21. A/HRC/29/13 - Para. 145.

²⁵ Recommendation 145.23 made by Lebanon during the Second Review of Sweden in Universal Periodic Review, Session 21. A/HRC/29/13 - Para. 145.

²⁶ The Global Partnership to End Violence Against Children (n.d.) Pathfinding Countries. Accessed 10 July 2019, at: <http://www.end-violence.org/pathfinding>

²⁷ Internetstiftelsen (n.d.). Svenskarna och internet 2018. Accessed 26 June 2019, at: https://internetstiftelsen.se/docs/Svenskarna_och_internet_2018.pdf

²⁸ ECPAT International and INTERPOL (2018). Towards a global indicator on unidentified victims in child sexual exploitation material – technical report. Accessed 27 June 2019, at: <https://www.ecpat.org/wp-content/uploads/2018/02/Technical-Report-TOWARDS-A-GLOBAL-INDICATOR-ON-UNIDENTIFIED-VICTIMS-IN-CHILD-SEXUAL-EXPLOITATION-MATERIAL.pdf>

²⁹ 1177 Vårdguiden (2017-05-31). Sexuella övergrepp på nätet ger svåra sår i själen. Accessed 20 June 2019, at: <https://www.1177.se/Vastra-Gotaland/liv--halsa/overgrepp-och-sexuella-trakasserier/sexuella-overgrepp-pa-natet-ger-svara-sar-i-sjalen/>

³⁰ Council of Europe (opened for signature 23 November 2001, entered into force 1 July 2004). Convention on Cybercrime ETS No.185. Accessed 11 July 2019, at <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680081561>



³¹ European Commission (2017). Proposal for a Regulation on Privacy and Electronic Communications. Accessed 11 July 2019, at: <https://ec.europa.eu/digital-single-market/en/news/proposal-regulation-privacy-and-electronic-communications>