

# BORDERLESS!?

An explorative study of the instruments in relation to (convicted) offenders of transnational child sexual abuse

Summary

**Bureau Beke**

Joey Wolsink

Hester de Boer

Anton van Wijk

**Ecorys**

Linette de Swart

Gabriëlle op 't Hoog



**Beke** // reeks

# Summary

## Preface

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

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

1. What are the profiles/types of transnational child sexual offenders in the literature?
2. Is there an overlap between profiles/types of transnational child sexual offenders and those of child sexual offenders, child sexual exploitation and downloaders and distributors of child sexual abuse images?
3. Which legal and practical, national and international measures, including collaborative arrangements, are currently in place in the Netherlands to a) prevent (convicted) transnational child sexual offenders from reoffending

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

## Methodology

The current study focuses on the Netherlands as well as a selection of five other countries. Various research activities were carried out to map the Dutch state of affairs regarding transnational child sexual abuse. First, desk research was carried out consisting of a literature study into 1) the profiles of transnational child sexual offenders and 2) the Dutch approach to combat transnational child sexual abuse. Subsequently, thirteen representatives of the Ministry of Justice and Security, a non-governmental organisation (NGO), the Public Prosecution

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

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

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

## The offender profiles

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

The literature offers few recurring characteristics of offenders of transnational child sexual abuse. The offenders seem to be mostly male. A small number of publications state transnational child sexual offenders have been victims of sexual abuse themselves more often than 'general' child sexual offenders and that they display more pedosexual and antisocial behaviour. However, more research is needed to verify these findings. The modus operandi of the offenders of transnational child sexual abuse is influenced by 1) the length of stay in the destination country (short or long-term), 2) the motivation to offend (situational or preferential), and 3) the location (hands-off – including the online environment – or hands-on) of the offenders. Both girls and boys are victims of transnational sexual abuse. Several risk categories for destination countries can be distinguished, namely: economic factors, socio-cultural factors, governance, and political-legal factors. The level of wealth in a country seems to be the most important factor, with countries experiencing high levels of poverty being more vulnerable to attract offenders of transnational child sexual abuse.

The before-mentioned observations arise from literature and are partly recognised by experts in the field. The experts recognise the two offender groups, yet they believe the dichotomy has limitations and some argue a third group of offenders should be added: the *crossovers*. According to them, the distinction between the two offender groups is more fluid in nature and the groups should be placed on a continuum. It is argued that situational offenders can eventually develop and use a motivation and modus operandi that is more oriented towards preferential offending. This would argue for more early, preventive measures. In addition, experts indicate that in practice, they encounter older preferential offenders more often and they see that situational offenders are mostly rather young. According to experts in the Netherlands, there is an overlap between 'general' sexual abuse offender and transnational child sexual offenders. The difference between the two groups, according to the experts, lies in the absence of

social life and having the opportunity to go abroad for transnational offenders. Regarding the modus operandi of the offenders, the experts emphasise the role of facilitators of the abuse and indicate that offenders have become more organised: the offenders seem to increasingly operate in networks. In practice, experts more often encounter boys than girls as victims. Finally, experts see that countries are more vulnerable to transnational child sexual abuse that have a well-established Internet infrastructure and countries where the legal age of consent for sexual contact is relatively low.

## **Instruments to combat transnational child sexual abuse**

### **Part 1: Dutch instruments**

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

#### *International treaties and national laws and regulations*

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

tional measures and/or special conditions. Additional measures might refer to the application of electronic monitoring, such as an ankle bracelet, for example.

The travel ban is hardly ever imposed, a study of case law shows. The Passport Act offers possibilities to revoke a passport or to refuse an application for a passport, which makes it more difficult to travel from the Netherlands to a non-Schengen country. The Act thus constitutes an important barrier for transnational child sexual abuse offenders. To the knowledge of the researchers, the Act (Article 18 and Article 24 of the Passport Act) is hardly used, if at all. An important reason for this is that a qualitatively good risk assessment is a crucial condition for the application of the Act. However, thus far this risk assessment has sometimes been lacking (see below). A second reason is the lack of a clear policy framework regarding the Passport Act. Policy-wise, there is still no agreement about which criteria should apply and how those criteria should be established to arrive at a substantiated, well-founded suspicion of the risk of recidivism or whether the offender wishes to evade his sentence. A third reason – and this applies in fact to all possible measures – is that the problem of transnational child sexual abuse may have been known for some time, but it only recently came to light to the appropriate authorities and has to ‘compete’ with other priorities like combatting online child abuse.

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

### *Instruments*

Various risk assessment instruments have been developed to gain insight into the risk of recidivism of convicted sexual abuse offenders. The Dutch Probation Service usually carries out the risk assessments, because they are requested to do so by the Public Prosecution Service in relation to sentencing. As a result, the Probation Service only carries out risk assessments if there is a criminal case in a judicial process. From 2018 onwards, the Probation Service uses the updated RISC. This is a risk assessment tool that can be used for all types of suspects. The RISC contains various risk assessment instruments, allowing for a structured mapping of the risk of recidivism and the protective factors of a suspect. Based on this, the Probation Service formulates advice concerning the risk of recidivism and any special condition(s) to be applied. The new RISC has been designed in

such a way that the SSA (Static-99R, Stable-2007 and Acute-2007) must be completed when the suspect is a (suspected) sexual abuse offender. The Static-99R uses static data such as age, gender and criminal history, while the Stable-2007 and Acute-2007 look at dynamic risk factors and determine the risk of recidivism more accurately. According to some experts, the Dutch Probation Service does not always have sufficient capacity to conduct risk assessments for the purpose described above. In some cases, the police, therefore, carry out risk assessments. However, the police also do not (or to a lesser extent) have the necessary capacity to properly carry out risk assessments. In addition, the police only use the Static-99R, as they do not have the necessary capabilities and information to use the other two instruments.

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

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

recidivism must be revealed through a risk assessment. All of the above means that, according to experts, only a very limited number of *Green Notices* have been issued in relation to transnational child sexual abuse.

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

### *(Inter)national cooperation*

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

For example, the National Police deploys Liaison Officers (LOs) and Flexible Liaison Officers (FILOs) abroad. In Asia and specifically the Philippines, the LOs are in charge of international cooperation on criminal phenomena, such as transnational child sexual abuse. The aim is to promote cooperation and media-

tion in the execution of Dutch police and judicial requests for legal assistance abroad. The presence of LOs and FILOs leads to several dozen reports annually, some of which result in local investigations into and prosecutions of transnational child sexual abuse offenders. In addition, the LOs and FILOs ensure a smoother and more dynamic international information exchange, better initiation of local investigations and more local attention and awareness for combatting child sexual abuse. A caveat about the role of the LOs is that the capacity for the Dutch LOs is limited. The areas in which the LOs work are too large for the available LOs, who also perform other tasks in addition to combatting transnational child sexual abuse.

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

### *Prevention*

Specifically, for (potential) child abuse offenders, there is – besides the *Don't Look Away* reporting centre and the *Don't Look Away* awareness campaign – a helpline *Stop it Now!* in the Netherlands. This is an anonymous, confidential and free-of-charge telephone helpline that aims to prevent child abuse through advice and referrals to appropriate assistance. Third parties (parents, family, partner)

can also call the helpline for questions. The helpline is not specifically set up for transnational child sexual abuse. It is not therefore possible to deduce how many potential transnational child sexual offenders have made use of the helpline. However, it is evident from interviews that this does happen. It is unclear whether this preventive helpline prevents Dutch people from travelling abroad to abuse children. The experts do think the helpline is a valuable initiative.

### *Scope of the instruments*

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

## **Part two: an international comparison**

### *Country study on Sweden*

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

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

Care is the central component of the Swedish approach to combat transnational child sexual abuse. The care provided is available for people who fear they will exhibit unwanted sexual behaviour and for those who have already exhibited this unwanted behaviour. In most cases, this care is offered to offenders on

a voluntary basis. The initiative to participate lies with the (potential) offender and there are few means available to force an offender to participate in a care program. As a result, only the part of the offender population that is open to treatment and behavioural change gets treated. In addition, many of the care programs have not (yet) been evaluated. This means that no statements can be made regarding the functioning of these care programs.

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

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

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

### *Country study on Germany*

The German approach to combat offenders of child sexual abuse currently focuses strongly on offences that took place in Germany. The reason for this is several major cases of both hands-on and hands-off abuse in Germany, which have come to light relatively recently. Due to the strong focus on combatting abuse in Germany itself, in recent years little attention has been paid to combatting transnational child sexual abuse committed by German offenders. In addition,

there currently (August 2021) is no policy officer responsible for the topic of transnational child sexual abuse.

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

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

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

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

### *Country study on Ireland*

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

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

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

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

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

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

### *Country study on Australia*

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

The Australian legal framework allows Australian regional authorities in states and territories to confiscate, cancel or revoke passports of convicted offenders of sexual abuse. These offenders can also be obliged to report their travel movements. These measures aim to restrict the freedom of movement of convicted sexual abuse offenders, who are considered to be at significant risk of recidivism. Restrictions on working with children may also be imposed. The fact that Australia is an island facilitates the enforcement of travel restriction laws

and measures through unavoidable border controls when leaving the country. In general, local experts are satisfied with the available legal instruments and the measures that can be imposed. The measures are applied in practice, but their effects are hardly evaluated.

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

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

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

### *Country study on the United States*

The US policy on transnational child sexual abuse is highly repressive. Convicted offenders of sexual abuse of both minors and adults are severely punished compared to the Dutch approach. The US policies are based on the idea that offenders of sexual abuse cannot be cured. Severe punishments are therefore perceived as the only solution. It is unclear how many US citizens are committing transnational child sexual abuse.

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

cancelled. It is predominantly unclear to what extent the available measures are imposed and to what extent they are effective. Only limited research has been done on this.

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

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

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

## Lessons to consider

- In the Netherlands, police capacity is mainly used to combat online child abuse and to a lesser extent to combat transnational child sexual abuse. Given the nature of the problem of online child abuse, this can be understood, however, tackling transnational child sexual abuse also deserves a strong capacity boost. These are known to be time-consuming criminal investigations. Nevertheless, the scale on which child abuse offenders can operate abroad (number of victims) and the seriousness of the offence (prolonged sexual abuse) are sufficient reasons to free up extra capacity for this problem.
- Workable and clear criteria must be set based on which legal options (such as the Passport Act) can be put to practice to prevent transnational abuse offenders from travelling abroad. In theory, these legal options do exist.
- In all the countries studied, risk assessment instruments were criticised, because due to the criteria used in these instruments, offend-

ers with a substantially high risk of recidivism in practice are assigned a low risk of recidivism. In various countries, the idea that the risk assessment instruments in their current form do not apply to female and very young male offenders prevail (including Sweden and Australia). It is therefore important that more scientific research is carried out into offender profiles and *modus operandi* so that it can be determined whether the criteria of the risk assessment instruments are sufficiently equipped for (potential) transnational child sexual abuse offenders. In doing so, specific attention could be paid to young and female offenders. This can also help to gain an overview of the entire phenomenon and to strengthen the use and possible development of instruments and measures in the future. The available measures can then be deployed more effectively.

- In the research into the approaches taken in Sweden, Germany, Ireland, Australia and the United States, hardly any new measures were found. For example, the withdrawal or refusal of a passport (US, Australia and Germany), the reporting obligation (the US, Australia and Ireland) and care programs (Germany and Sweden) are also possible in the Netherlands. A measure not yet applied in the Netherlands is an obligation to register in a registry such as in Ireland. This allows convicted transnational sexual child abuse offenders to be better monitored. (Child) sexual abuse offenders must register themselves after their release, so the responsibility lies with the convicted person. In addition, in the United States, an annotation is placed in the passports of sex offenders as travel restricting measure. In practice, this seems to have little added value, because those offenders are punished to such extent that international travel is not possible in the first place. . Some experts deem the annotation as too great a violation of the rights of an individual (who has already been convicted). Concerning these measures, it should be noted that disproportionality is lurking.
- A good intelligence position is crucial for combating transnational child sexual abuse. At the national level, it appears to be important that existing confederate information systems are compatible. Concerning international information exchange, it appears to be difficult for all countries studied to systematically share information from high-risk countries. No country has so far found the perfect solution for this.

That is why, in Australia, the government has concluded bilateral treaties with high-risk countries to be able to exchange such information on an ad hoc basis. As a result, the Australian authorities are therefore more able to implement the measures available to prevent travel. The Netherlands can learn from this by also focussing more on concluding bilateral treaties.

- So far, in the Netherlands, but also the other countries studied, LOs abroad have been specifically appointed as a crucial means of exchanging information. None of the studied countries can station a LO in every destination country. The solution chosen by Sweden (a network of LOs from like-minded countries) may be worthwhile considering. In addition to using LOs, a public-private partnership with NGOs offers a potential solution in tackling transnational child sexual abuse. After all, this also improves the intelligence position. However, clear working agreements must be made between the various parties because so far these agreements are still too much in a grey area.
- In the present study, mostly repressive measures were discussed and to a lesser extent preventive measures. An important lesson concerning preventive measures is that citizens must be more involved in signalling red flags, knowing where they can report these red flags and what happens with their reports. With this, the willingness to report can be increased. As yet, the focus of the preventive measures in the Netherlands has mainly been on the responsibility of citizens to look out for suspicious situations concerning transnational child sexual abuse. That's why more can be invested in care programs where potential offenders get help to resist their sexual desires for minors. Although these care programs already exist in the Netherlands, they can be further developed.

## Endnote

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



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