

CHILD SEXUAL EXPLOITATION IN TRAVEL AND TOURISM:

A Guide to Extraterritorial Jurisdiction to Hold Perpetrators Accountable in France



Table of Contents

1. Criminal Prosecution	4
French Criminal Law?	4
What are the Criminal Penalties?	5
Under the French Criminal Code, as Amended by Law 2021-478 of April 21, 2021, the Following Acts may be Prosecuted as Criminal Offences	5
Special Extraterritorial Rules Applied to Sexual Crimes Against Children	6
French’s Extraterritorial Application of Sexual Exploitation of Children in Travel or Tourism. 6	
The Exclusion of the Double Criminality Requirement in French Legislation Allows for more Effective Prosecution of a Travelling Child Sex Offender	7
Can a Perpetrator who has Been Prosecuted Abroad Still be Prosecuted in France?	8
Can Perpetrators of Online Child Sexual Abuse and Exploitation Committed Abroad be Prosecuted in France?	8
Can Operators of Child Sexual Exploitation Tours be Prosecuted Under the Law?	9
Do the Children have to Testify in French Courts?	9
How can Cases be Reported to French Authorities?	10
How Long is the Statute of Limitations in France for Sexual Offences Against Children? ...	10
2. Civil Cases for Damages Under French Legal System	11
Who can File a Lawsuit?	11
What are the Civil Damages Available to Victims?	12
Are There Other Forms of Compensation for Sexually Abused or Exploited Children?	12
Conclusion.....	13
Appendix A: Relevant Criminal Cases of Sexual Exploitation of Children in Travel, in Tourism and Online Sexual Abuse.....	14

In 1994, France codified extraterritorial jurisdiction to fight impunity for criminal acts committed abroad. The French Criminal Code defines a broad range of offences with extraterritorial reach.

A child sexually abused or exploited abroad by a French citizen or resident, or by a foreigner when the victim is a French citizen, is entitled to special protection under the law. Extraterritorial jurisdiction, modifications to the statutes of limitations, and procedural child safeguards all work to protect children.

French law recognizes that human trafficking and sexual exploitation of children in travel or tourism (SECTT) are serious crimes. Over the last fifteen years, France has amended its criminal law to improve the protections for children who are victims of sexual offences. These amendments seek to ensure that perpetrators can be held accountable in France and abroad. The latest change was introduced by Law 2021-478, passed 21 April 2021. This law aims to protect minors from sexual crimes and misdemeanors, as well as from incest.^{1,2} Child sexual exploitation in travel and tourism (formerly called “sex tourism”) is not treated as a separate offence.

Despite the development of a sophisticated criminal legal framework to prosecute child sexual abuse and exploitation, French courts are struggling to apply the law. Despite multiple reports of child sexual abuse abroad, the number of prosecutions taking place in France remains low.

This guide provides an overview of the criminal legislation and civil remedies to hold French perpetrators accountable for sexually abusing and exploiting children anywhere in the world. The purpose of this publication is to provide practical guidance to organizations supporting children abused by French perpetrators traveling abroad.

The most recent report on French human trafficking data and statistics, published in October 2022, does not include concrete information about children (and adults) sexually

exploited abroad.³ More recently however, focus has shifted to a significant number of cases reported and brought in French courts. Civil society organizations are joining these criminal proceedings as civil party. For example, in the Paris Court of Appeal in March 2022, three French civil society organizations, including Ecpat-France, joined the prosecution of a French citizen for child sexual assault in Nepal and Cambodia. The defendant was accused of sexually assaulting 24 children aged between 6 and 14 on the premises of the humanitarian organization he founded in Nepal.⁴

Cases involving French offenders have arisen in Australia, Cambodia, Congo (R.D.C), Egypt, India, Japan, Madagascar, Nepal, Malaysia, Thailand, Togo, Tunisia, the Philippines, Romania, Sri Lanka, and Vietnam.

The growing trend of online sexual abuse and exploitation in France has raised the visibility of the extraterritorial dimension of child sexual abuse.⁵ Between October 2012 and June 2014, France was identified among EU countries hosting the largest number of URLs suspected of commercial distribution of child sex abuse materials.⁶ Cases of online child sexual exploitation have multiplied, as well as the number of investigations.⁷ In November 2020, a nation-wide operation led by the French Gendarmerie, with support from Europol, targeted suspects who sexually exploited children online. The operation ended in 14 arrests. The alleged suspects used social media networks to approach minors aged between 12 and 13 and lured them into sharing intimate images and videos.⁸

Since the adoption of the Law No. 98-468 (17 June 1998) on the prevention and punishment of sexual offences and the protection of minors,⁹ French courts have had the ability to hold online perpetrators accountable. This includes the ability to assert extraterritorial jurisdiction over French citizens and permanent residents when the crime is committed abroad. Attempt and complicity are also covered. France has been adapting its criminal law to incorporate these complex online offences.¹⁰

1 Law 2021-478 of 21 April 2021 aiming to protect minors from sexual crimes and misdemeanors, and from incest (Loi n° 2021-478 du 21 avril 2021 visant à protéger les mineurs des crimes et délits sexuels et de l'inceste). Available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043403203?r=bSuUu2CIRU>.

2 Law's title and legal text have been translated for the purpose of the present guide. There is no up-date official translation of the French legislation and Criminal Code.

3 MIPROF-SSMSI, La traite des êtres humains en France : le profil des victimes accompagnées par les associations en 2021, October 2022. The report only indicates that 8% of the trafficked persons (adults and children) assisted by NGOs in France were exploited abroad (235 out of 2,872, of which 72% for sexual exploitation). For more information see: <https://mobile.interieur.gouv.fr/Interstats/Actualites/La-traite-des-etres-humains-en-France-le-profil-des-victimes-accompagnees-par-les-associations-en-2021>.

4 Paris Court of Appeal, 11 March 2022; Le Figaro, Un Français condamné en appel à 8 ans pour des agressions sexuelles sur mineurs en Asie, 11 March 2022, available at: <https://www.lefigaro.fr/flash-actu/un-francais-condamne-en-appel-a-8-ans-pour-des-agressions-sexuelles-sur-mineurs-en-asie-20220311>; Ouest France/AFP, 25 May 2021, accessible at <https://www.sudouest.fr/justice/un-humanitaire-francais-juge-a-paris-pour-des-actes-pedophiles-commis-en-asie-3113652.php>. See also ECPAT-France press release accessible at: <https://ECPAT-france.fr/parties-civiles/>.

5 Europe1 (Radio), ENQUÊTE Marion Dubreuil - L'inquiétant essor du “viol à distance” sur Internet, 28 January 2020. Available at: <https://www.europe1.fr/societe/linquietant-essor-du-viol-en-streaming-sur-internet394593>.

6 ECPAT International, Hawke, Angela and Raphael, Alison, Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism 2016.

7 MIPROF-SSMSI, La traite des êtres humains en France : le profil des victimes accompagnées par les associations en 2021, October 2022. Demetris, D. S., & Ketzmann, J., Online Child Sexual Exploitation: A New MIS Challenges, Journal of the Association for Information Systems, 2021.

8 EUROPOL, France arrests 14 suspects in sweep against child sexual abuse online, News, 20 January 2021. Available at: <https://www.europol.europa.eu/media-press/newsroom/news/france-arrests-14-suspects-in-sweep-against-child-sexual-abuse-online>.

9 LOI n° 98-468 du 17 juin 1998 relative à la prévention et à la répression des infractions sexuelles ainsi qu'à la protection des mineurs. Accessible at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000556901>.

10 Online sexual crimes are difficult to detect, prove and prosecute if the offender does not record the abuse. See ECPAT-France at: <https://www.ECPAT-france.fr/en/online-child-sexual-exploitation/>.

1. Criminal Prosecution

FRENCH CRIMINAL LAW?¹¹

The French Criminal Code¹² criminalizes sexual offences¹³ against children in France or abroad. The code includes two main classes of sexual offences: sexual abuse (Art. 227-25) and sexual assault (Art. 222-22)¹⁴. The definition of sexual offences – rape, sexual assault or sexual abuse – vary depending partly on the age of the victim (whether a minor, and if so, under or above 15 years), the nature of the physical contact, the use of violence and coercion, and the connection to the perpetrator. The Code also defines the different types of online sexual conduct constituting a criminal offence (e.g., grooming, sextortion, live streaming).

The new Law 2021-478, passed April 21, 2021, seeks to protect minors from sexual crimes and misdemeanors, and from incest.¹⁵ This law introduced new measures to facilitate the prosecution of child sexual crimes and

respond to legal challenges such as consent. This law created new sexual offences (incest), made consent irrelevant, and increased the penalty for abuse of minors under the age of 15. The law also extended the statute of limitations.¹⁶ With passage of this law, France explicitly set the age of sexual consent at 15. Children above the age of 15 are covered by the same rules as for adults. In case of rape, the non-consent of a victim above the age of 15 must be demonstrated.

Cases of child sexual abuse or exploitation in travel, tourism or online have been prosecuted as sexual crimes in France. To date, there have been no convictions on SECCT under the human trafficking statute (Art. 225-4-1).¹⁷ There are, however, several cases pending.

11 The relevant provisions can be accessed at in French: www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070719/LEGISCTA000006165281/#LEGISCTA000006165281.

12 See Title II of the Criminal Code: Offenses against the human person (Titre II : Des atteintes à la personne humaine (Articles 221-1 à 227-33))

13 It should be noted that criminal offences in France are broken down into three distinct classes: *Contraventions* (petty offences) which would include parking and speeding tickets; *Délits* (misdemeanours) more serious offences including actual bodily harm or sexual conduct, are dealt with by the *Tribunal Correctionnel*; *Crimes* (felonies) the most serious types of offence, such as murder or rape, are heard by the Cour d'Assises.

14 Claudia Ghica-Lemarchand, Incest in French Law: A New Offence for an Old Prohibition, *International Annals of Criminology* (2022), 60, 43-61.

15 Law 2021-478 of 21 April 2021.

16 The Guardian, France toughens age of consent laws to define sex with under-15s as rape, 15 April 2021. Available at: <https://www.theguardian.com/world/2021/apr/15/france-toughens-sex-laws-on-sex-with-under-15s>

17 Interview with ECPAT-France (Ludivine Piron), 13 October 2022.

WHAT ARE THE CRIMINAL PENALTIES?

A French citizen, permanent resident, or a foreigner who victimizes a French citizen at the time the crime was committed, can be found guilty of sexually abusing or exploiting a child in a foreign country. A defendant convicted of this crime is subject to a penalty between 5 years to life imprisonment, depending on the gravity of the crime.

Sentences vary greatly in France, depending on the age of the victim, their connection to the perpetrator and aggravating circumstances. The judge can order a sentence

of between 15 and 30 years for rape when it causes the death of the victim and even life imprisonment when the rape preceded, accompanied or followed by torture or acts of barbarism (Art. 222-26).

For all sexual offences including rape, the attempts to commit such offences are subject to the same penalties as the offence itself, so they may be prosecuted if they meet the conditions for the existence of an attempt as defined by the Code (Art. 121-5).¹⁸

UNDER THE FRENCH CRIMINAL CODE, AS AMENDED BY LAW 2021-478 OF APRIL 21, 2021, THE FOLLOWING ACTS MAY BE PROSECUTED AS CRIMINAL OFFENCES:¹⁹

Article 227-25 prohibits adults from committing sexual abuse without violence, constraint, threat or surprise on a minor under the age of 15. This statute carries a penalty of 7 years of imprisonment and a fine of 100 000 Euros. In case of aggravating circumstances, imprisonment increases to 10 years and the fine to 100 000 Euros.

Articles 227-22 to 227-24 prohibit different types of online sexual abuse, including soliciting children under the age of 15 to commit sexual acts online. Such sexual abuses are punished with maximum penalties ranging between 5 to 10 years of imprisonment and a fine between 75,000 to 500,000 Euros.

Offences related to child pornography are covered by art. 222-23 to 222-31; 223-13; 223- 14; 225- 7 et 225- 7-1; 227-23 to 227-26 of the Criminal Code.

Article 222-22 prohibits any sexual assault committed with violence, constraint, threat or surprise (this means that the conduct may be the same as for the sexual abuse, but the means are key element of the offence). Sexual assault of a minor under 15 years old is punished by 10 years imprisonment and a fine of 150 000 Euros.

Article 222-23 defines rape as any act of sexual penetration, whatever its nature, committed against another person by violence, constraint, threat or surprise. Rape is punished by a maximum of 20 years criminal imprisonment when the victim under the age of 15. Rape is punished by a maximum of 30 years criminal imprisonment where it causes the death of the victim, and by a maximum of imprisonment for life when it is preceded, accompanied, or followed by torture or acts of barbarity.

Article 225-4-1 II prohibits child trafficking subject to a maximum penalty of 10 years imprisonment and a fine of 1 500 000 Euros.

Article 225-7 prohibits child prostitution subject to a maximum penalty of 10 years imprisonment and a fine of 1 500 000 Euros. When the child is under 15 years old, the penalty goes to 20 years imprisonment and a fine of 3 000 000 Euros (Art.225-7-1).

French courts may order additional penalties such as the registration of the convicted person in the File of Perpetrators of Sexual or Violent Offences (Fijais), prohibition on leaving French territory, and medical treatment order as part of social/judicial supervision.

¹⁸ Article 121-5: a criminal attempt is constituted where the person took steps to commit the offence but the offence did not occur for external reasons not intended by the offender itself. Articles 222-31 and 27-2-2 of the French Criminal Code expressly state that the attempts to commit such offences are subject to the same sanctions as the offence itself.

¹⁹ For more detailed information about the application of sexual offence to online child abuse, see ECPAT- France, Deep Dive into the Phenomenon of Live Online Child Sexual Abuse and Exploitation - How to Better Protect Children, May 2022 available at https://ECPAT-france.fr/www.ECPAT-france/wp-content/uploads/2022/06/Recherche-live-streaming_web.pdf.

FRANCE'S EXTRATERRITORIAL APPLICATION OF SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL OR TOURISM

French ordinary criminal law (Articles 113-6 and 113-7 of the Criminal Code) provides that under certain conditions,²⁰ extraterritorial jurisdiction is applicable to any offences punishable by imprisonment, if the crime is committed by a French national or by a foreigner outside the territory when the victim is a French citizen at the time the crime is committed. French jurisdiction will also apply when the French citizenship of the perpetrator was acquired after the crime was committed.

Extraterritorial competence of France was applied in 2016 to the case of a French citizen sentenced by the Versailles Criminal Court of Assize to 16 years of imprisonment and a treatment order part of a ten-year social/judicial supervision, for having raped and/or sexually assaulted at least 66 underage boys in Sri Lanka, Tunisia, and Egypt between January 2002 and December 2011. The French offender was identified by the FBI in 2011 with child sexual abuse material circulating online. He was arrested by the French Police in the following year. In the hard drives seized from his home, the police found thousands of photographs and hundreds of videos featuring him with minors during trips to Tunisia, Egypt, and Sri Lanka. He had visited these locations many times after the 2004 tsunami on behalf of two humanitarian organizations. Over a period of ten years, he abused 41 children in Tunisia, 19 in Sri Lanka, and 6 in Egypt. The youngest child was six years old.

Source: Versailles Court of Assize, 22 June 2016. Sentence no. 39/2016. ECPAT International, Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children, 2022.

French legislation covers both permanent residents in France, as well as French citizens.

SPECIAL EXTRATERRITORIAL RULES APPLIED TO SEXUAL CRIMES AGAINST CHILDREN

Articles 222-22 (sexual assault), 227-25 (sexual abuse), 225-7-1 (offence of procuring committed against a minor under the age of fifteen) and 225-4-8 (human trafficking), as amended by Law 2021-478 of 21 April 2021 are covered by the special extraterritorial rules:

- French jurisdiction applies to crimes committed abroad by a French citizen, a permanent resident, or by a foreigner when the victim is a French child,
- no double criminality²¹ is required to extend the jurisdiction,
- no complaint from the victim or an official denunciation by the authority of the country where the act was committed is required.

These special rules remove the main legal obstacles and facilitate the prosecution of traveling child sexual abuse perpetrators. French law is in line with the recommendation of the United Nations Committee of the Rights of the Child, which encourages "States parties [to] remove the requirement of double criminality [the requirement that the crime must be illegal both in the State party and the jurisdiction where it occurred], making it possible to exercise extraterritorial jurisdiction over offences covered by the

Optional Protocol committed in another State even if the relevant offence is not criminalized in that State. The principle of double criminality creates a gap in the law which enables impunity and should not be applied."²² As ECPAT has pointed out, "If double criminality was a requirement under French law, [such cases would be] much more difficult to prosecute with regards to the offences committed in countries where, for example, there isn't consistency in the definition of a child."²³

²⁰ According to article 113-8 of the Criminal Code, in the cases provided for in articles 113-6 and 113-7, the prosecution can only be exercised at the request of the public prosecutor. It must be preceded by a complaint from the victim (the parents or legal guardian in the case of a child) or an official denunciation by the authority of the country where the act was committed.

²¹ Double criminality refers to the requirement that the crime must be illegal both in the State party and the jurisdiction where it occurred.

²² United Nations Committee on the Rights of the Child. (2019), Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. CRC/c/156. Para. 84.

²³ ECPAT International, Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children, 2022, p.7.

THE EXCLUSION OF THE DOUBLE CRIMINALITY REQUIREMENT IN FRENCH LEGISLATION ALLOWS FOR MORE EFFECTIVE PROSECUTION OF A TRAVELLING CHILD SEX OFFENDER

In 2019, a French citizen was arrested in Thailand for sexually exploiting two children aged 13 and 14 in his hotel room. The Thai police also seized child sexual abuse material. The suspect was taken into custody, but for unknown reasons he was released on bail after a few days. Thai authorities returned his passport, which allowed him to depart and return to France. During his detention, the case was reported to the French Embassy in Thailand, which alerted the French authorities. A preliminary investigation was opened by the Prosecutor's Office and a search warrant was issued, making use of the extraterritorial legislation in France. As soon as the

suspect arrived in France, he was arrested and indicted for the crimes of "rape", "assault on a minor" and "possession of child pornography". The investigation revealed that he was suspected of having committed offences in multiple countries in Asia, including Thailand, Malaysia, the Philippines, and India. The case is still pending; the offender remains in custody.

Source: ECPAT International, Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children, 2022.

In other words, the French competence is based on the nationality and residence of the offender or the nationality of the victim, not on the local law in the jurisdiction where the crime was committed. There have been few investigations or convictions to date. However, as noted above, advocates have documented an increase in referrals and prosecutions.

In 2004, the French Supreme Court (Cour de Cassation) affirmed a lower court's application of the special extraterritorial rules. A French citizen accused of sexually assaulting young girls in Thailand and capturing the abuses (videotapes) for distribution in France, appealed his case to the Supreme Court. He argued that the Aix-en-Provence Court of Appeal did not demonstrate that the acts committed in Thailand were crimes in that country. He also argued that the abused girls were aged above 15. But based on the evidence provided by images and videos taken by the accused, the court's medical expert concluded that at least two of the girls were most probably under the age of 13. The accused was sentenced to 7 years of imprisonment and a fine of 30 000 Euro.²⁴

In 2009, the Colmar Criminal Court convicted two French citizens for solicitation and sexual abuse of girls under the age of 15 in Cambodia. Since the defendants did not "use violence" as defined by French law, they received a sentence of 7 years imprisonment, the maximum penalty. The cooperation between the French and the Cambodian police made the convictions possible.²⁵

Extraterritorial jurisdiction has also applied in cases of representatives of the United Nations (U.N.) who committed sexual crimes during their missions. In one case, a former French employee of the U.N. was convicted, in 2008, in the Paris Criminal Court for raping two underage girls between 1998 and 2004 during his postings in Central African Republic and the DRC.²⁶ The defendant was sentenced to 9 years of imprisonment. In a more recent case, several French soldiers stationed in the Central African Republic were accused of sexual abuse and rape of children.²⁷ The court dismissed the case on the request of the prosecutor who argued that the investigation and the inconsistent testimonies failed to prove the accountability of the French soldiers.²⁸

24 Supreme Court (Cour de Cassation), 4 February 2004, *Pourvoi n° 03-81.984*. Aix-en-Provence Court of Appeal, 20 December, 2002.

25 Criminal Court of Colmar, 10 March 2009. Lefigaro, Flore Galaud, Deux Français condamnés pour tourisme sexuel en Asie, 11 March 2009. Available at: <https://www.lefigaro.fr/actualite-france/2009/03/11/01016-20090311ARTFIG00469-deux-francais-juges-a-colmar-pour-tourisme-sexuel-en-asie-.php>

26 NBCNews, France convicted former U.N. employee for rape, 11 September 2008. Available at: <https://www.nbcnews.com/id/wbna26662112>

27 See Concluding observations on the fifth periodic report of France, CRC/C/FRA/Q/5/Add.1, para. 173.

28 The court dismissed the case in 2018. See L'Express, "Viols d'enfants en Centrafrique: les soldats français bénéficient d'un non-lieu, 15 January 2018. Available at: https://www.lexpress.fr/actualite/monde/afrique/viols-d-enfants-en-centrafrique-les-soldats-francais-beneficient-d-un-non-lieu_1976246.html

CAN PERPETRATORS OF ONLINE CHILD SEXUAL ABUSE AND EXPLOITATION COMMITTED ABROAD BE PROSECUTED IN FRANCE?

The dynamic nature of the new technology has facilitated and expanded the dimensions of child sexual exploitation to include practices such as grooming, live streaming of child sexual abuse or sextortion.²⁹ The use of the internet and new technology target children provide challenges to territorial jurisdiction.³⁰

French criminal law was amended to hold online perpetrators accountable by asserting extraterritorial jurisdiction over French citizens and permanent residents regardless where the crime is committed including cases of attempt and complicity to ensure that no offender goes unpunished.³¹ For example, the special extraterritorial rules apply to the offences defined by article 227-23 of the criminal code which punishes:

- the act of producing child sexual abuse material in the form of images or depictions in order to distribute it subject to maximum penalty of 5 years of imprisonment and a fine of 75,000 Euros, and when the child depicted on such material is below the age 15 years the same punishment applies even though there is no intent to distribute it;
- the act of accessing child pornography material on a regular basis or in exchange of a payment to a service provider hosting such material, acquiring or possessing such material by any means is punished by 5 years imprisonment and a fine of 75,000 Euros.

In the last three years, the number of online sexual crimes against children significantly increased. The French specialized police unit on these crimes³² investigated 6 cases in 2020, 10 in 2021 and 27 cases between January and June 2022.³³ In 2020, judges recognized the participation of the online sexual abuser in the criminal act for the first time. In January 2020, the Paris Court of Appeal convicted a French aircraft pilot for complicity in sexual assault as well as for accessing, capturing, distributing child pornography material of minors under the age of 15 in Singapore, Vietnam, the Philippines, Australia, and Japan.³⁴ He was engaged in live streaming child sexual abuse for a period of four years with multiple child victims as young as two years of age. He also possessed approximately 15,000 child sexual abuse material images and was active in online child sex abuse communities.³⁵ In 2021, complicity of online sexual crimes was applied by Paris Criminal Court in two other cases of livestreaming of sexual assault of minors under the age of 15. In one of the cases, the defendant ordered child rape sessions on the internet, which he watched live.³⁶

CAN A PERPETRATOR WHO HAS BEEN PROSECUTED ABROAD STILL BE PROSECUTED IN FRANCE?

Yes. A perpetrator who has been prosecuted abroad for sexual crimes committed against minors can still be prosecuted in France, as long as the person has not been convicted in the foreign court for the same facts.

Article 113-9 criminal code provides that no prosecution may be brought against a person who can justify that he or she has been judged definitively abroad for the same facts and, in the event of conviction, that the sentence has been ordered or served.

29 For more information see ECPAT International, Summary Paper on Online Child Sexual Exploitation, 2020.

30 ECPAT International, Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children, 2022.

31 For more information on the use of extraterritorial jurisdiction for online child sexual exploitation, see ECPAT International, Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children, 2022.

32 The specialized police unit (Office central de la répression contre les violences aux personnes (OCRVP)) is in charge of sexual crime.

33 Interview with Sophie Gschwind, Paris Juvenil Court Prosecutor, 6 December 2021. Available at: https://www.francetvinfo.fr/societe/harcelement-sexuel/viols-d-enfants-en-livestreaming-un-fleau-en-augmentation-depuis-le-debut-de-la-crise-sanitaire_4870497.html

34 Paris Court of Appeal, 13 January 2020, No. 14227000004.

35 LeMonde, Un pilote de ligne condamné à cinq ans de prison pour complicité d'agressions sexuelles sur mineurs sur Internet, 14 January 2020. Available at: https://www.lemonde.fr/societe/article/2020/01/14/un-pilote-condamne-a-cinq-ans-deprison-pour-complicite-d-agressions-sexuelles-sur-mineures-via-internet_6025764_3224.html. ECPAT- France, Deep Dive into the Phenomenon of Live Online Child Sexual Abuse and Exploitation - How to Better Protect Children, May 2022.

36 Interview with Sophie Gschwind, Paris Juvenil Court Prosecutor, 6 December 2021.

CAN OPERATORS OF CHILD SEXUAL EXPLOITATION TOURS BE PROSECUTED UNDER THE LAW?

The French Criminal Code provides for the liability of legal entities such as tour operators, hotels, or travel agencies. Articles 227-28-1 and 222-33-1 specifically criminalize the involvement of legal entities in child sexual abuse crimes. To date, no one has been convicted under this statute.

DO THE CHILDREN HAVE TO TESTIFY IN FRENCH COURTS?

The French criminal procedure provides for special rules when the victim is a child. The law takes the vulnerability of children into account.

In the French legal system, there is no cross examination by lawyers. All questions to any party, including the accused, must be asked by the Court. Under Article 434-3 of the Criminal Code, special protective rules are defined by the French criminal procedure and applied to minors under the age of 15 or any particularly vulnerable person (due to age, illness, infirmity, physical or psychological disability, or pregnancy).

Under French procedure, it is not absolutely necessary for the victim to appear in court, since it is up to the public prosecution and to the investigating judge to prove the offence.

However, courts have been using testimonies as evidence and to provide contextual background. For example, in a May 2022 case in the Tours Criminal Assize Court, the jury heard the testimony of 9 year old girl who was raped by a French restaurateur in the Philippines between 2015 and 2017. The defendant shared the videos on the internet. The girl testified through videoconferencing from the French Embassy in Makati City, in the Philippines. The Philippine National

Police – Women and Children Protection Center (PNP-WCPC) coordinated with the French authorities and the Department of Justice - Office of the Chief State Counsel for the victim's testimony to happen.³⁷ The French police arrested the perpetrator during one of his travels back to France in 2017. He was sentenced to 15 years of imprisonment.

Since the Law No. 98-468 (17 June 1998), children's testimonies, with the latter's agreement, can be recorded by the police at the very beginning of the procedure (Art. 706-52 Code of Criminal Procedure³⁸). The audio-visual recording can be used during the subsequent procedure in place of oral testimonies. The child can be accompanied by an adult (for example, a psychologist) during the hearing by the police.

At the expiry of a period of five years from the date of the termination of the public action, the recording and its copy must be destroyed within one month.

In France, it is not necessary for a victim to appear in court. If a victim does appear, the court may order that the trial will take place behind closed doors. (Art. 306 Code of Criminal Procedure).

³⁷ <https://osec.ijm.org/news-and-insights/news-updates/filipino-survivors-testimony-leads-to-french-sex-offenders-conviction/>; <https://www.ouest-france.fr/centre-val-de-loire/tours-37000/tours-un-homme-condamne-a-15-ans-de-reclusion-criminelle-pour-les-viols-d-une-fille-aux-7755475>

³⁸ Art. 706-52 Code of Criminal Procedure accessible at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006577694/1998-06-18/

HOW CAN CASES BE REPORTED TO FRENCH AUTHORITIES?

Since 1994, there is an obligation under French law to report any child sexual crimes. Article 434-3 of Criminal Code states specifically that anyone who has knowledge of abuse of a sexual nature against a minor under the age of 15 must report to the authorities. Failure to report is an offence punishable by 3 years imprisonment and a fine of 45,000 Euros.

There are several online platforms available in France to report sexual crimes:

Service-Public.fr

Sexual crimes, including rape, can be reported via a [remote online service](#), available in French and English.³⁹

PHAROS: internet-signalement.gouv.fr

As regard to online sexual abuse, the French Ministry of Interior launched in 2009 an online platform to report anonymously illicit online content and behavior: internet-signalement.gouv.fr. The platform is overseen by the OCLCTIC, France's national cybercrime investigation unit, and the reports are reviewed by a team of investigators.

Point de Contact

Point de Contact is a civil society organization created by the main internet players. It provides internet users the ability to report offensive content encountered online. A reporting [module and a mobile application](#) are also available. Members include French law enforcement, Facebook (Meta), and Google. Point of contact works in partnership in particular with ECPAT, the French criminal police, the European Commission, and InHope network.⁴⁰

In addition, advocates and organizations outside of France serving children who have been abused by French defendants can contact ECPAT-France. It is possible for attorneys from ECPAT-France to join these cases as a civil party. The children, even if abroad, can also be represented as victims in the criminal case.

HOW LONG IS THE STATUTE OF LIMITATIONS IN FRANCE FOR SEXUAL OFFENCES AGAINST CHILDREN?

The French criminal code sets the maximum amount of time to initiate criminal or civil proceedings (Art.7 and 8 of Code of Criminal Procedure). French criminal ordinary law provides for a 20 years statute of limitations for rape and 6 years for sexual abuse or assault. When those offences are committed against a child under the age of 15, special rules apply.

Law No. 2018-703 of 3 August 2018 extended the statute of limitations for rape against minors to 30 years. The statute of limitations in these cases only starts running when the victim reaches 18 years of age. After thirty years after the victim's 18th birthday, it is no longer possible to charge the perpetrator. New amendments to Law No. 2021-478 (21 April 2021)⁴¹ extended the statute of limitations again by introducing a unique mechanism of a starting point for rape of a minor in cases where the adult goes on to rape others. The 30 years term re-sets if the perpetrator commits the same type of offence against another minor victim. This unique mechanism is called a "slipping starting point," or more precisely, a flowing starting point.⁴²

In other words, the victim of a rape, if a minor at the time of the crime, has until the age of 48 to file a complaint. In addition, the statute of limitations can be extended when, before the expiry of the above-mentioned 30 years period, the same perpetrator commits a new rape, sexual assault or sexual molestation of another minor. In this case, the original 30 years limitation period may be extended until the limitation period for the second offence expires.

The same mechanism applies to the offence of child sexual abuse and child sexual assault. For these crimes, the statute of limitations is 10 years (for minors under the age of 15 and with aggravating circumstances it can be 20 years). Here the child victim has until the age of 28 (or age of 38) with possible extension with the slipping starting point (if the perpetrator commits another crime).

39 Official website of the Ministry of Interior accessible at: <https://www.service-public.fr/particuliers/vosdroits/R48395?lang=en>

40 INHOPE is a global network combating online Child Sexual Abuse Material (CSAM). The network consists of 50 hotlines in 46 countries that provide the public with a method to anonymously report illegal content online with a focus on Child Sexual Abuse Material. For more information see: <https://www.inhope.org/EN/our-story>.

41 Law No. 2021-478 of 21 April 2021 is accessible at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043403203>

42 Claudia Ghica-Lemarchand, Incest in French Law: A New Offence for an Old Prohibition, *International Annals of Criminology* (2022), 60, 43-61.

2. Civil Cases for Damages Under French Legal System

In France, the criminal and civil legal systems are not strictly separate. A civil action may be appended to the criminal case or may be commenced, at any time, without a criminal case. The advantage of this system that two procedures can be rolled into one, with the prosecutor responsible for gathering and presenting the evidence on the civil, as well as the criminal, liability of the perpetrator.

WHO CAN FILE A LAWSUIT?

Any victim under the age of 18 at the time of the sexual abuse by a French or permanent resident can file a lawsuit through an adult legally representing the child (for example, parents or a legal guardian). A legal guardian can be appointed by the judge for the purpose of the lawsuit in case of a conflict of interest with the parents (Art. 706-50 Code of Criminal Procedure). The child can also obtain a court-appointed lawyer.

Under Article 2-3 of the Criminal Code, any duly registered association that serves the general interest and children in danger may join the case as a civil party. The organization must have been registered for five years at the time of the case.

In child sexual abuse in travel and tourism cases, French non-governmental organizations such as ECPAT-France have joined the procedure as civil party to give voice to foreign

children and to monitor the proceeding. The organization may claim civil remedies, but these remedies are not specifically for the children, and the amounts are often symbolic. In January 2020, in the case of the French aircraft pilot convicted for complicity in sexual assault (online) as well as for accessing, capturing, distributing child pornography material of minors under the age of 15 in Singapore, Vietnam, the Philippines, and Australia, the Paris Court of Appeals⁴³ ordered the defendant to pay 1 Euro to ECPAT-France and 3,000 Euros to two other civil parties, the Fondation de France⁴⁴ and a non-governmental organization, Agir Contre la Prostitution des Enfants. In this case the children were not represented by a lawyer. The court did not order compensation to the children.

⁴³ Paris Court of Appeal, 13 January 2020, No. 14227000004.

⁴⁴ Fondation de France is the leading philanthropy network in France. The foundation was created in 1969. It brings together donors, founders, volunteers and project leaders across the country. For more information see: <https://www.fondationdefrance.org/en/homepage>.

WHAT ARE THE CIVIL DAMAGES AVAILABLE TO VICTIMS?

Under French law, civil damages must be paid by the person convicted for loss or injury. French law does not provide for criminal damages, only permits civil compensation.

In theory, the civil claim can seek compensation for all of the damage that the abused or exploited child suffered. Three types of damage can be compensated:

- personal injury, which is damage to a person's health or physical or mental integrity;
- moral damage, which is damage to emotional well-being, honor or reputation;
- material damage, which concerns damage to a person's property and financial interests.

ARE THERE OTHER FORMS OF COMPENSATION FOR SEXUALLY ABUSED OR EXPLOITED CHILDREN?

France has two State schemes to provide compensation for victims of crime. To date, there is no case of sexually abused children abroad for which the victim received compensation of damages through such a program. But it may be possible for children to access these funds in the future.

The Crime Victims Compensation Boards⁴⁵ (CIVIs)

CIVI is a State fund to ensure that victims of serious crimes, including sexual crimes, can claim compensation for civil damages. The board determines the damages and the amount of compensation. While any victim of a sexual crime that occurred within the French territory may be able to access the compensation scheme, only French citizens are eligible to claim financial remedies when the crime was committed abroad. For this reason, the program is not available for victims of child sexual abuse in travel and tourism. But, according to ECPAT's legal officer⁴⁶ it could, in theory, be used in cases of live streaming taking place in France of foreign children sexually abused or raped abroad.

The Victims of Crime Recovery Assistance Service⁴⁷ (SARVI)

SARVI is a service to help victims recover the damages awarded by a court at the end of a criminal trial. Recovery is not conditioned upon citizenship or residence. This service could be accessible for victims of child sexual exploitation in travel and tourism, as well as victims of live streaming cases but only if no financial damages from the CIVI are received.

In July 2021, the Paris Criminal Court sentenced a French defendant to 8 years imprisonment for sexual abuse of children. The court also ordered the defendant to pay civil remedies to the 24 Nepalese and Cambodian children. The abuses took place while the defendant was doing "humanitarian work" in Nepal. This case marked the first time that foreign abused children were directly represented by a lawyer. ECPAT-France joined the criminal proceeding from the very beginning of the case as a civil party. The organization's lawyers traveled to Nepal and identified 11 children abused by this French citizen. To date, the defendant has not paid the compensation order. The children's lawyer also applied to the SARVI, but the decision is still pending.⁴⁸

45 Commissions d'indemnisation des victimes d'infractions – CIVIs. For more information see CIVI website accessible at: <https://www.fondsdegarantie.fr/en/home-2/>.

46 Interview with ECPAT-France (Ludivine Piron), 14 October 2022.

47 Service d'aide au recouvrement des victimes d'infractions - SARVI

48 Interview with ECPAT-France (Ludivine Piron), 14 October 2022.

Conclusion

French citizens have traveled to a multitude of countries to sexually abuse large numbers of children. French citizens and residents have also participated as accomplices in online sexual abuse. Only a small portion of these extraterritorial cases have ended in criminal conviction.

Extraterritorial jurisdiction is an essential tool to fight child sexual abuse and exploitation. France has legal tools, including criminal statutes, in place to successfully prosecute child sexual abuse in travel and tourism. The law covers online sexual child abuse, in addition to physical abuse conducted abroad by defendants. Despite the reach of these criminal statutes, French courts have adjudicated only a small number of cases.

As in many countries, extraterritorial jurisdiction faces challenges due to the lack of international judicial cooperation. The French judiciary also needs additional training. French legislation and the jurisprudence on child sexual abuse continues to evolve. French civil society organizations continue to advocate for more training for judges and prosecutors. ECPAT and other civil society groups in France are working to develop this jurisprudence, to hold perpetrators accountable, and to give voice to the children abused by these perpetrators. These advocates are also working to ensure that abused and exploited children have access to the complex French victim compensation system to address the needs of these children. State victim funding mechanisms are not designed for cases of child sexual abuse in travel or tourism.⁴⁹

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⁴⁹ Interview with ECPAT France (Ludivine Piron), 14 October 2022.

Appendix A:

RELEVANT CRIMINAL CASES OF SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL, IN TOURISM AND ONLINE SEXUAL ABUSE

#	COURT (DATE)	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
1.	<i>Supreme Court, Cour de Cassation (February 4, 2004)</i>	Defendant, a French citizen, had his conviction for sexually assaulting young girls in Thailand affirmed by the court based on the evidence provided by images and videos taken by the accused, and the court's medical expert concluded that at least two of the girls were most probably under the age of 13 and thus the defendant committed crimes in Thailand.	Thailand	Sentenced to 7 years of imprisonment and a fine of 30,000 Euro.
2.	<i>Nanterre Criminal Court (September 2007)</i>	Defendant employed as a French geography researcher was sentenced to 12 years of imprisonment for the rape of more than 100 boys. He was extradited from Togo where he had lived for 16 years. During that time, he "assisted street children" in Lomé. Two of the children filed a complaint, testified, and requested damages. ⁵⁰ The award, if any, is not public.	Togo	Sentenced to twelve years of imprisonment.
3.	<i>Paris Criminal Court (September 2008)</i>	A former French employee of the U.N. was sentenced for raping two underage girls between 1998 and 2004 during his postings in Central African Republic and the DRC. ⁵¹ The defendant will serve 9 years in prison.	Central African Republic & DRC ⁵¹	Sentenced to nine years of imprisonment.
4.	<i>Colmar Criminal Court (10 March 2009)</i>	Two French citizens found guilty of solicitation and sexual abuse of girls under the age of 15 in Cambodia were sentenced. Since the defendants did not "use violence" as defined by French law, they received a sentence of 7 years imprisonment, the maximum penalty. Cooperation between the French and the Cambodian police made the convictions possible. ⁵² Several NGOs filed a civil lawsuit and joined the criminal prosecution. Information about compensation, if any, is not publicly available.	Cambodia	Sentenced to seven years of imprisonment.
5.	<i>Versailles Criminal Assize Court (22 June 2016)</i>	A French citizen, employed as an aircraft pilot, was sentenced to 16 years of imprisonment and medical treatment. He was found guilty of raping and/or sexually assaulting at least 66 children in Sri-Lanka, Tunisia, and Egypt between January 2002 and December 2011. ⁵³ Several NGOs filed a civil lawsuit and joined the criminal prosecution. Information about compensation, if any, is not publicly available.	Sri-Lanka, Tunisia & Egypt	Sentenced to sixteen years of imprisonment and medical treatment.

50 FranceInfo, Yves Marguerat condamné à 12 ans de prison, 1 November 2011. Available at: https://www.francetvinfo.fr/faits-divers/yves-marguerat-condamne-a-12-ans-de-prison_1602901.html.

51 NBCNews, France convicted former U.N. employee for rape, 11 September 2008. Available at: <https://www.nbcnews.com/id/wbna26662112>.

52 Lefigaro, Flore Galaud, Deux Français condamnés pour tourisme sexuel en Asie, 11 March 2009. Available at: <https://www.lefigaro.fr/actualite-france/2009/03/11/01016-20090311ARTFIG00469-deux-francais-juges-a-colmar-pour-tourisme-sexuel-en-asie-.php>.

53 ECPAT-France press release is accessible at: <https://ECPAT-france.fr/parties-civiles/>.

#	COURT (DATE)	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
6.	<i>Paris Criminal Court of Appeal, No.14227000004 (13 January 2020)</i>	A French citizen was sentenced to 5 years of imprisonment, medical treatment, and prohibition of travel to Asia, for complicity in sexual assault (live streaming). The defendant was also convicted for accessing, capturing, distributing child pornography material of minors under 15 years of age in Singapore, Vietnam, the Philippines, Australia, and Japan. ⁵⁴ Three CSOs filed a civil lawsuit and joined the criminal prosecution. The defendant was ordered to pay 1 Euro to ECPAT France and 3,000 Euros to two other civil parties, the Fondation de France and the organization Agir Contre la Prostitution des Enfants. In this case the children were not represented by a lawyer. The court did not order compensation for the children.	Singapore, Vietnam, the Philippines, Australia & Japan	Sentenced to five years of imprisonment and medical treatment. Prohibited travel to Asia. Ordered to pay 1 Euro to ECPAT France and 3,000 Euros to two other civil parties, the Fondation de France and the organization Agir Contre la Prostitution des Enfants
7.	<i>Paris Criminal Court (5 July 2021)</i>	A French citizen, who was previously sentenced for child sexual assault in France, was sentenced to 8 years of imprisonment, a prohibition against working with children, and 10 years of medical treatment. He was convicted of sexually assaulting children aged between 6 and 14 in Nepal and Cambodia while engaged in "humanitarian work". The court ordered the defendant to register in the file of perpetrators of sexual or violent offences (Fijais). ECPAT-France filed a civil lawsuit and joined the criminal prosecution. This was the first time the children were represented in court by a lawyer. ⁵⁵ The Court of Appeals confirmed the sentence on March 11, 2022, with the additional provision that the defendant must request authorization before traveling abroad after release from prison.	Nepal & Cambodia	Sentenced to eight years of imprisonment, 10 years of medical treatment, and prohibition against working with children.
8.	<i>Tours Criminal Assize Court (4 May 2022)</i>	A French restaurateur was sentenced to 15 years of imprisonment for raping a young girl of 9 years of age in the Philippines between 2015 and 2017, and then sharing the videos on the internet. The girl testified through videoconferencing from the French Embassy in Makati City. The Philippine National Police - Women and Children Protection Center (PNP-WCPC) coordinated with the French authorities and the Department of Justice - Office of the Chief State Counsel for the victim's testimony. ⁵⁶ The French police arrested the perpetrator during one of his travels back to France in 2017.	The Philippines	Sentenced to fifteen years of imprisonment.

54 Paris Court of Appeal, 13 January 2020. LeMonde, Un pilote de ligne condamné à cinq ans de prison pour complicité d'agressions sexuelles sur mineurs sur Internet, 14 January 2020. Available at: https://www.lemonde.fr/societe/article/2020/01/14/un-pilote-condamne-a-cinq-ans-deprison-pour-complicite-d-agressions-sexuelles-sur-mineurs-via-internet_6025764_3224.html.

55 Ouest France/AFP, Pédocriminalité. Huit ans de prison pour un multirécidiviste en Asie, 5 July 2021. Available at: <https://www.ouest-france.fr/faits-divers/pedophilie/pedocriminalite-huit-ans-de-prison-pour-un-multirecidiviste-en-asie-09def004-dda8-11eb-8229-722c0b385f7f>. See also ECPAT-France press release accessible at: <https://ECPAT-france.fr/parties-civiles/>.

56 <https://osec.ijm.org/news-and-insights/news-updates/filipino-survivors-testimony-leads-to-french-sex-offenders-conviction/>; <https://www.ouest-france.fr/centre-val-de-loire/tours-37000/tours-un-homme-condamne-a-15-ans-de-reclusion-criminelle-pour-les-viols-d-une-fille-aux-7755475>.

