

SUMMARY OF RECOMMENDATIONS

KEY LEGAL INTERVENTIONS TO PROTECT CHILDREN FROM SEXUAL EXPLOITATION IN TRAVEL AND TOURISM WITH ITS ONLINE ELEMENTS IN SOUTHEAST ASIA



LEGAL CHECKLIST

KEY LEGAL INTERVENTIONS TO PROTECT CHILDREN FROM SEXUAL EXPLOITATION IN TRAVEL AND TOURISM



ECPAT International has developed a [legal checklist](#) for governments providing guidance for legal interventions and measures to adopt in order to improve their national legal and policy frameworks. This helps to effectively address the crime of sexual exploitation of children in travel and tourism, including its online elements.

The legal checklist was developed based on the recommendations of the first [Global Study](#) on sexual exploitation of children in the context of travel and tourism. Since the development of this legal checklist, ECPAT International has been conducting **country legal analysis**, currently available for over forty countries in South Asia, Southeast Asia, Africa and the Americas.

In Southeast Asia the country analysis is available for **Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam**. The General Assembly of [ASEAN Inter-Parliamentary Assembly \(AIPA\)](#) adopted a resolution on Eliminating All Forms of Violence and Exploitation of Children that took into account the endorsement of the legal checklist to be used as a tool to strengthen and harmonize child protection laws in ASEAN Member States.

ECPAT network is monitoring the actions taken by countries around the world towards ending the sexual exploitation of children. For this, [Global Progress Indicators](#) were also defined, with measurable aspects of national responses towards protecting children. The country analysis and the Global Progress Indicators provide practical guidance - when movement have been seen in a country the assessments are updated to highlight country progress.











The table below provides a **summary of recommendations for Southeast Asia**. It allows easy assessment of existing legislation and policies in the region against the 24 measures of the legal checklist.

An [Assessment Matrix](#) explains how to measure evidence of national legislative and policy responses and explains concrete steps needed for states to meet the action described in the 24 checklist points.

Table for visualisation:

Findings reflecting the [24-points of the legal checklist](#):

Yes	The matter has been regulated
PA	The matter has not been legislated, however, other legal provisions could apply
No	The matter has not been regulated
?	Insufficient data

	BN 	KH 	ID 	LA 	MY 	MM 	PH 	SG 	TH 	VN 
1	PA	YES	PA	NO	NO	YES	NO	YES	PA	YES
2	PA	PA	PA	?	PA	PA	PA	PA	PA	PA
3	PA	PA	NO	NO	PA	YES	PA	PA	NO	PA
4	YES	NO	NO	YES	YES	YES	NO	YES	NO	NO
5	PA	PA	PA	YES	PA	?	PA	?	PA	PA
6	YES	YES	YES	PA	YES	PA	PA	PA	YES	PA
7	NO	NO	NO	NO	NO	NO	PA	NO	NO	NO
8	NO	NO	NO	NO	YES	NO	NO	NO	PA	NO
9	PA	PA	YES	NO	NO	PA	PA	NO	NO	NO
10	NO	YES	YES	YES	PA	YES	PA	?	YES	PA
11	YES	PA	PA	YES	PA	YES	YES	YES	PA	YES
12	PA	PA	NO	YES	YES	NO	YES	PA	YES	NO
13	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO
14	PA	NO	NO	NO	PA	PA	YES	YES	PA	NO
15	PA	NO	NO	NO	YES	NO	YES	PA	NO	NO
16	NO	NO	PA	NO	NO	NO	NO	PA	NO	PA
17	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
18	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
19	PA	PA	PA	YES	YES	PA	YES	YES	PA	PA
20	PA	PA	NO	PA	NO	NO	PA	PA	YES	PA
21	PA	NO	YES	PA	YES	PA	YES	PA	YES	YES
22	YES	YES	YES	YES	YES	NO	YES	NO	YES	YES
23	NO	NO	YES	YES	PA	?	YES	?	YES	YES
24	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

Southeast Asia regional overview:



Measure 1: Establish by law **extra-territorial jurisdiction**, within the parameters of Article 4 OPSC, for all offences of sexual exploitation of children, including those occurring in the online environment.

Indicator: The country has appropriate extraterritoriality provisions for sexual exploitation of children crimes.

Out of the 10 countries analysed, Cambodia, Myanmar, Singapore and Vietnam have established by law extraterritorial jurisdiction over all offences of sexual exploitation of children (SEC), including in the online environment. Brunei, Thailand and Indonesia have partially established extraterritorial jurisdiction in the context of SEC offences, while Laos, the Philippines and Malaysia have not.

Measure 2: Include in extradition treaties the sexual exploitation of children **as extraditable offences** and apply when appropriate the rules of article 5 OPSC, regardless the nationality of the (alleged) offender.

Indicator: The country has appropriate extradition provisions for sexual exploitation of children crimes.

Out of the 10 countries, all have partially included SEC offences in extradition treaties and laws. Not enough information was available to determine if the sexual exploitation of children is considered by law as an extraditable offence in Laos.

Measure 3: Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children.

Indicator: The country has appropriate extraterritoriality and extradition provisions for sexual exploitation of children crimes.

Out of the 10 countries, Brunei, Cambodia, the Philippines, Malaysia, Singapore, and Vietnam apply this principle for either extradition or extraterritorial jurisdiction. Myanmar does not require the principle of double criminality for jurisdiction and/or extradition. In Indonesia and Thailand, the double criminality principle is applicable for all SEC offences both in the case of extradition and extraterritorial jurisdiction.

Measure 4: Abolish **statutory limitations** for the prosecution of offences of sexual exploitation of children.

Indicator: Statutory limitations do not apply for all offences of sexual exploitation of children.

Out of the 10 countries, Brunei, Laos, Malaysia, Myanmar, and Singapore have abolished statutory limitations for the prosecution of SEC offences. Cambodia, Indonesia, Philippines, Thailand and Vietnam have not abolished statutory limitations for the prosecution of SEC offences.

Measure 5: Set up **conditions for any travel** by persons convicted of sexual exploitation of children.

Indicator: The country has set up conditions for the travel of persons (both nationals and foreigners) convicted of sexual exploitation of children.

Out of the 10 countries analysed, Laos has explicit legal provisions that deny entry/leave to foreigners convicted of SEC offences. Brunei, Cambodia, Indonesia, Malaysia, the Philippines, Thailand and

Vietnam have laws which partially regulate this matter. In Malaysia, for instance, the prohibition to enter the country for a convicted person is only provided by the Immigration Act.

Measure 6: *Ensure consistency in the definition of a ‘child’ as anyone under the age of 18 for all crimes of sexual exploitation, regardless of the age of sexual consent.*

Indicator: *The national legislation consistently defines a child as anyone under the age of 18 for all crimes of sexual exploitation.*

Out of the 10 countries analysed, only Laos, Philippines, Myanmar, Singapore, and Vietnam partially implemented this measure. For instance, both Laos and Philippines consider victims of “child prostitution” and/or other sexual abuse only persons below 12 years old. All other countries, ensure consistency in the definition of a ‘child’ as anyone under the age of 18 for all crimes of sexual exploitation, regardless of the age of sexual consent.

Measure 7: *Ensure that the age of sexual consent for both males and females is 18 and a close in age exemption (up to 3 years) is provided for consensual sexual relationships between adolescents in order to allow voluntary, well-informed and mutual sexual contact between close in age peers and to prevent criminalization of young people in willing sexual relationships.*

Indicator: *The age of sexual consent for both males and females is 18 and a close in age exemption (up to 3 years) is provided for consensual sexual relationships between adolescents.*

Out of the 10 countries analysed only the Philippines partially implemented this measure, while all the remaining countries do not provide any criteria to determine whether the consent for sexual activities between peers under the age of 18 is voluntary, well-informed and mutual. However, Cambodia and Thailand have laws that exempt children from being prosecuted from engaging in sexual acts with their peers in certain cases.

Measure 8: *Have a law or regulation establishing a mechanism for centrally registering sex offenders that has been implemented/setup.*

Indicator: *The national legislation establishes a national mechanism for centrally registering sex offenders that has been implemented/setup.*

Out of the 10 countries, only Malaysia established a mechanism for centrally registering sex offenders. Thailand partially covers this measure by providing for collection of data on offenders, which are however not disaggregated by typology of committed crimes.

Measure 9: *Establish bail conditions that prohibit individual accused of sexual offences against children from traveling outside of the country.*

Indicator: *The national legislation establishes bail conditions that prohibit individuals accused of sexual offences against children from travelling outside of the country.*

Out of the 10 countries, only Philippines has established bail conditions that prohibit individual accused of sexual offences against children from traveling outside of the country. The national legislation of Brunei establishes bail conditions only for traffic offenses. Cambodia, and the Philippines establish general bail conditions that prohibit offenders from traveling outside the country. Laos, Singapore, Malaysia, Thailand and Vietnam do not have any of such provisions.

Measure 10: *Provide in law that the mere attempt to commit a crime of sexual exploitation of children is criminalised.*

Indicator: *The national legislation specifically criminalises attempted sexual exploitation of children related offences.*

Out of the 10 countries, only Brunei does not provide in law that the mere attempt to commit a crime of sexual exploitation of children is criminalised. The Philippines, Malaysia and Vietnam partially

regulated the matter. Vietnam legislation, for instance, establishes that only attempts to commit specific crimes, such as human trafficking, are criminalised. All other countries specifically criminalise attempted sexual exploitation of children related offences.

Measure 11: *Impose more severe sentences for reoffending in case of sexual exploitation against children, e.g. by defining reoffending as an aggravating circumstance, regardless of whether the crimes were perpetrated abroad or in-country.*

Indicator: *The national legislation provides for more severe penalties for reoffending in case of sexual offences against children.*

Of all the 10 countries analysed, only Cambodia, Indonesia, and Thailand partially implemented this measure. All the remaining countries, implemented it fully, imposing more severe sentences for reoffending in case of sexual exploitation against children.

Measure 12: *Provide for mandatory reporting for particular professions that have likelihood to have contact with children who might disclose sexual exploitation.*

Indicator: *The national legislation provides for mandatory reporting for particular professions that have likelihood to have contact with kids who might disclose.*

Out of the 10 countries, Laos, Malaysia, the Philippines and Thailand have provisions that make it mandatory for professionals working for and/or with children to report suspected cases of SEC. Brunei and Cambodia have provisions very limited in scope. In Brunei, for instance, only medical officers have the obligation to report suspected cases. The Indonesian legislation does not have any provisions for mandatory reporting with regard to SEC offences.

Measure 13: *Establish obligatory government-regulated child protection standards for the tourism industry for example, attach responsibility to an appropriate regulatory authority and/or implement industry specific national codes for child protection as a legal requirement for the travel and tourism industry to operate.*

Indicator: *Child protection standards for the travel and tourism industry exist.*

Out of the 10 countries analysed, only the Philippines has established obligatory government-regulated child protection standards for the tourism industry. In the country, local tourist destinations have enacted a Tourism Child Protection Ordinance which requires tourism businesses to adopt a child protection policy, train staff on child protection and display information materials that promote child safe tourism.

Measure 14: *Ensure the liability of travel and tourism businesses (in operations and supply chains) for criminal conduct including:*

- *Organising travel arrangements or transportation that are explicitly or implicitly meant to create or facilitate opportunities to engage (involve) children in sexual activities;*
- *Procuring, aiding or abetting the exploitative sexual conduct with a child;*
- *Advertising or promoting sexual exploitation of children;*
- *Benefitting, by any means, from any form of sexual exploitation of a child (or children) in the context of their travel and tourism business.*

Indicator: *The national legislation includes provisions to ensure the liability of travel and tourism businesses for sexual exploitation of children related crimes.*

Out of the 10 countries, only the Philippines and Singapore ensure the liability of private travel and tourism sector for SECTT offences. Brunei, Malaysia, Myanmar, and Thailand partially regulated this matter while all the other countries do not have any legal provisions that could be applicable in this regard.

Measure 15: Criminalise the **grooming of children for sexual purposes** (often called ‘solicitation’ in law) including through Internet and other communication technologies to facilitate either online or offline sexual exploitation.

Indicator: The national legislation criminalises grooming of children for sexual purposes including through Internet and other communication technologies to facilitate either online or offline sexual exploitation.

Out of the 10 countries, only Malaysia and the Philippines explicitly criminalise grooming including online grooming. Brunei establishes the offence of grooming but only with respect to children below 16 years of age, whereas in Singapore there is no protection for children above 16 years of age. All other countries do not have provisions that explicitly criminalise grooming.

Measure 16: Establish legislation requiring for a **criminal background check** for every person (national or non-national) applying for work with or for children or who is currently working with or for children. Introduce legislation prohibiting convicted sex offenders to hold positions involving or facilitating contact with children.

Indicator: Criminal background checks are strict requirements for national and non-nationals working in direct contact with children.

Out of the 10 countries, Indonesia, Singapore and Vietnam partially regulate this matter. The law does not make it mandatory for applicants to provide criminal check but this practice has become customary in practice. All the other countries do not have legislation requiring for a criminal background check for persons working for or with children. No information has been found on Vietnam.

Measure 17: Regulate and monitor the use of volunteers (including in ‘voluntourism’) in settings and activities that involve direct contact with children, particularly prohibiting visits to orphanages/residential care settings in favour of redirecting the industry towards solutions that support community-based care.

Indicator: The national legislative and/or policy frameworks establish minimum standards for the context of voluntourism that include criminal background checks and prohibits visits to orphanage/residential care setting as tourism activities.

None of the 10 countries analysed establish minimum standards in the context of voluntourism and do not prohibit visits to orphanage/residential care settings as tourism activities.

Measure 18: Ratify and implement relevant **regional and international instruments** related to child’s rights and sexual exploitation of children.

Indicator: The country has ratified all relevant regional and international instruments related to child’s rights and sexual exploitation of children.

The following international and regional legal instruments shall be ratified and implemented as they constitute comprehensive legal tools for protecting children from sexual abuse and exploitation:

- UN Convention on the Rights of the Child (CRC);
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC);
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OP3 CRC);
- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime;
- International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No.182;

- The United Nations' World Tourism Organisation's (UNWTO) Framework Convention on Tourism Ethics;
- Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention);
- Council of Europe Convention on Cybercrime (Budapest Convention);
- ASEAN Convention Against Trafficking in Person, Especially Women and Children.

At present, all countries (not including Myanmar and Singapore) ratified the UN Convention on the Rights of the Child (CRC), and the International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No.182. Conversely, only Thailand ratified the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure and only Indonesia the United Nations' World Tourism Organisation's (UNWTO) Framework Convention on Tourism Ethics

None of the countries in the region ratified all the relevant instruments. None of the countries, ratified the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and only the Philippines accessed the Council of Europe Convention on Cybercrime (Budapest Convention).

Measure 19: *Establish protection measures for child victims at any stage of the legal process against the suspected offender.*

Indicator: *The national legislation establishes protection measures for child victims, enabling them to participate in the legal process.*

Out of the 10 countries, only Laos, Singapore and Malaysia have established protection measures for child victims at any stage of the legal process against the suspected offender. All the other countries only partially regulated this matter. Thai legislation does not provide for free legal aid and representation to child victims of OCSEA.

Measure 20: *Establish child-friendly interviewing practices by professionally trained police.*

Indicator: *The national legislation requires that child victims are interviewed based on child-friendly interviewing practices and at least one Child Advocacy Centre exists in the country.*

Out of the 10 countries analysed, only Thailand established child-friendly interviewing practices by professionally trained police. Brunei, Cambodia, Laos, Myanmar, Singapore, the Philippines and Vietnam partially complies with this measure since they do not have a Child Advocacy Centre. In Indonesia and Malaysia, there are no provisions that refer to the establishment of child-friendly interview methods.

Measure 21: *Ensure that national legislation provides the right for child victims to receive support in their recovery and rehabilitation, including accessing re-integration services.*

Indicator: *The national legislation stipulates that child victims can access support in their recovery and rehabilitation.*

Out of the 10 countries, Indonesia, Malaysia, the Philippines, Thailand and Vietnam, specify in their legal frameworks that child victims can access support in their recovery and rehabilitation. Brunei, Laos, Myanmar and Singapore partially ensure that the child victims of SEC receive recovery and rehabilitation services. Cambodia, does not regulate this matter at all.

Measure 22: *Establish a national reporting mechanism (e.g. hotline) that coordinates access to services, and helps to overcome reluctance to report sexual exploitation of children.*

***Indicator:** A national reporting mechanism with response protocols that allow children and citizens to report without fear exist.*

Out of the 10 countries, all - except for Myanmar and Singapore - comply with this measure and have national reporting mechanism with response protocols that allow children and citizens to report without fear exist.

Measure 23:** Create **data retention and preservation laws, regulations and procedures, to ensure the retention and preservation of digital evidence and enable cooperation with law enforcement which applies to ISPs, mobile phone companies, digital social media and communication companies, cloud storage companies, based in/operating in national jurisdiction.

***Indicator:** The national legislation establishes retention and preservation laws and procedures that allow retention and preservation of digital evidence.*

Out of 10 countries, only Brunei and Cambodia do not have laws, regulations and procedures, in place to ensure the retention and preservation of digital evidence. All other countries allow retention and preservation of digital evidence, while Malaysia only partially regulates this matter. Insufficient information was found on Myanmar and Singapore.

***Measure 24:** Ensure that national legislation provides the right for all child victims of sexual exploitation to seek compensation in national courts from convicted perpetrators who harmed them and/or through state-managed funds.*

***Indicator:** The national legislation provides the right for all child victims to seek compensation.*

All analysed countries provide in their national legislation the right of all victims to seek compensation.

Recommendations for the Governments in Southeast Asia:

Child protection standards for the travel and tourism industry

Before the COVID-19 pandemic, the extraordinary growth of the travel and tourism sector in the last decades had been very important in terms of contributing to economic growth of several countries in Southeast Asia. It is key to ensure that as the tourism restarts, the industry is developed in an ethical way, with child protection in focus. At present, the regional analysis shows that out of the 10 countries analysed, only the Philippines has established obligatory government-regulated child protection standards for the tourism industry.

Therefore, it is crucial that all other States in the region **establish** government regulated child protection standards, such as obligatory national codes of conduct with a focus on child protection for businesses operating in the travel and tourism sector.

Mandatory criminal background checks

The regional overview shows that only in Indonesia criminal backgrounds are usually asked for people applying for jobs, while none of the countries requires criminal checks for professions involving contact with children. Moreover, none of the countries set any specific requirement or standards for volunteering activities.

Therefore, in order to prevent potential reoffenders to come directly into contact with children and adolescents, States in the region should:

- **Amend** their legislation with a view to **establish** mandatory criminal records checks for all people applying **to work and/or volunteering** for and with children.

Grooming of Children for Sexual Purposes

The analysis demonstrates that most of the countries in the region do not fully criminalise the grooming (or “solicitation”) of children including via the use of digital technologies for sexual purposes. Indeed, only Malaysia and the Philippines explicitly criminalise grooming including online grooming.

Governments in the region should:

- **Criminalise** the grooming of children for (online or offline) sexual purposes including through Internet and other communication technologies, as a crime closely interconnected with sexual exploitation of children in travel and tourism context.

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A global problem requires truly global solutions to address the sexual exploitation of children. For the most updated information refer to the [Global Progress Indicators](#), select an indicator to see global progress or click a country on the map for a national summary.



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