

OUT OF THE SHADOWS

INDEX 2022

PRIVATE SECTOR MODULE

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Introduction

The Out of the Shadows Index (OOSI) benchmarks how 60 countries, which are home to approximately 85% of the world population of children, are preventing and responding to child sexual exploitation and abuse (CSEA). It is the first attempt to develop a global assessment of how countries are addressing the issue which affects more than 400 million children worldwide.¹

As part of the study, a separate module was developed to measure the degree to which governments across these countries have enacted legislation to regulate how the private sector engages with children.

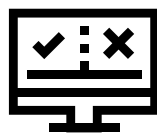
This Private Sector Module includes issues related to data protection, child labour and the role of internet service providers (ISPs) in preventing the spread of child sexual abuse material (CSAM) online. It is scored and assessed independently from the main OOSI. Countries are measured across four issue areas: (1) Reduction of risk factors in the workplace, (2) Prevention from online threats, (3) Sector-specific prevention and (4) Private sector response and co-operation.

¹ Sexual abuse is the most commonly studied form of maltreatment across the world with median (25th to 75th centile) prevalence of 20.4% (13.2% to 33.6%). Moody G et al, Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender, 2018, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6180456/>

Figure 1: Key issue areas in the Private Sector Module

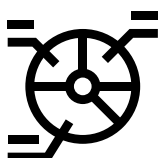
Reduction of risk factors in the workplace

Assesses the degree to which governments legislate criminal background checks, child employment and regulations to safeguard children in the workplace



Prevention from online threats

Assesses whether governments have implemented data protection and processing laws that safeguard the welfare of children



Sector-specific prevention

Assesses whether governments have introduced sector-specific provisions for children working in, or in contact with, the healthcare, advertising, entertainment and travel sectors



Private sector response and cooperation

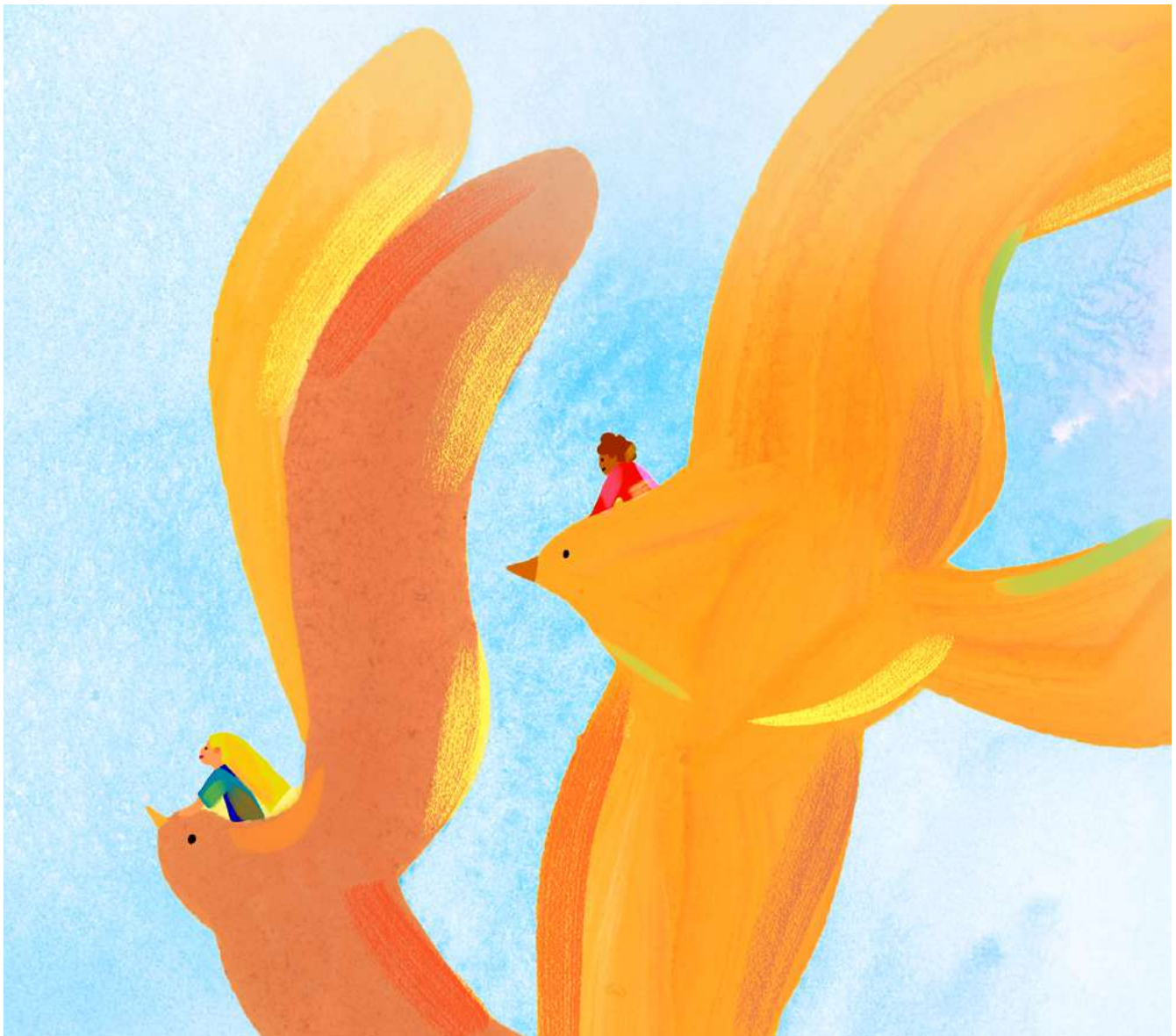
Assesses the extent to which internet service providers (ISPs) and private sector companies are required to collaborate in cases of CSEA and/or receive sanctions for CSEA in the workplace

The module does not measure the prevalence of child sexual exploitation or abuse in the workplace. Therefore, the absence or presence of regulation does not reflect the degree to which child exploitative labour or CSEA crimes are experienced in the workplace. Instead, the assessment examines the country's enactment of regulations that are key to safeguarding children in the private sector and, in particular, within specific industries where children are known to face greater risk.^{2,3}

² ECPAT, Sexual Exploitation of Children in Travel and Tourism, 2020 <https://ecpat.org/wp-content/uploads/2021/05/ECPAT-Summary-paper-on-Sexual-Exploitation-of-Children-in-Travel-and-Tourism-2020.pdf>

³ UNICEF, Make the digital world safer for children, 2017 <https://www.unicef.org.uk/press-releases/unicef-make-digital-world-safer-children/>

Often, in the absence of legislation, private companies or professional/sectoral business associations implement their own codes of conduct and due diligence processes, as well as self-enforcement measures to reduce risks of CSEA. These are often not legally binding, but they do require adherence from the industry or members. Governments may also publish voluntary guidelines for the private sector on best practices to prevent CSEA in the workplace. While such measures are a step in the right direction, the lack of adherence to voluntary guidelines and the absence of repercussions for failing to uphold commitments can leave children vulnerable to risk. The OOSI private sector module, therefore, only assesses the existence of regulations and, as such, industry codes of conduct and voluntary guidelines have not been granted credit in the research.



Key Findings

Overall, legislation regulating the private sector on CSEA-related issues is not holistic. The majority of countries have inadequate or weak regulatory frameworks addressing background checks for professionals working in direct contact with children; regulating child labour; ensuring adequate work environments; and implementing sector-specific measures for industries operating in direct contact with children. Over seven out of ten (73%) countries in the index fall in the bottom two quintiles of the private sector module scoring, while only six countries score in the top two quintiles.

Figure 2: Private sector module top performers

1	France
2	Sweden
3	Italy
4	UK
5	Thailand
6	Albania
7	China
8	Germany
9	Romania
10	Turkey

France, Sweden and Italy top the private sector module. These countries have strong legal provisions across all four issue areas. France leads on private sector response and co-operation, while Sweden leads on sector-specific prevention and ranks second on reducing risk factors in the workplace. Italy ranks in the top three across most issue areas.

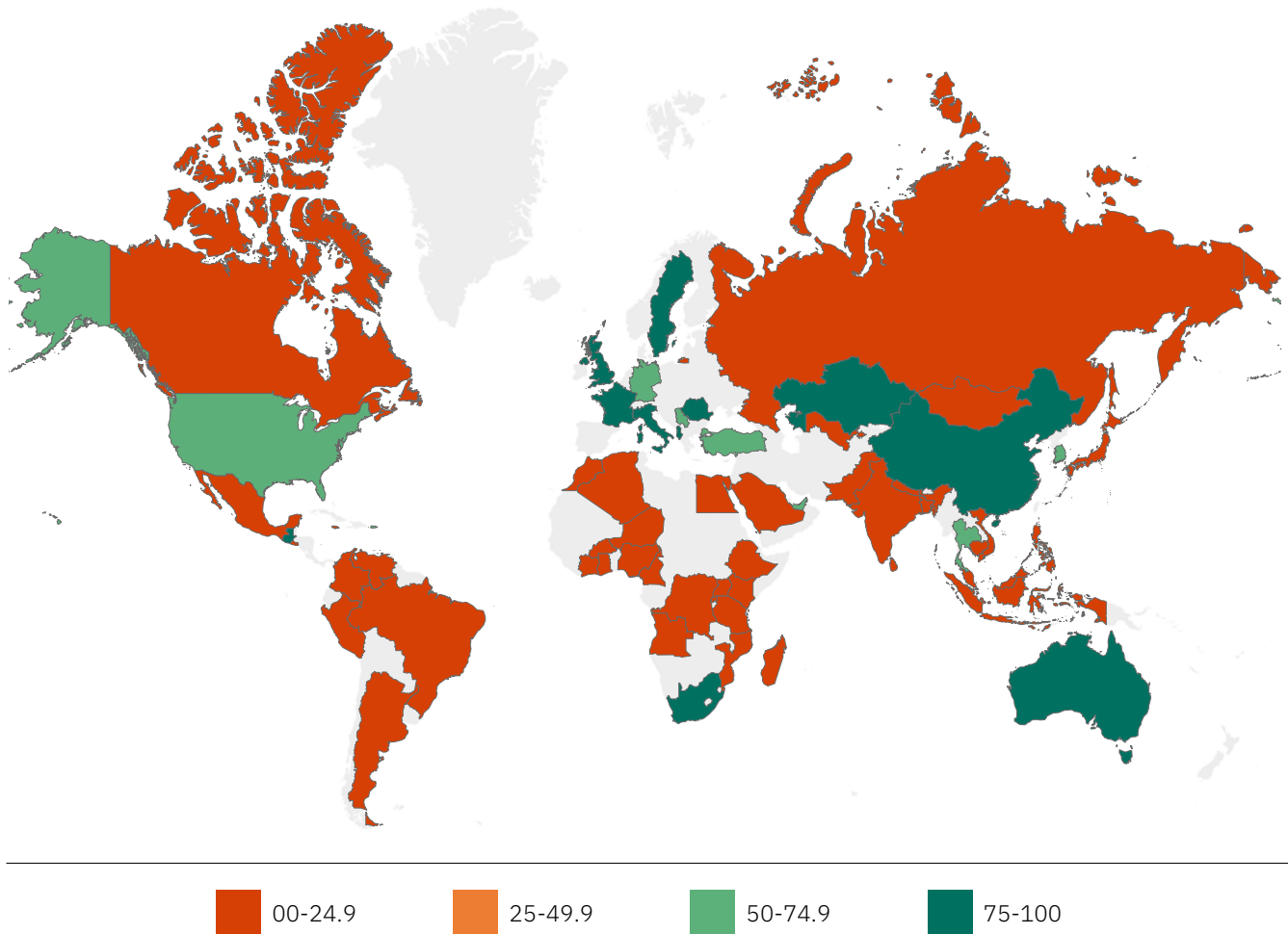
High-income European countries, however, are not the only top performers in the private sector module: half of the top ten performers are middle-income countries in Eastern Europe and Asia-Pacific. Thailand ranks fifth—the highest scoring non-Western European country within the module—while Albania, China, Turkey and Romania also rank in the top ten.



Child welfare in the workplace

Overall, legal mandates that require background checks for professionals for CSEA crimes are inadequate. Only 18% of countries require all employers in professions working in direct contact with children to run criminal background checks for CSEA-related crimes, while 12% of countries require criminal background checks on a select sub-group of professionals working in direct contact with children. Where countries do not mandate background checks, there is some evidence of voluntary schemes and employer discretion on running CSEA crime background checks. For example, in Indonesia and Nigeria, businesses can ask new hires to produce a criminal record or conduct checks as a matter of prudence, though there is no legal requirement to do so.

Figure 3: Criminal background checks for professionals working in direct contact with children

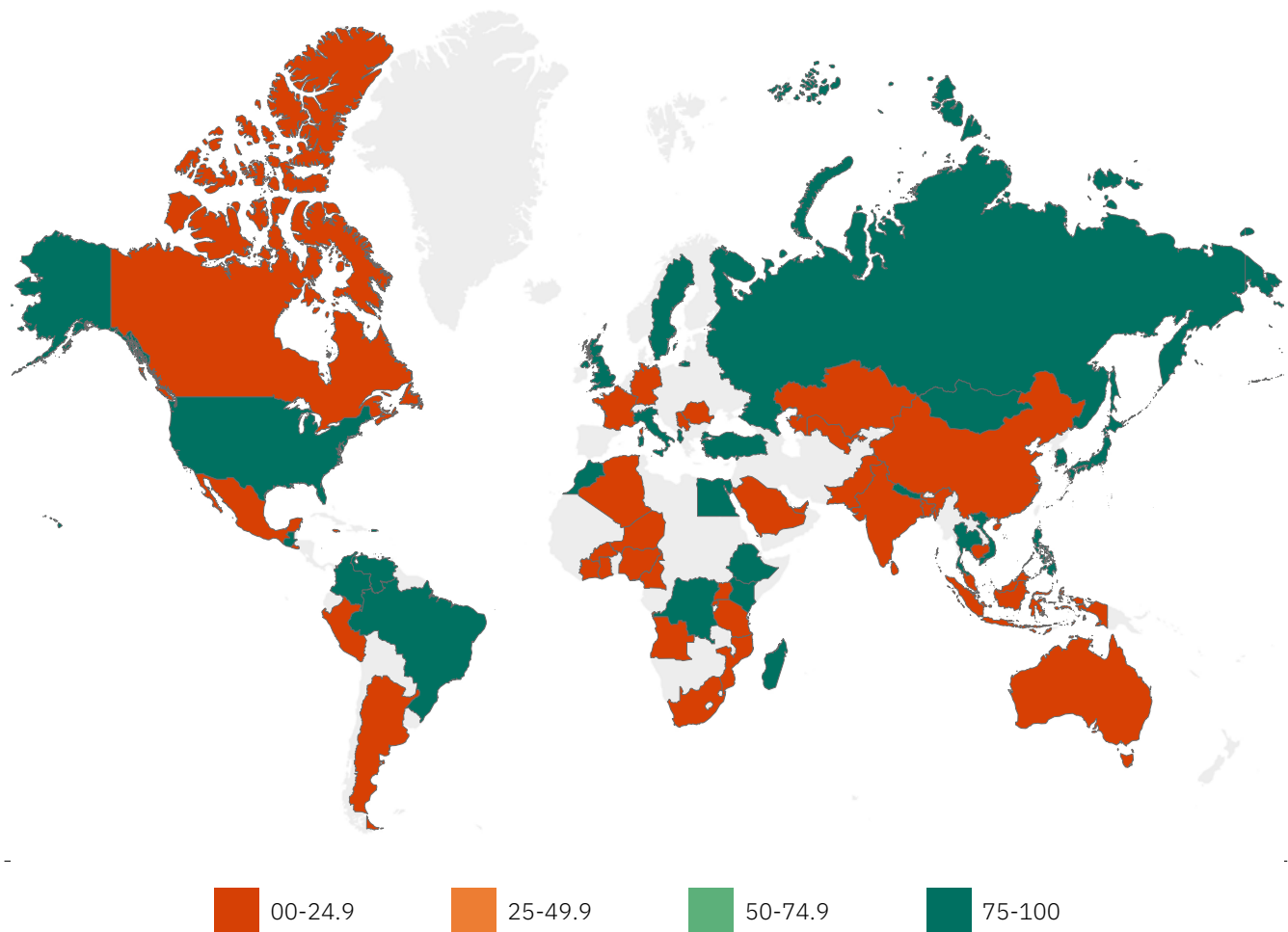


Scored 0-100 where 0 = the worst environment for children and 100 = the best environment for children

Although the majority of countries assign a minimum age of employment below which children are not allowed to be employed,⁴ many have exceptions in place for certain sectors. Only 40% of countries have introduced legislation regulating the employment of children below the national minimum age of employment, with the remaining countries either failing to regulate holistically or having no information. Countries with strong regulations, such as Japan, Mongolia and Turkey, either require employers to apply for specific work licences through a governmental labour authority or through approval/permissions from labour inspectorates.⁵

⁴ The International Labour Organisation (ILO) Minimum Age Convention No. 138, Article 2, sets the general minimum age for admission to employment or work at 15 years (13 for light work). An exception is established for countries with developing economies and educational facilities, where the general minimum age of employment is set at 14 (12 for light work). The minimum age for hazardous work is set at 18.

⁵ Turkish Labour Law. No. 4857. 22 May 2003 ; Mongolian Labour Law. <https://legalinfo.mn/mn/detail?lawId=16230709635751>; Japan, Labour Standards Act, Article 56, <https://www.japaneselawtranslation.go.jp/en/laws/view/3567>

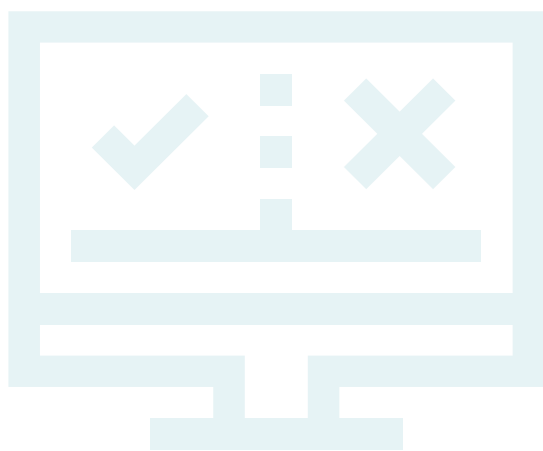
Figure 4: Child work provisions below minimum age of employment

Scored 0-100 where 0 = the worst environment for children and 100 = the best environment for children

There are severe shortcomings in regulations requiring employers to ensure a safe workplace for child labourers. Most countries rule out heavy industry and mining as suitable for children and regulate child working hours and breaks. However, only 13% of countries require employers to undertake workplace risk assessments before a minor starts work in sectors where legislation allows for minors to be employed. Moreover, only five countries—Australia, France, Ghana, Romania and the UK—require businesses to disclose the activities they undertake to eliminate modern child slavery and trafficking from their supply chains and internal operations.

Ensuring responsible action within the private sector requires legal frameworks to incorporate penalties for corporations as well as individuals. Failure to report CSEA-related cases that put a child's mental and physical wellbeing at risk should be met with sanctions to encourage compliance.⁶

Just one-in-five (20%) countries place sanctions on companies that fail to report and/or neglect CSEA within their internal operations. The majority of countries that do not score lack a requirement to report or sanction individuals rather than corporations. Additionally, only 28% of countries sanction companies who fail to introduce measures reducing CSEA risk factors in the workplace.



Online Safety and Data Protection

As access to the internet and social media continues to expand, children are spending more time online and embracing digital technology at younger ages.⁷ Despite the novel ways of learning and interacting because of greater access to the internet,⁸ new risks are also of concern. For example, one recent survey of over 5,000 18 to 20 year-olds across 54 countries found that more than half of respondents (54%) had experienced at least one online sexual harm during childhood.⁹ There is, therefore, an increased urgency for greater regulation of online spaces and service providers, to protect children from threats they may face online.

⁶ UNICEF, UN Convention of the Rights of the Child, 2020 <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

⁷ We Protect Global Alliance, Estimates of Childhood Exposure to Online Sexual Harms, 2021 <https://www.weprotect.org/economist-impact-global-survey/#report>

⁸ UNICEF, Children in a Digital World, 2017 <https://www.unicef.org/media/48601/file>

⁹ We Protect Global Alliance, Estimates of Childhood Exposure to Online Sexual Harms, 2021 <https://www.weprotect.org/economist-impact-global-survey/#report>

It is crucial that organisations and corporations providing internet services (ISPs) be held accountable for the production and proliferation of CSAM through the internet. In the US, the National Centre for Missing and Exploited Children's (NCMEC) CyberTipline received 29.3 million reports from ISPs in 2021, a 34% increase from 2020.¹⁰

According to the International Centre for Missing and Exploited Children (ICMEC), model legislation to address the prevalence of CSAM online necessitates governments to mandate ISPs to report suspected CSAM found on their networks to law enforcement or a designated agency.¹¹ Best practice also requires ISPs to block access or take down CSAM and to keep records of such material as evidence to support an official investigation or prosecution. These actions are considered fundamental in the prevention and mitigation of harm to children on digital platforms.

Overall, governments have not enacted sufficiently binding legislation requiring ISPs to report, block and keep records of CSAM. Only 30% of assessed countries mandate reporting and detection. Even fewer require ISPs to autonomously block access to CSAM or delete such material: 22% of countries require ISPs to either block access to offending websites or take down CSAM when it is detected.

A slightly higher share of countries (38%) were found to have laws that require ISPs to keep records of CSAM as investigative evidence for a set period of time. High-income countries, especially those in Europe, perform particularly well here with over 50% of these countries receiving credit.

Since the advent of the European Union's General Data Protection Regulation (GDPR) in 2018, many countries across the world have been taking concrete steps to strengthen or introduce more stringent data protection laws.¹² Among the significant changes introduced was the requirement for businesses to seek parental consent to process children's data.¹³ To date, just over half (52%) of countries require companies to seek parental or legal guardian approval using verifiable consent mechanisms before collecting and processing child data, with 50% of middle-income countries achieving full scores (41% of lower-middle income and 61% of upper-middle income). The minimum age above which children can autonomously consent to data processing varies by country, but no country has a minimum age lower than 13 years.

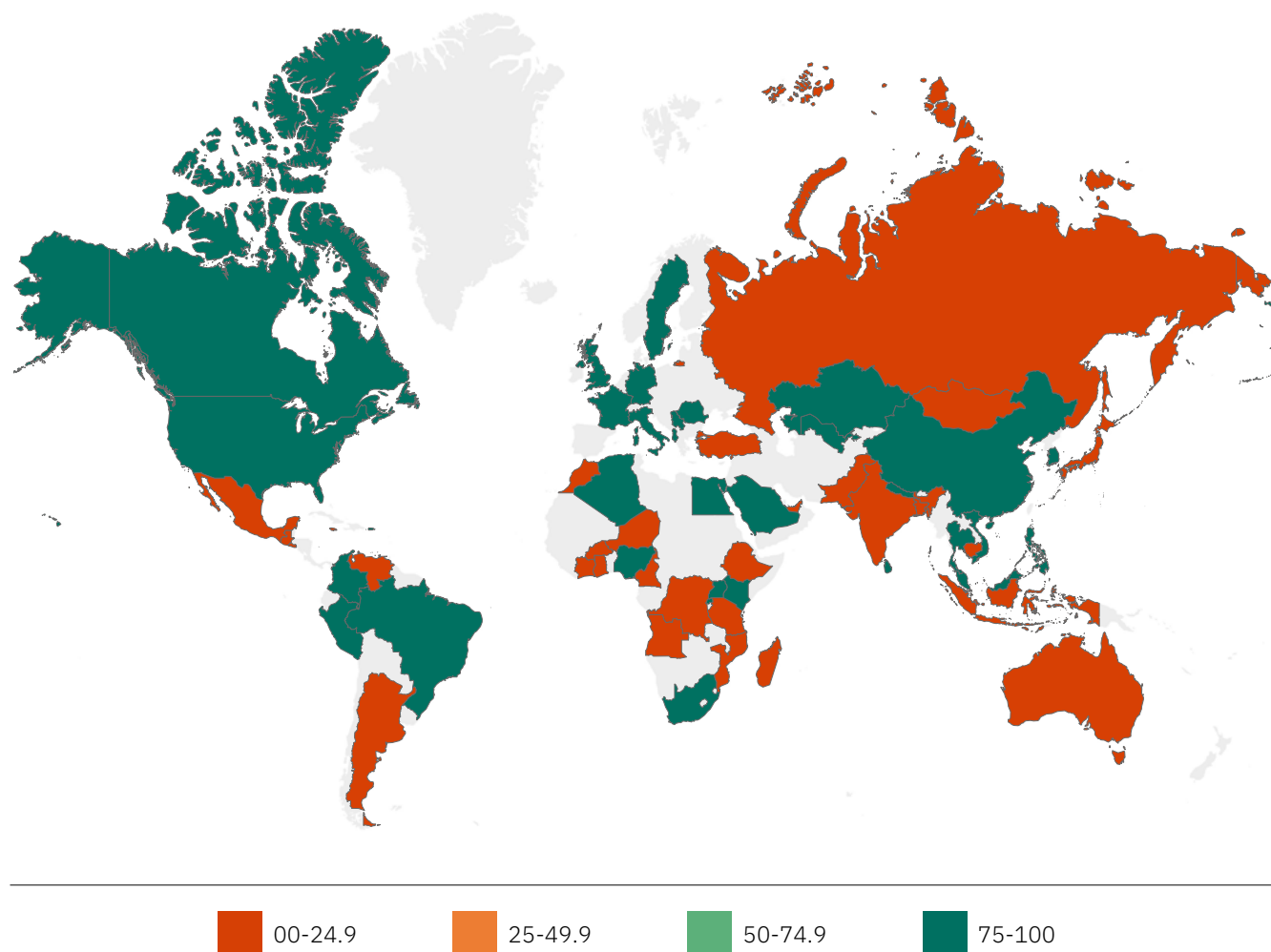
¹⁰ Missing Kids, CyberTipline, 2021 <https://www.missingkids.org/gethelpnow/cybertipline/cybertiplinedata>

¹¹ ICMEC, Child Sexual Abuse Material Model Legislation, 2018 <https://cdn.icmec.org/wp-content/uploads/2018/12/CSAM-Model-Law-9th-Ed-FINAL-12-3-18-1.pdf>

¹² Consumers International, The State of Data Protection, 2018 <https://www.consumersinternational.org/media/155133/gdpr-briefing.pdf>

¹³ Ibid

Figure 5: Child data processing laws



Scored 0-100 where 0 = the worst environment for children and 100 = the best environment for children

Two primary factors drive poor performance in this category. The first is institutional mechanism gaps, whereby legal frameworks for data privacy and protection have not yet been implemented, as well as an absence of legal frameworks that protect children. The second factor deals with legal coverage: a number of countries—including Japan, the United Arab Emirates (UAE) and Turkey—do have legislation but it does not cover children. There are provisions for individuals but no provisions of parental consent on behalf of a child.

CALL OUT BOX 1: Regulating tech companies on CSEA

Technology companies in possession of electronic communication services and hardware are increasingly being scrutinised for their role in facilitating the exchange and proliferation of CSAM.

Currently, 47% of countries allow for companies in possession of electronic communication services to breach their confidentiality agreement with consumers to co-operate with an official investigation related to CSAM and CSEA online. However, just 16% of countries allow tech companies to scan interpersonal communication to detect CSAM or grooming of minors.

Model EU legislation (2021/1232) was recently introduced to grant tech companies and providers of number-independent interpersonal communication services, such as webmail or messaging service providers, with a greater legal basis to scan for CSAM.¹⁴

CALL OUT BOX 2: ISPs and voluntary mechanisms

In some cases, countries do not explicitly legislate that ISPs detect, block and report CSAM. Many of these countries, including the UK, Japan and Australia, have voluntary or self-regulatory mechanisms to combat the proliferation of CSAM online.¹⁵ For example, ISPs in the UK have an advanced self-regulatory process where they collaborate with the Internet Watch Foundation (IWF) and act on take-down notices issued by the IWF.¹⁶ There is evidence, however, that a move towards more stringent regulation is on the horizon. A new online safety bill is currently undergoing reading in the UK Parliament, which requires ISPs to report suspected CSAM to a designated government agency, among other duties.¹⁷

¹⁴ European Commission, 2022 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1232>

¹⁵ Japan, Act on the Limitation of Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identification Information of the Sender, 2001 <https://www.japaneselawtranslation.go.jp/ja/laws/view/3610>; AFP Child Protection Operations: <https://www.afp.gov.au/what-we-do/services/child-protection/online-child-sex-exploitation>; ICMEC, Child Sexual Abuse Material Model Legislation, 2018 <https://cdn.icmec.org/wp-content/uploads/2018/12/CSAM-Model-Law-9th-Ed-FINAL-12-3-18-1.pdf>

¹⁶ ICMEC, Child Sexual Abuse Material Model Legislation, 2018 <https://cdn.icmec.org/wp-content/uploads/2018/12/CSAM-Model-Law-9th-Ed-FINAL-12-3-18-1.pdf>

¹⁷ UK Parliament, Online Safety Bill, 2022 <https://bills.parliament.uk/bills/3137>



Sector-specific prevention

The private sector module assesses sector-specific regulations across industries associated with notable risks of CSEA. Sector- or industry-specific regulation to prevent CSEA is comparatively widespread: 75% of countries regulate at least one of the four industries considered (healthcare, advertising, entertainment, and travel and tourism).

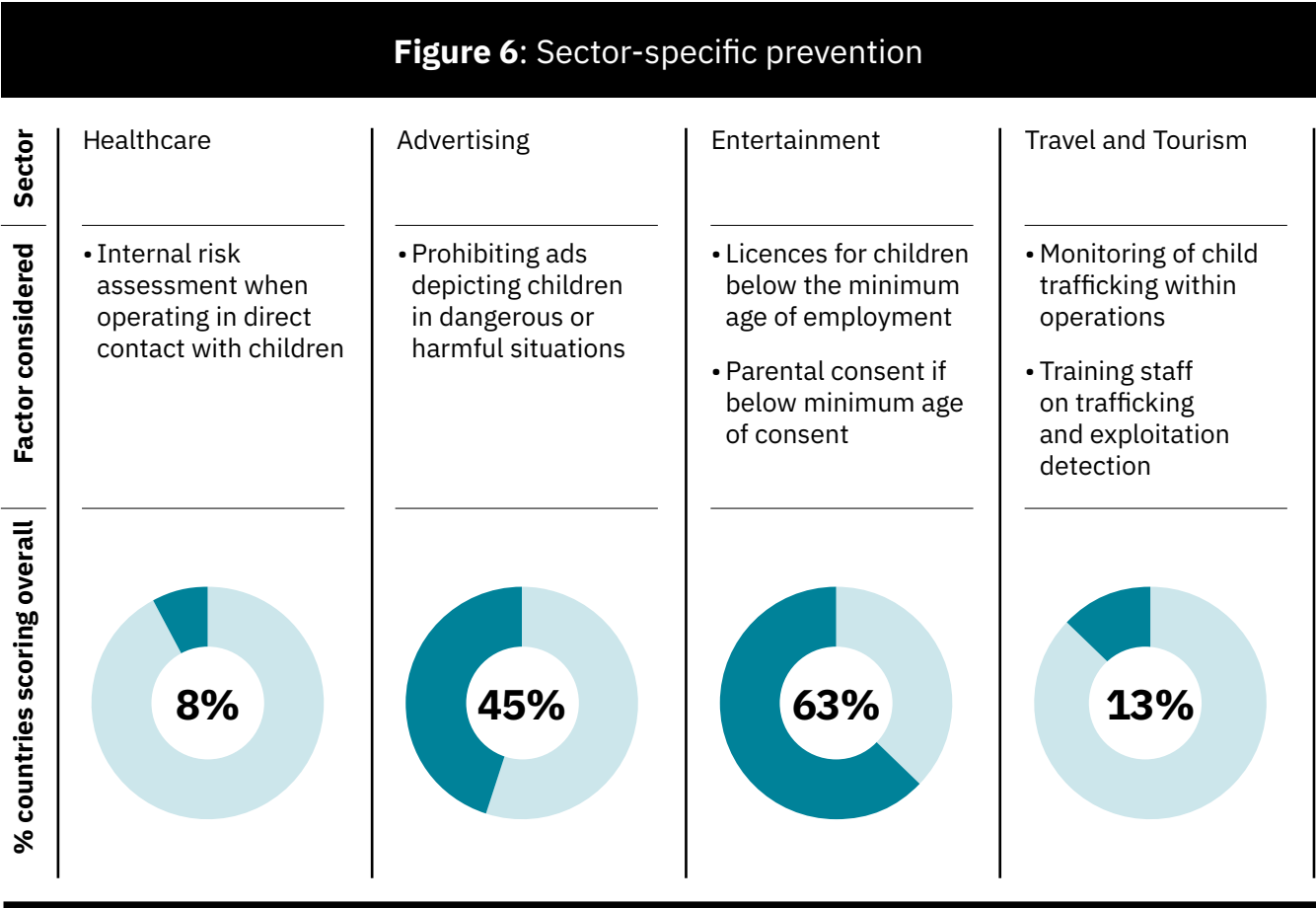
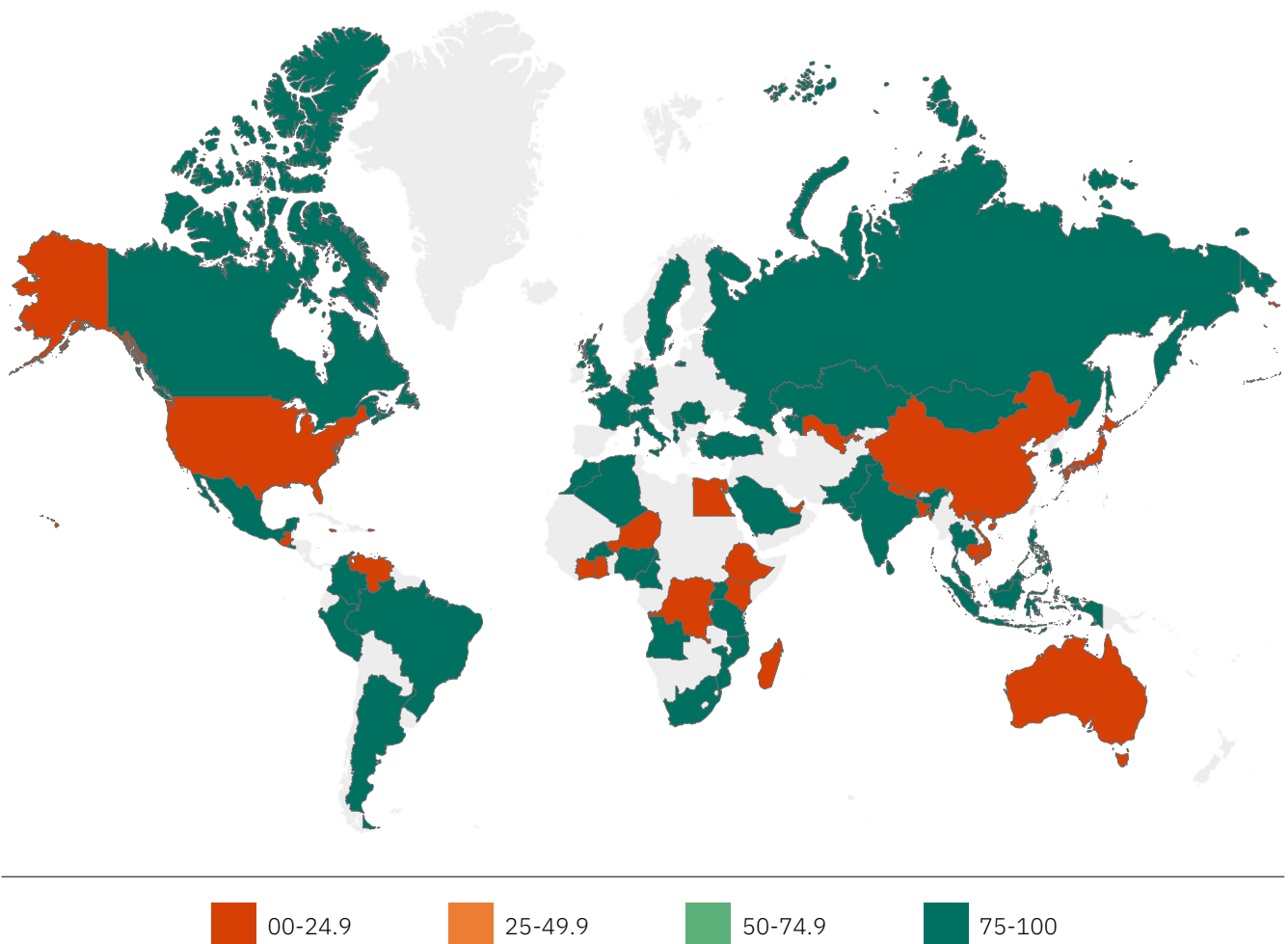


Figure 7: Advertisement Sector



Scored 0-100 where 0 = the worst environment for children and 100 = the best environment for children

18 Egyptian National Council for Childhood and Motherhood. Child Law No. 12 of 1996, amended by Law No. 126 of 2008. Article 291 http://www.nccm-egypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf; Save the Children, Guidelines for Advertising and Marketing that Affect Children, 2016 https://www.savechildren.or.jp/partnership/crbp/pdf/fair-marketing_eng.pdf

The ILO 1973 Minimum Age Convention states that the entertainment industry is able to employ a child below the minimum age of employment, provided that a ‘competent authority’ issues permits that limit the number of hours and prescribe the conditions in which employment is allowed.¹⁹ Our assessment of the entertainment industry, however, found that less than half of countries (45%) require companies to acquire specific licences or permits from a designated public agency to work with minors, and just over half (53%) require guardian approval/consent to employ minors.

The sexual exploitation of children within the travel and tourism industry is another area where better legislation is needed.²⁰ Findings from the main OOSI study reveal no country has yet signed and ratified the UNWTO Framework Convention on Tourism Ethics.

The private sector module assesses the minimum provisions set forth by travel and tourism entities to monitor child trafficking and exploitation across the value chain, as well as staff training in this area. Just over 15% countries were found to have monitoring mechanisms, while only 7% require companies to train staff on child trafficking and exploitation detection. For example, the Democratic Republic of Congo’s National Anti-trafficking Action Plan fails to address mechanisms to enforce training or monitoring for trafficking detection.²¹ Indonesia’s Ministry of Culture and Tourism sets voluntary guidelines for monitoring and training on child trafficking and exploitation in the travel industry.²²

¹⁹ Murshamshul et al, 2019 https://hrmars.com/papers_submitted/5258/Child_Performers_in_the_Entertainment_Industry_An_Analysis_from_the_Employment_Regulations_Perspective.pdf

²⁰ ECPAT, Sexual Exploitation of Children in Travel and Tourism, 2020 <https://ecpat.org/wp-content/uploads/2021/05/ECPAT-Summary-paper-on-Sexual-Exploitation-of-Children-in-Travel-and-Tourism-2020.pdf>

²¹ US State Department, 2021 Trafficking in Persons Report: Democratic Republic of the Congo <https://www.state.gov/reports/2021-trafficking-in-persons-report/democratic-republic-of-the-congo/>

²² Regulation of the Minister of Culture and Tourism Number PM.30/HK.201/MKP/2010 concerning Guidelines for the Prevention of Child Sexual Exploitation in the Tourism Environment. <https://jdih.kemenparekraf.go.id/katalog-136-Peraturan%20Menteri>

Conclusion

No single region has established best-practice regulation across industries to ensure the effective prevention of and response to CSEA risks in the private sector, although Europe and North America have stronger regulations than other regions. Despite these global gaps in legislation, a momentum is emerging that is driving some progress. This is especially true when it comes to online threat prevention and in the advertising sector.

There is still a long way to go and substantive policy development is needed to mitigate risk factors in the workplace, including mandating criminal background checks and the disclosure of corporate efforts to eliminate modern child slavery and human trafficking from supply chains. To develop a more cohesive and holistic approach to child protection, there must be coordination across governments, industry and civil society organisations that are focused on preventing and responding to CSEA.

Appendix

Appendix 1: Private Sector

Module Country Rankings

1	France	21	Nigeria	41	India
2	Sweden	22	UAE	42	Indonesia
3	Italy	23	Tanzania	43	Uzbekistan
4	UK	24	Mexico	44	Angola
5	Thailand	25	Guatemala	45	Australia
6	Albania	26	Canada	46	Madagascar
7	China	27	Saudi Arabia	47	Morocco
8	Germany	28	Rwanda	48	Argentina
9	Romania	29	Dem. Rep. Congo	49	Pakistan
10	Turkey	30	Nepal	50	Ethiopia
11	Philippines	31	Mongolia	51	Venezuela
12	South Africa	32	Egypt	52	Cameroon
13	Vietnam	33	Kenya	53	Côte D'Ivoire
14	South Korea	34	Serbia	54	Burkina Faso
15	US	35	Uganda	55	Cambodia
16	Brazil	36	Japan	56	El Salvador
17	Sri Lanka	37	Russia	57	Ghana
18	Kazakhstan	38	Malaysia	58	Bangladesh
19	Colombia	39	Peru	59	Jamaica
20	Algeria	40	Mozambique	60	Niger

