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Bachelor Thesis

The Agenda Setting Process of the European Union

**Illustrated by the Example of the
Commercial Sexual Exploitation of Children**

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Bachelor Thesis

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List of Acronyms

CRC	Convention on the Rights of the Child
CSEC	Commercial Sexual Exploitation of Children
EC	European Community
ECPAT	End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes (formerly: End Child Prostitution in Asian Tourism)
EU	European Union
EUROJUST	European Judicial Cooperation Unit
EUROPOL	European Police Office
ILO	International Labour Organization
IPEC	International Programme on the Elimination of Child Labour
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
OSCE	Organization for Security and Cooperation in Europe
STOP	Sexual Trafficking of Persons (Program of the EU)
TEC	Treaty of the European Community
TEU	Treaty on European Union
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

A Introduction

“There is no ‘sex exploiter’ as such. Instead, there are people (adult and child, male and female) who sexually exploit children in many different ways, for many different reasons and in many different social contexts. Questions about who sexually exploits children cannot be reduced to questions about ‘paedophile’. Though we must urgently address the existence of, and harm caused by, those who consistently and consciously seek out young children to abuse, questions about why children are sexually exploited and by whom do not end here. There is thus a diversity of exploiters to be identified and analyzed. For example, the notion of exploiter encompasses not only the client of CSEC, but also the pimp, the procurer, the industry, the negligent authorities and the whole system that fails to respond to child protection.”

(Report of the Second World Congress 2001. Emphasis by the author.)

“Defending human rights is a duty and a right which must not be hampered by the principle of non-interference in the internal affairs of the member states.”

(Zrihen 2003.)

1 Problem Definition

1.1 Child Prostitutes? In the European Union?

Child labour is a problem not only in developing countries but certainly also in developed countries as illustrated during the Second World Congress on CSEC in 2001:

“For no country is free of commercial sexual exploitation, no society immune and no child fully protected. Poverty, traditional practices, family dysfunction, drugs and conflict increase the vulnerability of children to exploitation of all forms, as does the very fact of being female. But the pressures of consumerism, misconceptions about sexuality and health, and above all increased demand and the profit motive mean that many children not normally considered vulnerable are also at risk. The isolating yet global world of new media sees children targeted by on-line stalkers and exploiters, while the child pornography trade reaches out ever faster and wider to those who exploit at a distance.”

(Yokohama 2001)

The statement perfectly emphasizes the threat of CSEC being present in every country and society in the world. The causing and reinforcing factors mentioned can be found all over the world. Poverty, family dysfunction, drugs, etc. are real conditions in Ghana as they are in the United States, Germany, the Netherlands or every other Northern country. The belief that we do not have any child prostitutes on our streets is a huge misconception. Estimates state that there are about two million minors world wide being sexually exploited (GTZ 2006). They are forced into sexual acts which include prostitution, pornography etc. Contrary to the spread opinion that there are minors who participate voluntarily in prostitution or pornography, one can be sure that this is not the case at all. Although children or teenagers are not always obviously forced, as done in the case of slavery for example, there is an indirect reason why they participate in prostitution or pornography business, such as the need of earning money.

Child prostitution as a part of the phenomenon CSEC is not a new phenomenon in Europe. Liberalization measures in the context of free markets and trade in addition with a growing gap between poor and wealthy countries and society groups increased the incidence of prostitution of both women and children in European countries in the second half of the twentieth century. At this time it was mainly the North-South axis which determined the flow of prostitutes, both women and children. Trafficking in children for the purpose of sexual exploitation, commercial and non-commercial, became more and more a transnational phenomenon with huge dimensions which neither stopped at national borders nor did it only involve bordering countries but the whole globe. Unequal opportunity structures for women and children turn this group of the society in the most vulnerable when talking about commercial sexual exploitation. Pornographic films involving children were already produced in the 1960's and 1970's. These films which were produced in countries such as the Netherlands, Sweden and Denmark are still available all over the world. (UNICEF 1998) The 1970's were a decade which experienced a boom in CSEC. Here again developed countries like the USA and several (Western) European countries were involved. Children as young as 16 years and below were used for pornographic films and magazines. (Svedin and Back 1996)

However one cannot observe any actions at the European level pointing in the direction of an active engagement in the fight against child prostitution which go back in time more than fifteen years. There existed no newspaper reports and no public debates concerned with the phenomenon in the sixties, seventies or eighties. (Locher 2007) Although there have been international efforts visible in several conventions and agreements which could have been used as a foundation for regional action there has been no response at all and the phenomenon did not enter political agendas at the European level. Neither official statements nor debates and policy programs left the bodies of the European Community or the nation states. The only instrument which covered the increasing problem of trafficking in human beings and prostitution were measures aimed at combating illegal immigration. Border restrictions as well as deportations were tools meant to handle the problem of trafficking and prostitution. Thus one can observe that the phenomenon CSEC has been targeted by framing it with the immigration frame. However a framing like that totally denies the character of the phenomenon CSEC. Though framing is used by actors in order to push a problem into the public sight with the goal to create awareness and initiate public and political debates and discussions, a wrong framing achieves just the contrary. Placing CSEC within the frame of illegal immigration does not only imply that victims of trafficking and sexual exploitation are blamed as criminals/ illegal immigrants but also keeps the actual problem hidden.

1.2 What is CSEC?

Commercial Sexual Exploitation of Children, commonly known as CSEC, is a phenomenon which cannot be examined in isolation. It is a connection of sexual abuse and the exploitation of children. Donnellan defines CSEC as “the sexual abuse of a child by an adult paid for either by cash or in kind (through meals, clothes, payment of rent, etc.)” (Donnellan 1998) The first world congress on CSEC went deeper as well as further with its definition by emphasizing the violation of the child’s rights and the aspect of coercion CSEC implies.

“[...] [CSEC] is a fundamental violation of children’s rights. It comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. [...] [CSEC] constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary slavery.”

(ECPAT International 2001)

CSEC consists of three primary elements which are inter-related, namely child prostitution, child pornography and the trafficking and sale of children for sexual purposes. Other forms are sex tourism and early marriages.

Since the thesis is primarily concerned with the issue of child prostitution and leaves out child pornography, it is necessary to discuss the phenomenon deeper. Child Prostitution is commonly seen as a form of abuse. Child abuse can take different forms. Beside sexual abuse there are mental abuse¹ and physical abuse². Donnellan does not only regard rape, sexual touching, etc. as sexual abuse. Prostitution together with pornography are seen as sexual abuse as well. Thus, child prostitution can be defined as a form of sexual abuse of children.

This definition is stressed by the British law. Prostitution normally, which means when performed by an adult without force, is based on an “informed consent to sexual activity” on both sides, on the prostitute’s and the client’s side.³ The British law states that a child of fifteen years and younger is not able to give such consent. The second world congress on CSEC goes further and states that

“[...] there is equally a strong message to be conveyed concerning the minimum age for protecting the child from CSEC. The international trend advocates that children under eighteen years of age must be protected absolutely against CSEC [including child prostitution], irrespective of the issue of sexual consent. [...]”.

¹ Mental Abuse: e.g. isolation, manipulation, guilt creation, threats, sleep and food deprivation, voyeurism, talking to a child in a sexual way (Donnellan 1998).

² Physical Abuse: e.g. pushing, holding down, hair pulling, smacking, hitting, shaking, burning (Donnellan 1998).

³ The author is aware that the definition of “consent” is varying strongly here. Someone who agrees to be paid for sex may do it on his/ her own free will. However this person can still have been forced by circumstances such as poverty and the need to earn money.

Additionally it should be mentioned that the term “prostitution”, which is based on the condition of “informed sexual consent”, may be misleading in the case of children. It hides the abusive character of the problem and claims the child as the offender rather than the victim. Thus, it can be concluded that every paid sexual contact of an adult with a child is considered as a criminal act with the adult as the offender (abuser) and the child as the victim.⁴

When discussing child prostitution it is necessary to explicitly emphasize what defines a child, in order to ensure whether one is talking about child prostitution or prostitution in the pure context of adults.

There exist diverse approaches one can follow when trying to define the term child. One can take a look at laws and regulations which are concerned with children rights and their definition of a child. Another way is to take a look at physical and mental aspects. Although a child may be defined as a person below a certain age as done by legal frameworks there still is the individual development of a child which is different with every single child. Thus the impact certain forms of work or labour may have on children are different not only with every age group but also with every individual child. For the purpose of this study it would need the opinion of an expert (physicians, psychologists) in order to assess the extent of impact prostitution may have on the individual child. Since this is not possible due to the size of the study, the author only focuses on the definition of a child given by the legal framework.

When considering the legal framework one needs to take a look at the international as well as national level. The CRC says that “a child means every human being below the age of eighteen years [...]” (Article one). This would make it very easy to identify a child. However the CRC already carries out first restrictions itself and states further that “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”. Thus, one needs to take a look at the regional level. Article one of the framework decision 2004/68/JI, which is concerned with child prostitution, defines the child as every human being younger than eighteen years. Contrary to the CRC does the EU article not restrict this definition by referring to national regulations.

2 Objectives and Structure of the Thesis

2.1 Central Research Question

The thesis will illustrate the agenda setting process of the European Union by the phenomenon CSEC with special emphasis on child prostitution. Although CSEC has existed in Europe (including the member states of the European Union) since the 1960s/ 1970s as illustrated by the examples above, the EU placed the topic on its agenda only from the 1990s on. This is surprising since CSEC is a transnational problem and could be dealt with at the EU level more effectively⁵, e.g. through standardized definitions, penalties, etc, which for example hinder abusers from moving from one country to another in order to escape

⁴ Although the term “prostitution” has a misleading character when used in relation with children, the author will still use the term child prostitution in the study at hand.

⁵ Parliament. Debate. 11 June 2001.

penalties which exist in some member state but not in others. Furthermore would the handling of the problem at the regional level imply that police and judicial authorities could cooperate and thus combat CSEC more effectively and efficiently. The introduction of the free movement of persons, services and capital did not only imply positive but also negative aspects since

“[...] a borderless Europe raised pan-European problems of crime and security as well. If goods, worker, services, and capital move more-or-less freely throughout the EU, so do criminals, moneylaunderers, illegal drugs, traffickers in human beings [...] the EU is constructing a law enforcement and security infrastructure, largely because it has to [...] enhanced Community initiatives in the field of criminal law are needed to deal with the increasing inability of individual states to address pan-European security problems”.

(Fischer 2006: 261)

The thesis analyses why the EU did not step in earlier, but placed CSEC on its political agenda in the 1990s. Why did the EU start considering this issue at this particular point in time? Which factors led the EU to seriously debate the phenomenon at the regional level? The thesis' central research question is *'How and why did an issue such as CSEC enter the political agenda of the European Union in the 1990s?'*

2.2 Sub-Questions

The objectives of the thesis divide the central research question into two sub-questions which bit by bit lead to the main conclusion. The thesis is divided into five major chapters which follow in its outline the order of the sub-questions. Chapter one introduces the topic of the thesis and gives an overview of the problem at stake. Chapters two and three are concerned with analyzing the theoretical foundation needed for the answering of the two sub-questions while chapter four tests the theoretical findings on a case study, namely the placement of CSEC on the political agenda of the EU. Chapter five summarizes the findings and answers the central research question.

First Sub-Question: 'How did CSEC enter the political agenda of the EU?'

It is necessary to find a theory which explains agenda setting in general but which also respects the timing and characteristics of the European Union's policy in the field of CSEC. Therefore the first sub-question will shortly examine which theory is capable to explain the processes and actors that were necessary to place CSEC on the EU agenda.

Second Sub-Question: 'Why did an issue such as CSEC enter the political agenda of the EU?'

The second sub-question analyses the particular conditions and factors which caused the European Union to start debating the phenomenon CSEC and not another one. While the first sub-question examines the processes that took place, the second goes into greater detail to look inside these processes and seeks to find out which particular factors were necessary for CSEC to enter the agenda.

2.3 The Approach of the Thesis: One Theory to explain Everything?

There exist a number of theories and perspectives trying to explain and even prognosticate integration of the phenomenon European Union. However the integration process at the European as well as at the international level is difficult to explain when using (one of) the big known theories such as realism, functionalism, etc. (Conzelmann) Recently it became more usual to examine diverse theories and approaches with the goal to uncover those instruments these theories provide for explaining European integration. These instruments would then be combined in order to receive a perspective which would illumine the issue at stake from diverse points of view. This gives the analyst the chance to get a result which is not one-sided but rather well balanced. As emphasized by Checkel does theoretical diversity enable the researcher to capture all aspects of an issue especially when operating within the context of the complex EU system. Rather than one single theory it is more a development of “scope conditions” with which scholars try to theorize different issues and processes taking place in the EU. (Checkel 2005) The thesis will try to pick up this intersubjective approach and examines which theoretic perspectives may be useful for analyzing the issue at hand – the placement of CSEC on the political agenda of the European Union.

2.4 Where to start?

The EU is a complex institution with diverse actors as well as diverse processes which mostly operate parallel to each other. Trying to analyze one single aspect of this complexity is quite difficult since there is always the threat of drifting away from the actual research topic. In order to be clear where one stands, in which direction one needs to move and which factors one needs to include in the analysis it is necessary to unpack the whole system step by step and to reduce the point of view to the very aspect one seeks to examine. This way the research will be performed in an organized and clear way. However it should be noted that while reducing the point of view one always needs to keep in mind that this is just for the purpose of analysis and that in reality the aspects operate within the whole context.

In general the thesis is concerned with the policy making of the European Union. However policy-making is a huge process with diverse stages. The point of view is still too wide and needs to be narrowed down. The central research question of the thesis, ‘How and why did an issue such as CSEC enter the political agenda of the European Union in the 1990s?’, points in the direction the thesis will take and illustrates which particular stage of the policy making process the thesis will examine. The best device for simplifying the complexity of the policy making process is the policy cycle. With its help one can identify the different steps of the process and consequently narrow down the point of view. In general one can identify the following stages of policy making:

- Agenda setting
- Policy formulation
- Policy decision making

- Policy implementation
- Policy evaluation

Since the thesis is interested in how CSEC entered the political agenda the research will be reduced to the first stage of the cycle, namely the agenda setting. Thus the thesis will not examine which particular instruments were adopted by the EU and why. Further it will also not be analyzed how the EU implemented its policies and how effective these policies and their implementation proved to be.

However it is necessary to prove empirically that CSEC entered the agenda. This will be done through taking a look at debates but also by briefly examining particular laws and regulations which have been adopted. The analysis of these regulations does not aim at their efficiency and effectiveness but has the goal to prove through their contents whether CSEC actually entered the political agenda in the first place or not. Although it is a fact that not every issue which enters the agenda will consequently reach the decision-making stage or even pass legislation (Kingdon 2003), it can be said that the opposite direction applies. Every issue which becomes subject of decision making or even passes legislation certainly entered this process through the fact that it was placed on the agenda in the first place. Thus, if the thesis can show that CSEC either has been debated at the decision making stage or regulations/ laws have been adopted which address the phenomenon, it is proved that the issue entered the agenda.

Another aspect which makes adopted legal regulations a tool of analysis is that they can give hints on who governed the agenda and the agenda setting process. For this purpose it is helpful to take a look at adopted regulations and how far they offer clues about actors which were involved in the agenda setting process. An example would be international actors such as the UN. If we assume that the EU was driven by international behavior to seriously discuss CSEC, evidence might be found in adopted regulations which reflect international strategies and models.

Furthermore the thesis is interested in examining the particular causes for upgrading the problem to the level of serious EU debates. Thus it is not only for interest which processes and actors were dominant in the agenda setting process and influenced it in a crucial way. Going beyond this question it will also be examined by which factors these processes and actors were driven. Why did they decide to deal with the problem of the commercial sexual exploitation of children? For this purpose the time factor not only of debates but also of adopted regulations may give hints which external and internal aspects initiated and/ or influenced EU behavior in this context.

2.5 Framework of Analysis

Linking the theoretical findings to the empirical part, in other words testing the validity of the theoretical approaches through an empirical case study is quite a difficult task. The reader needs to be guided through the whole research process, including its theoretical as well as empirical part, without getting lost in an unorganized study. When organizing this thesis regarding to the research question the most difficult task was where to answer which sub-question and whether it would be useful to separate the empirical from the theoretical part. As already mentioned in the previous sub-chapter the thesis will deal with two sub-questions which also becomes obvious when taking a look at the central research question.

The first one is concerned with how an issue enters the political agenda of the EU illustrated by the example of CSEC, while the second goes deeper in its analysis and seeks to find out why especially an issue such as CSEC entered the agenda.

The subdivision in these two parts was not chosen out of nothing but is based on the theoretical findings. When following the research process which spans the next two chapters this decision will become apparent. Both sub-questions are based on different theoretical assumptions due to their diverse character. A separate analysis of them provides the possibility of a clearer research process. The analysis of the first sub-question is mainly based on Kingdon's approach of agenda setting. The theoretical part will examine which particular conditions need to be fulfilled for an issue such as CSEC to enter the political agenda of the EU. The second sub-question grounds on a coupling of constructivist and rationalist approaches. The question goes beyond purely examining how issues enter the agenda. While digging deeper it seeks to find out which particular factors are responsible that a phenomenon such as CSEC enters the EU agenda. The analysis will take a special look at key actors, processes, etc. which were involved in the case.

The empirical part, though elaborating on both theoretical parts, will not be divided as done in the theoretical analysis. Consequently the empirical part will examine how CSEC entered the agenda while at the same time respecting the character of the issue and therewith addressing those particular factors that are responsible for pushing an issue such as CSEC on the agenda. Subsequent to the theoretical analysis the empirical case study will test if the theoretical perspectives and findings comply with the reality by analyzing bit by bit whether the conditions which were framed before are fulfilled.

3 Stakeholder Analysis

The thesis will analyze how the issue CSEC entered the political agenda of the EU. Before diving into the research process it should be made clear which perspective the thesis follows when discussing the term "agenda". When adjusting Kingdon's suggestions to the context of the EU, the agenda can be defined as a "list of subjects or problems to which [...] [EU] officials, and people outside of [...] [the EU] closely associated with those officials, are paying some serious attention at any given time" (Kingdon 2003: 3). The agenda setting process leading to the list of seriously discussed issues can take a formal form in the case of formal agenda setters and "consists of an agent's right to set the *procedural* agenda [...] by placing [...] proposals [...] thus structuring and limiting [...] the range of possible legislative outcomes" (Pollack 2003: 47) as well as an informal form in the case of external actors, namely "the ability [...] to set the *substantial* agenda [...] through [...] [the] ability to define issues and present proposals that can rally consensus among the [...] decision makers" (Pollack 2003: 47). The next step is to identify who these formal and informal actors inside and outside of the EU are and to identify the key stakeholders which are involved and interested and thus may influence the agenda setting in the case of CSEC.

When starting a study the research is always confronted with the decision of how to define actors. In the case at hand the situation is not different. At the first sight one can observe actors at the international

level (e.g. the United Nations and international operating NGOs), the regional level (e.g. the European Union and regional operating NGOs) and the national level (e.g. member states of the EU and national active NGOs). However these actors consist of individuals which can be identified as soon as one breaks up the black boxes “European Commission” or “member state”. These individuals are not passive actors. They have their own individual identities and interests. Ignoring these individuals and seeing the EU or a state as an unitary actor would elide important information and sophisticate the final result of the research. However despite respecting these factors it is quite difficult to include all these individual aspects. When choosing individuals several factors would need to be included in the research. Is the actor a newcomer or a longtime member of the organization/ body (the same goes for aspects such as experience, age, etc.)? What is the national background of the actor? Does national experience or affiliation shape the socialization process as well as the actor’s behavior at EU level? If yes, how (in a reinforcing or weakening way)? (Hooghe 2005) The dimension of the thesis as well as of the research process is not sufficient for breaking up the black boxes. Thus the thesis will view actors such as the UN, the diverse bodies of the EU, NGOs as well as member states as integrative actors and will mostly ignore that there are individual identities within these institutions.

In order to identify key stakeholders it is necessary to in advance define the particular sector within the EU within which the issue of interest is located. The commercial sexual exploitation of children belongs to the third pillar since it can be located in the sector violation towards children as well as organized crime. Issues which are part of the third pillar are debated intergovernmentally and need unanimity in the Council in order to receive legal character. (TEC) The Commission together with the member states has the agenda setting power which means that she is drafting proposals which are then debated and decided upon in the Council noting the opinion of the Parliament. (Tsebelis 1996; Pollack 2003) Thus the Commission and the member states are the main key actors when considering the formal side of the process. Additionally diverse informal actors can be observed which have direct or indirect impact on the Commission and which therefore need to be respected as well. In the case of CSEC the general public, the media as well as international organizations (e.g. the UN) and NGOs (e.g. ECPAT) came into play at different points in time. Additionally when operating within the third pillar it is not enough to define the Commission as a merely formal actor. As argued by Pollack the agenda setting power does not only depend on who has the formal right to propose legislation but also on the rules governing the decision making process. In cases where the decision maker (the Council) votes by unanimity the agenda setter (e.g. the Commission) has less formal power than in cases of majority vote. (Pollack 2003) But as it is the case with informal actors the Commission may use informal ways for instance through providing focal points or solutions for issues and problems which the decision makers are unsure about. (Pollack 2003)

B How did CSEC enter the political Agenda of the EU?

Kingdon offers an interesting perspective in explaining agenda setting. In consent with the claim that agenda setting constitutes one stage of the policy-making process and that it is composed of different processes itself he carries on and argues that these processes do not run one after the other as the stages in the policy cycle but rather operate parallel to each other. The processes or in his wording “streams” which make up the agenda setting process – the problem stream, the policy stream and the politics stream – develop mostly independently from each other. The hypothesis of independence is based on the fact that organizations such as the EU have three crucial features. (Kingdon 2003, Cohen et al. 1972) Individuals within these organizations define their preferences not clearly, they do not know much about those organization’s processes that go beyond their individual work and individuals fluidly enter and leave decision making processes.⁶ The thesis will apply Kingdon’s approach to the example of CSEC in order to explain its placement on the political agenda of the EU with respect to the time factor. For this purpose the thesis will take a look at each stream individually as well as at the actors involved in order to keep it organized and clear.⁷

Although the three streams operate individually from each other they connect at some points in time; this is when an issue gets the chance to enter the political agenda. However whenever an issue would like to use the connection of the three streams for entering the agenda certain conditions need to be fulfilled. The problem stream needs to have identified a problem which can be related to the issue, the policy stream needs to offer a solution which fits the issue as well as the problem and finally the polity stream needs to be in favor for the issue including the identified problem and the offered solution. Only when these conditions apply the issue can hope to enter the agenda. The earlier mentioned actors (informal and formal) can appear in every of these processes, may it be directly or indirectly. (Kingdon 2003)

For the thesis just those points in time when the streams connect are for interest. How did CSEC enter the agenda? Which particular actors, processes and structures were involved in its placement on the agenda? The research will identify those actors, related problems and developed solutions that pushed the issue ahead.

1 A Problem needs to be identified

When reading the introduction of the thesis and when being a bit familiar with the issue CSEC one would certainly define it as a major problem. With ten million children, both, boys and girls, engaged in

⁶ For a more concrete description of this assumption see Kingdon 2003 and Cohen et al. 1972.

⁷ The thesis will not derive and describe Kingdon’s theory of agenda setting in its whole broadness. For the purpose of following Kingdon’s thoughts and arguments which led him to his results and theory the reader may be referred to his work “Agendas, Alternatives, and Public Policies” from 2003.

CSEC, it is the third-largest income source world-wide right after the sell and trade of drugs and small arms. (Global Fund for Children) This estimate does not leave the European Union out. As illustrated in the introduction CSEC is a phenomenon embracing every part of the world. However a definition of a problem as it was just given does not need to conform with one done by the EU. In other words just because an issue seems to be a problem in general does not mean that it is defined as such by the EU and consequently would make it on the agenda. There are numerous problems out there but only a few get the attention of key actors.

Diverse actors are involved when defining an issue such as CSEC as a problem. Experts contribute to the problem process by sharing knowledge and the results of research studies they conducted. They either publicize reports, studies and findings and therewith influence agenda setting since they may turn the attention of key actors (agenda setters) to particular issues and emphasize the issues' capability of being a problem. Or they are consulted by agenda setters directly. (Kingdon 2003) Experts can be located everywhere, outside (universities, research institutes, NGOs, interest groups) as well as inside the EU bodies occupying responsible positions (expert groups, working committees).

Another important actor especially in such a media-effective issue such as CSEC is the media. While having strong influence on the public opinion they can indirectly push an issue on the agenda. As suggested by Miller those issues getting attention by the public often correspond with those reported on and discussed in the media. Campaigns which are supported by images and pictures illustrating the bodily harm to innocent and vulnerable people receive even more support as suggested by Price (Finnemore/Sikkink 1998). Beside the possibility that the agenda is influenced indirectly by the media through the public opinion it can also be directly influenced by the media. For this purpose it would be necessary to briefly open up the black boxes of EU bodies and take a closer look at the individuals. These are just as impressionable by the media as the people on the street which then may effect their work within the EU. However the thesis will not follow this approach any further due to the explanation given in the stakeholders analysis.

Although there exists empirically evidence about comparable small influence of the media on the agenda setting process (Kingdon 2003) the empirical findings of the thesis at hand emphasized the media as an important actor. However one needs to note that the thesis analyzes a particular issue and not the process of agenda setting in general. Furthermore the phenomenon CSEC constitutes a quiet media-effective issue when responding to scandals as those in Belgium and France and especially during the last years⁸. However large media coverage does not automatically guarantee that the EU picks up those issues.

Whatever their particular resort may be all entrepreneurs have in common to promote a certain issue and to influence the policy making process at some point in time. As the second sub-question as well as the empirical case study will illustrate, entrepreneurs of the issue used a couple of factors which enhanced the chance of CSEC to be defined as a serious problem.

⁸ See: e.g. Stern: Der Fall Dutroux. 24 February 2004.; FAZ: Fourniret gesteht immer mehr Morde. 2 July 2004.; Tagesschau: Zwei Leichen in Fournirets Schlosspark entdeckt. 4 July 2004.

2 Alternatives need to be available

As emphasized in the introduction the thesis does not seek to examine in-depth which particular instruments were adopted out of which reasons. However in order for an issue to enter the agenda it is not enough to define this issue as a problem which needs EU attention. Additionally one or more alternatives must be available which offer appropriate solutions to the problem. If there are no such alternatives available the time for the problem to finally reach the agenda will fade. (Kingdon 2003) This is due to the fact that debating a problem without appropriate proposals takes a lot of time (Kingdon 2003) which is, considering the amount of problems the EU is debating every day, quite sub-optimal for the EU. Consequently an issue which is defined as a problem and further can offer a solution enhances its chance to enter the agenda.

Proposals do not need to fit the problem they address perfectly as the empirical case study will show. In order to be able of still linking his⁹ solution to the problem it is necessary for the policy entrepreneur to frame his proposal. The same is true for the opposite direction when problem entrepreneurs seek to link their issues to prominent solutions. A consequence of the right framing is that the more entrepreneurs use the possibility of framing their solutions or problems, the higher the probability that different proposals aiming at one and the same problem enter the agenda. The process of framing will be discussed further under the second sub-question.

3 The political Environment needs to be in Favor

Kingdon defined the political stream as factors such as changes in administration, public mood, election results, etc. The thesis broadens the suggested definition a bit and includes three additional factors which, while being ‘building blocks’ of the structure, may let the political environment, namely the structures, be in favor for the problems and solutions developed in the other two processes. The first added factor which may have impact on the agenda setting process are changes in the international and/ or regional constellation. These changes initiate new challenges a government or in the case of the EU an organization has to face and consequently may decrease or increase the magnitude of a problem, either making an intervention of the EU not so essential anymore or forcing the EU even stronger to discuss the problem. International and regional changes in the case of CSEC can take different forms. The constellations changed for instance through the end of the Cold War or the Eastern enlargement of the European Union. A second building block consists of diffusing values and norms such as the anti-trafficking norm and the anti-prostitution norm which trickled down from the international level. This

⁹ In order to keep the text fluently the male form will be used for all actors and persons throughout the thesis. This happens without any regard to the actual sex of the respective actor or person.

point will be discussed in more detail under the second sub-question. The third building block is the legal framework which has been changed in the EU several times. There can be numerous problems floating around in the European Union, as long as the EU does not have the legitimacy to intervene it cannot take any action. Consequently the thesis needs to take the possibility into account that the EU did not place CSEC on its agenda prior the 1990s due to a missing legitimacy and if this is true, whether this state changed since the 1990s.

C Why did an Issue such as CSEC enter the Agenda?

The question which needs to be answered prior the actual research is which theory or perspective should be used regarding the topic at hand. The European Union is a unique kind of institution with particular features that cannot be found somewhere else, at least not in this particular constellation. The EU calls a dense repertoire of norms, rules, decision- and policy-making processes as well as diverse actors and bodies its own. Due to its multi-level-governance system the EU works within a set of actors coming from multiple levels. Governmental as well as non-governmental actors from the sub-national, national and inter-/ supranational level all together operate within the structures of the European Union. The interdependent character of the EU institution reinforces processes such as transnational discussions including the formation of coalitions and thus provides less room for intergovernmental bargaining processes. (Locher 2007) All in all the EU is not purely build on its particular organs and the functions, procedures and tasks these organs need to fulfill. Due to its dynamic character the EU widened its normative and cognitive dimensions within the originally established rules. Social learning and communication processes turned the Union into a community of shared values and norms (normative dimension) as well as a common identity (cognitive dimension).¹⁰ The ongoing integration progress strengthened by further learning and communication processes is the foundation for further identity and interest shaping. An adequate theory needs to offer enough appropriate instruments for analyzing this increasingly complex character of the European Union.

As emphasized in the introduction the thesis is endeavored to follow an intersubjective approach in its theoretical assumptions, meaning that not only one theoretical perspective will be examined but rather a combination in order to illumine the phenomenon CSEC and its placement on the political agenda of the EU from diverse points of view. The main academic argument among scholars regarding social issues such as CSEC is between an ideational (e.g. social constructivism) and a rational approach (which includes different notions such as of realism, etc.). Especially in the International Relations the two approaches are seen by scholars as conflicting factors (Finnemore/ Sikkink 1998). However a biased argumentation like that leads to incomplete theoretical perspectives since studies solely based on constructivism exclude rational behavior of actors and vice versa. This is not helpful when trying to theorize or explain empirical findings as argued by Finnemore and Sikkink and as shown in the thesis at hand. Empirical research studies offer numerous cases where norm-based behavior as well as rationality occur at the same time within the same setting. In order to analyze if the decision of the EU to place CSEC on its political agenda has been rational or was based on norms one needs to define rationalism and constructivism a priori.

¹⁰ Parliament. Debate. 13 January 2003.

1 Social Constructivism

Since there does exist no “fully fledged” theory of constructivism in the field of international relations, “[...] constructivism remains more of a philosophically and theoretically informed perspective on and approach to the empirical study of international relations.” (Ruggie 1998: 856)

Constructivism is a perspective which offers a number of diverse approaches. Theorists, although concurring in the core of the theory, follow different paths when working within constructivism. The core of all assumptions is that the reality as we see it does not exist just naturally. This means that reality is always constructed by actors who behave and interact in a particular way. Thus, an important factor of the constructivism are actors. The other factor which plays a major role in the constructivist perspective are the structures within which actors act and behave. The constructivism tries to analyze the constellation of actors and structures in a way supposed to explain what influences what.

Wendt tries to solve this dilemma by using a perspective which says that both, actors and structures, influence each other. This implies that they are mutually dependent. Structures determine actors and their behavior while at the same time actors either sustain or modify these structures through their actions and behavior. Thus, one can observe a cycle of impact. However, although Wendt tries to find explanations for the development of actors and structures he still “favors” the structure. In his view structures are responsible for actors acting and behaving in a certain way. They establish certain rules which offer a sphere to the actor within which he then acts and behaves on his own choice. Which kind of particular action and behavior the actor finally chooses is determined by the features of the actor and to a certain extent not influenced by the structure. Thus it is always the structure which is firstly needed in order to make action by the actor only possible.

Constructivism neglects neither the existence of material factors nor their influence on the behavior of actors. As well as the rationalist does the constructivist imply material behavior in his approaches. However the constructivist distinguishes himself from the rationalist since he analyzes the meaning which in his view is always connected to a particular decision or action taken by actors. This meaning can be initiated through different factors, such as a certain identity of an actor, common knowledge (the interpretation and assessment of the context of the actor’s behavior done by the actor himself and by others within a particular social setting), norms which regulate the proper behavior an actors or a certain culture. Besides determining the meaning which is given to decisions and actions these factors also motivate behavior and decisions of actors in the first place. (Katzenstein et al. 1998)

Since the thesis at hand is interested in the upcoming of serious CSEC discussions at the EU level the constructivist approach is well suited for meeting the requirements of a thoroughly well analyzed study. Surely constructivism cannot replace a traditional integration theory in general however it can be used to analyze a particular empirical case in order to find alternative suggestions which may be left out by the traditional theories. (Locher 2007) Thus, the analysis of the single case of CSEC may be enriched by including constructivism though it does not appear as a substantive theory of EU integration.

2 Rationalism

Rationalism assumes, contrary to constructivism, that actors act and behave due to anticipated consequences and based on their own interests. In order to achieve their goals they use communicative instruments such as language with which they try to realize their interests and to further create structures favorable for them. (Lewis 2005). Actors do not comply to norms because of senses of responsibility or duty but because of cost-benefit calculations. Norms are only instrumentalized for personal interests and used as a foundation on which the behavior can be justified. As argued by Lewis may the structures change the incentives for actors however the identities and interests remain unchanged.

Kingdon argues that human beings and therewith the EU bodies consisting of human beings are not able to rationalize their behavior in a way as it would be most efficient. In reality diverse actors with diverse goals, alternatives, ideas, etc. meet and intertwine. In these processes the level of rationality goes down caused by imperfect information, not fully clarified goals and organized proceedings. However this is how it looks when observing the processes from up above. While having full information access and while seeing what everyone is doing, an outsider may describe the processes as unorganized and non-rational. However out of the sight of a single actor who operates within these processes his behavior does seem rational. He sets his goal, plans his proceeding (might it happen totally independently or, more probable, due to constraints) and works towards his goal. Giving up on some goals for the sake of others is part of the game of achieving interests. Although these processes may not comply with the most efficient rationality model, they still are based on calculations and thus are rational rather than ideal.

3 Constructivism versus Rationalism?

3.1 Is a Relationship between Constructivism and Rationalism possible?

The brief illustration above suggests that actors' behavior can be explained either as social and/ or ideational or as rational and/ or materialistic. However recently there has been approaches aimed at connecting the two conflicting perspectives. (Hooghe 2005; Finnemore/ Sikkink 1998) As well as other actors norm entrepreneurs, though driven by norms and values, are interested in achieving their goals such as getting CSEC on the political agenda of the EU in order to have support in the fight against this problem. For this purpose they make strategic calculations and plan their proceeding very well. Just as everyone else are norm entrepreneurs very conscious about the fact that chaotic and unorganized actions are not as efficient and effective as well thought out actions. The following illustration may elucidate this assumption.

Actors such as norm entrepreneurs first develop identities and preferences based on norms, values and appropriate behavior. Afterwards the norm entrepreneurs act strategically by creating a plan on how to convince and win over other actors which then may support the same preferences. The former aspect is mainly analyzed by constructivists who seek to explain how these identities and preferences develop. However one needs to note that those actors who develop preferences are always influenced by other actors surrounding them and thus by potential strategic and rational behavior of these other actors. The latter aspect is mainly analyzed by rationalists who seek to understand how actors calculate their actions. Yet here we find constructivist approaches again, especially in environments such as the EU where force is absent and actors try to win over others by persuading them of the appropriateness of certain norms and actions. However this very limited insight into the relationship between constructivism and rationalism does not illustrate the very complexity of the same which is mainly due to the fact that there are still discrepancies about the exact nature of the link between the two perspectives regarding to where, when and how they are related to each other and how strong they are related at every single point in time. (Hooghe 2005) As emphasized by March and Olsen do “political actors [...] calculate consequences and follow rules, and the relationship between the two is often subtle” (March/ Olsen 1998: 952).

3.2 The Role of Norms in the European Agenda Setting Process

The preceding sub-chapter introduced among others the constructivism as an appropriate approach in analyzing the integration process of the EU in connection with the placement of CSEC on the political agenda. One important aspect of the research topic CSEC which must not be ignored is the time factor. As illustrated in the introduction CSEC entered the agenda of the EU about fifteen years ago though one can observe the phenomenon in Europe at least since the seventies. Due to this fact one should pay attention to the possibility of changes either in the identities and preferences of dominant stakeholders or in the structures surrounding them. Constructivists emphasize the role of norms in developing, shaping and changing actors’ identities and preferences especially within the social sector. In the following the thesis will illustrate the role and impact of norms within the context of the phenomenon CSEC.

3.2.1 Definition of “Norms”

Material things, though they are certainly present in a unique way, are viewed different by different persons. According to constructivists it is the meaning and interpretation which the person gives to a particular (material) thing which then makes a thing bad or good, valuable or worthless, beautiful or ugly, etc. to this person. (Nicholson 2002: 122-123) The more persons share the same view about a certain thing the more this view gets accepted as appropriate. Money for instance is paper or metal which would be totally worthless without the agreement by all concerned persons that this certain kind of metal or paper is to be used as an exchange instrument. (Nicholson 2002: 123)

The cause of choosing norms as an additional element in this research is initially based on the perspective of Finnemore and Sikkink who published an article in International Organization aimed at analyzing political change. They emphasize that even constructivism, though assuming change, does not offer as much useful equipment for the analysis of change as it does for the analysis of stability. As a

consequence both authors refer to norms research which according to them has not only risen in political discussions but in areas like economics or law as well. (Finnemore/ Sikkink 1998: 888) They argue that norms constitute an important analytical instrument when examining dynamics in political processes and when assuming change in actors' attitude and identities as a crucial cause for a particular behavior. This way norms research complements the constructivist's and rationalist's perspectives and thus enriches the analysis of the topic at hand, namely the political process of agenda setting in the context of a social issue.

In order to use norms research as an analytical instrument it is necessary to address some crucial questions. It will be asked which norm we are talking about, meaning which norm is related to the phenomenon CSEC. As soon as it is clarified which particular norm we are talking about it will be asked where this norm comes from, where its origin can be marked. Furthermore it will be analyzed how the norm exerted influence on important actors.

Although there is no common definition norms are generally described as "a standard of appropriate behavior for actors with a given identity" (Finnemore/ Sikkink 1998: 891). The opinion about when a certain action or behavior of an actor is appropriate or not regarding to a certain norm is only possible when an interplay between the norm and the society in which the actor operates is given. Norms can only prescribe appropriate behavior when the evaluation of the appropriate behavior is intersubjective, which means when it is shared by the society.

An important question when talking about norms and its probable influence on actors' behavior includes how we can detect a norm. Which clues show that there is a norm which may be responsible for a change or for stability in a particular behavior? A fictive example will illustrate how the existence of norms can be detected. The example at hand presupposes that norms are responsible for changes in behavior.¹¹ It should be assumed that inhabitants of a town have always burned their garbage directly on the street. This has been seen as normal for several years. One day some inhabitants read in the newspaper that this practice is unhealthy and may be the cause for the illness of some older people and children. Further was written that it would be much more appropriate to handle the waste with the help of an incinerator outside the town. The consequence were big and long discussions at several occasions such as municipal meetings. The emerging norm against the burning of garbage in the middle of the town entailed discussions about the issue including justification as well as critique on the old method and on possible new methods. This example shows that there can be evidence in the form of communication which is pointing to the existence of a (new) norm. Without the emergence of the new norm there would have been no discussion on the appropriateness of the burning of garbage. Thus, language and other forms of communication can be used as an instrument to trace the very existence, the development as well as the influence of norms.

3.2.2 Diffusion of Norms

There need to be an origin which can be seen as the starting point for transformation in the international context. Norms, rules, etc., as important elements within structures, are influencing and even constructing actors' behavior. Vice versa does actors' behavior either reproduce or change norms and

rules and thus the structure. Consequently norms, rules, models etc. can be seen as one possible origin of change including global change. In the context of the European Union one can observe norms such as human rights, human interventions or citizenship which are accepted and taken for granted. However though these norms are not contested anymore by the member states there need to be a starting point, a source where they originated from and a process of development which turned them into the accepted norms they are nowadays. This process can be analyzed by using a concept of Finnemore and Sikkink, the life cycle of norms. (Finnemore/ Sikkink 1998)

The cycle consists of three stages, each covering one crucial part in the development of a norm. During the first stage – the norm emergence – norm entrepreneurs (e.g. activists, NGOs like ECPAT, international organizations like UNICEF, the media) develop a new norm and then try to convince other actors of this norm by using organizational platforms (NGOs, advocacy networks). (Menzel 2001) In order to spread their norm entrepreneurs use the instrument of language which is capable of addressing actors as well as convincing them. They “call attention to issues or even create issues” by “[naming], [interpreting], and [dramatizing] them” (Finnemore/ Sikkink 1998: 897).

During the second stage – the norm cascade – the norm leaders which were convinced of the new norm at the previous stage play a major role. They spread the norm by convincing even more actors (“norm followers”) of the norm’s appropriateness. This can be best described as a socialization process accompanied by an accumulative effect¹². But what is necessary that actors esteem particular norms as appropriate and thus enhance the diffusion of these norms? Why did more and more states adopt democratic structures, why did international organizations and governments bind themselves to human rights agreements, etc? Reasons for this process are multifarious. Neoliberal institutionalists emphasize the goal of the actors to behave in a way which is efficient and thus follow certain cost-benefit-calculations (Locher 2007). Beside factors such as coercion, competition, rational thinking and the belief that certain norms and models are just more efficient than others constructivism offers two diverse explanations. One points in the direction that actors adopt a particular norm because they have been convinced of the validity of the norm. The other one assumes that actors seek for acceptance and legitimacy. Especially developing countries act according to the so-called “script of modernity” where actors such as governments adopt certain norms and models, mostly with Western origin, in order to appear modern, progressive and reliable concerning foreign resources. These commitments to alternative norms and practices may seem to happen voluntarily but are mostly influenced by external forces. The same is true for those European countries who seek for membership in the EU. New member countries need to fulfill certain criteria in order to become part of the “club”. Going further one can observe the same process in the context of the EU as a whole. The EU is an institution with a common identity and with certain values which developed over the years. In order to prove its status and legitimacy to the outside and the inside the EU needs to behave according to these values with every single action. Thus the ‘script of modernity’, namely the aspiration for acceptance by other actors, applies to the EU as well though in a lightly altered way.

¹¹ The author would like to emphasize that the chosen example and the presupposition that norms are responsible for changes are not taken for true and only serve for the purpose of explanation and clarification of the problem at stake.

¹² Finnemore and Sikkink describe the accumulative affect similar to the effect of “peer pressure” (Finnemore/ Sikkink 1998: 903).

The third stage – the norm internalization – describes the implementation process of the new norm. This stage, which constitutes a more advanced form than the purely adoption, puts the new norm into a position where it is not contested and discussed anymore and thus is taken for granted. Especially at this stage of development, new norms have to overcome several barriers which appear in the form of already internalized norms and which constitute a certain “standard of appropriateness” (Locher 2007: 66) which new norms need to face. For norms to complete the third and last stage of their development it is necessary to be institutionalized within particular structures. Constructivists emphasize the international dimension when talking about norm institutionalization. Especially since the middle of the twentieth century norms have been predominantly implemented in international and regional organizations such as the UN or the European Union. (Finnemore/ Sikkink 1998)

Since daily processes within the European Union are largely based on communication and discussion processes, it is important for actors to use or create institutions such as networks, relationships and conferences to promote their preferences. Especially through networks actors are able to use diverse knowledge inherent in different actors. Politicians possess totally different opportunities (e.g. knowledge concerning the processes and rules related to EU policy-making) than experts (e.g. technocratic knowledge) or non-governmental actors (e.g. practical experiences). In order to promote a norm or preference successfully it is supportive to intertwine as argued by Locher and to work in teams composed of different actors. These relations can take formal (e.g. experts or academics are consulted on payroll) and informal forms (Kingdon 2003) and are more common in the EU which is highly communicative than in other regional or international organizations. Thus for the goal to place CSEC on the political agenda of the EU, it would be useful for non-governmental actors who work in the area of children rights to establish relationships and networks to politicians inside the EU who are concerned with the same issue (e.g. politicians in the area of family and youth issues). The additional knowledge as well as the different positions of actors within the EU and its environment strengthen the efforts of entrepreneurs and make it more probable to win over more and more actors.

Another important tool are frames which can be seen as mental maps that “[...] offer a perspective from which an amorphous, ill-defined and problematic situation can be made sense of and acted upon” (Locher 2007: 83). Frames are needed in order to bed an abstract issue within a context which will interpret and contextualize the issue and this way introduce the problematic case in an understandable and discussible way to other actors including the broader public. Without frames, discussing and arguing about the issue is hardly possible. As stated by Locher the character of a norm does not come on the surface unless it is exposed by the entrepreneur which can be done through just this framing process. However frames not only embed the issue into a context, they raise awareness for the issue in the first place. If an actor for instance intends to introduce a new norm he needs a frame which links the norm to certain events, actions, behavior, identities, etc. This way the norm becomes an issue which is argued and discussed about.

As it is the case with structures, actors mostly face already established frames when trying to create new frames. (Locher 2007) Additionally, in a pluralistic environment such as the European Union it hardly occurs that there is only one single actor or group of actors presenting a frame. In most of the cases different actors advocate alternative and differing frames for the same issue. Especially when these frames are conflictive actors either need to compete among each other or try to combine their frames. Though other frames may be differently from his own conception, an actor may use the existing or upcoming

alternative frames for his own purpose. This means that he extends his own frame in such a way that it can be linked to other frames and thus to a certain extent fits other frames. This is especially necessary during the second stage of the norm's life cycle since here the actors spread their norms, certainly a process where additional frames appear on the stage. (Finnemore/ Sikkink 1998)

3.3 So where do we begin our Analysis?

The thesis will emphasize the work of two norms which can be linked to the decision of the EU of placing CSEC on its agenda. The anti-trafficking norm as well as the anti-prostitution norm touch the core of the phenomenon CSEC. Trafficking in human beings as well as child prostitution form two main aspects of the commercial sexual exploitation of children. (Locher 2007) However two points need to be clarified prior the empirical analysis. First, is the behavior of the EU going beyond being solely related to the norms and is more likely based on the norms? Or is the behavior driven merely by self-interests of the EU or even the member states? For this purpose it is necessary to define 'interests' and the nature of norms. On the one hand interests of actors may be selfish without being materialistic at the same time. (Finnemore/ Sikkink 1998) On the other hand norms do not always need to be ideational in a way it might be understood in the context of CSEC, such as that sexual abuse of children is a horrible act. Capitalism for instance is supported by actors who are driven by certain norms. That however does not mean that any alternative state concept such as socialism which is supported by actors who are operating in the same system is seen as inhuman and horrible by the capitalist actors. Thus we can conclude that norm conformance can be self-interested and that a clear-cut differentiation between norm-based and interest-based behavior is not always possible. As suggested by Finnemore and Sikkink, there are cases where "norm conformance may be driven by [...] self-interest" (Finnemore/ Sikkink 1998: 912).

The second point arises out of the first point and asks for the starting point of analysis? In order to analyze this aspect one needs to take a look at two different sides of argumentation which are again based on constructivist and rationalist perspectives. When assuming that actors behave in a certain way either because they share the meaning and appropriateness of the norm which is motivated by senses of duty, responsibility, etc. or because this is seen as appropriate by the environment, then the discussion is located in the constructivist arena. When contrary assuming that actors conform to a norm because this way they can achieve their personal goals then we operate in the rationalist arena. Depending on which argumentation one follows this leads the researcher to different methodologies. The latter approach assumes the actor as the starting point of analysis. The actor knows what he wants and conforms to a norm because the norm helps him getting what he wants. This way the norm is instrumentalized. The former approach is structure-based. Norms which are embedded within the structure surrounding the actor influence the actor's behavior. Actors behave according a common identity, a sense of duty and/ or a sense of responsibility.¹³ Depending on which approach is selected one chooses the methodological proceeding

¹³ At this point it need to be noted that the actor does not need to share the appropriateness of these norms. As suggested by Checkel there exist two ways why actors conform to a norm. Both ways emphasize a "logic of appropriateness" which is contrary to a "logic of consequences" and which is not driven by calculations about benefits and costs. In the first way the actors conform to a norm because this behavior is accepted and habitual within his environment. This can imply that the actor acts in accordance to the norm without personally agreeing with it. In the second way the actor truly agrees with the norm he is behaving in conformance with. This may imply that the actor adopts the identity of his environment.

which means the starting point of analysis. Also important when choosing the methodological proceeding is the unit of analysis. The thesis assumes that the EU was influenced by norms coming from the international level and by the behavior of external non-state actors (e.g. UN, ILO, ECPAT). The anti-trafficking norm as well as the anti-prostitution norm both trickled down from the international level especially from the UN bodies. This assumption is grounded on an empirical case study done by Locher who investigated these two norms in the context of trafficking in women. She came to the conclusion that the behavior of the EU is strongly orientated on the international level which served as a role model for the regional level. The empirical part of the thesis at hand will demonstrate to what extent the behavior of the EU in the context of CSEC can be traced to the international behavior. Consequently the research process first examines the structure (e.g. norms and behavior models which trickled down from the international level, external actors) and then the influence of this structure on the behavior of EU actors. Thus the thesis follows a structure-based approach and the unit of analysis is (are) the EU (actors/ bodies).

3.4 CSEC: Which Norm Features matter under which Conditions?

Different issues need different factors which enhance their prominence and which push them onto the agenda. In the following those conditions necessary for an issue such as CSEC will be briefly discussed in order to test them in the case study.

3.4.1 Legitimation

Finnemore and Sikkink argue that states adopt certain norms out of legitimation aspects. States as well as organizations like the EU seek to improve their international as well as domestic status or reputation. Consequently they act and behave according to those norms and values that are seen as appropriate by the international community. The EU as a community of values (Janowski 2006) commits itself to certain values and norms which go beyond economic interests. Through the European Charter of Fundamental Rights, adopted in 1999, the Union lists its values and emphasizes that the European integration does not only touch economic but also social and cultural ideas. (TEC) Thus in order to keep its credibility with other actors the EU needs to reinforce these values through its behavior and stand towards certain phenomena. Non-state actors such as NGOs or experts can be observed in emphasizing the legitimation aspect. After crises such as sexual abuse cases, norm and policy entrepreneurs use the media and other tools to mobilize the public and thus indirectly put states and organizations under pressure to behave according to commonly accepted values.

The pressure can take external and internal forms. (Finnemore/ Sikkink 1998) Major world conferences (e.g. initiated by the UN or international NGOs) exert pressure not only on states but also on the EU to become active in certain problems. Debates of the European Parliament as well as questions from the Parliament to the Council or the Commission did for example include the position of the EU in CSEC matters and how the EU intends to present itself and its position at particular international conferences.¹⁴ Internal pressure can be exerted by the public. As mentioned crises especially in connection with the

¹⁴ Parliament. Question Number 24. 5 July 2001.; Parliament. Question Number 21. 13 December 2001.

sexual violation of children mobilize the public and can cause public outcries with the result that the public demands the EU to do something in order to protect the children in the EU.¹⁵

3.4.2 Intrinsic Character of the Norm

The context as well as the formulation of the particular norm are important when trying to explain its success. With regard to the norms related to CSEC (such as the anti-trafficking norm and the anti-prostitution norm) it is more the context which could give hints for the success of the issue in making it on the political agenda of the EU. Keck and Sikkink argue that inter alia there is one important aspect which may decide if a norm becomes successful and thus accepted or not. Those norms (and therewith related issues as well) that involve “bodily integrity and prevention of bodily harm for vulnerable or innocent groups, especially when a short causal chain exists between cause and effect” (Finnemore/ Sikkink 1998: 907) are more successful than other norms.

Here again, it is important how the issue at stake is framed and interpreted. The content of a norm or a issue/ problem is not visible by nature but need to be named by the respective norm or policy entrepreneur. When trying to argue with the intrinsic character it is necessary that those aspects of the issue relevant for this argumentation are stressed, especially with regard to those actors that need to be addressed and convinced about the relevance of the problem. The issue CESC fulfills the conditions of an intrinsic character. Children belong to the most vulnerable group within the society. Protecting them from violence, especially sexual violence, is a strong argument in favor for the relevance of the problem CSEC. Furthermore does sexual abuse fulfill the criteria of a direct causation between the offence and the physical and psychological effects for the well-being of the child.

3.4.3 Path Dependence

Framing the norm the right way is not only important in regard of linking it to events, solutions, etc. As already briefly discussed norms and problems that arise, always face already established values, norms and laws which either hinder or support the success of the newcomer. An example may illustrate the importance of the right framing process. When framing CSEC explicitly and solely within the anti-prostitution frame it is quite difficult to success in the fight against CSEC. In the European society prostitution in general is not implicitly linked to the use of force and violence but rather based on the condition of ‘informed sexual consent’. Hence the use of the term ‘prostitution’ may be misleading in the case of children. It hides the abusive character of the problem and claims the child as the offender rather than the victim. Entrepreneurs trying to place CSEC on the agenda using this way of framing may fail. However when framing the issue within the debate of sexual abuse of children chances of success increase. Contrary to prostitution is sexual abuse especially in the case of children seen as a completely cruel act and as a violation of human rights.

¹⁵ See: e.g. FAZ: Der reisende Täter im Visier. 5 July 2004.

D The Agenda Setting Process of CSEC

As discussed in the theoretical part in order for an issue to reach the political agenda of the EU several conditions need to be fulfilled. The following case study which uses the example of the Commercial Sexual Exploitation of Children will test whether the theoretical assumptions are valid in reality and thus able to explain how and why CSEC entered the agenda. Contrary to the theoretical part the empirical part will not be divided into two sub-parts but rather discuss whether and how all conditions apply to the issue and how they intertwine. For this purpose the case study will discuss the three identified processes – the problem creation, the policy creation and the political stream – and examine if the agenda setting process of CSEC followed these conditions. Additionally it will be analyzed if the factors identified under the second sub-question – self interest, pressure, the public opinion, developments of the issue itself, the international level, norms, etc. – correspond with the reality.

1 Do we have a Problem?

“The European Parliament started to discuss the issue of trafficking in the 1980s for the first time. But that was very small. We were trying to push it on the ministers’ agenda, but we did not succeed very much. There was no responsiveness from the other EC-institutions. Violence and trafficking were issues which, at that time, were only considered by the Parliament, but not by the Commission or Council. Trafficking was not a political item for them – it did not exist, there was no discourse.”

(Anne van Lancker, MEP from Belgium, former vice-president of the Committee on Women’s Rights and Equal Opportunity. In: Locher 2007: 150)

1.1 Two World Conferences on CSEC

One factor able to increase the chance of an issue to be defined as a problem in the European context are key events which focus the attention onto this particular issue and which may convince those actors responsible for defining problems in the EU to pick up the issue. These events can have different characters. One possibility for entrepreneurs is to organize campaigns or conferences which are capable of creating attention and to push the issue in the middle of discussions. The international NGO ECPAT initiated two world congresses concerned with the phenomenon CSEC. However whether these congresses were able to create the kind of attention that is necessary will be examined in the following.

1.1.1 First World Congress on CSEC, Stockholm, 1996

In August 1996 the First World Congress against Commercial Sexual Exploitation of Children took place in Stockholm, Sweden. The congress was initiated by the NGO ECPAT and organized by the same as well as the Swedish government, UNICEF and the NGO Group for the Convention on the Rights of the Child. More than 1,300 persons from all over the World participated in the conference and represented 471 non-governmental organizations, 105 inter-governmental organizations, 122 states as well as members of the public such as children (a delegation of 47 children and young persons) and experts. The congress is a response to “an inhuman growth industry” (Background Document 1996) and is aimed at developing strategies and measures appropriate to eliminate CSEC. A conference which brings together state actors and non-state actors on the topic of CSEC has not been held yet which turns the congress into a ground-breaking event.

The conference was an useful instrument for entrepreneurs as well as any other actors who seek to diffuse their opinions and action plans. A huge event like that brings together actors from numerous sectors that are included in the fight against CSEC. Thus the conference provided a platform to create awareness for the issue, to exchange information and experience as well as opinions, to establish and strengthen contacts and networks and to develop common strategies and plans of action. Workshops and topic related discussions facilitated an efficient working atmosphere with the goal to include as many diverse actors as possible. The declaration and agenda for action which concluded the conference explicitly commits itself to the CRC and the task of governments and, as an important factor, of international, national and regional organizations to protect the rights of the child which includes children’s protection from any form of violence as stated therein.¹⁶ Thus the fight against CSEC at the international, national and regional level is not only the task of all states which signed the CRC but includes (international) organizations as well.

The declaration and agenda for action lists several aspects which has been picked up by the EU and translated to the conditions of regional European legislation. The congress explicitly emphasizes the cooperation among states as well as between states and non-governmental actors in order to combat CSEC in a more effective way. Different measures of the EU can be reduced to this requirement. Framework decisions as taken by the Council of Ministers strengthen the cooperation of police and judicial authorities among the member states and furthermore involve non-governmental actors such as NGOs and the public in cooperation strategies. The European Commission plays a major role in initiating as well as coordinating programs which facilitate these collaborations. The EU is further endeavored to direct its measures into a direction parallel to the recommendations of the Stockholm agenda which emphasize that the prevention of violence against children together with the protection, recovery and reintegration of victims are the most important factors in the fight against CSEC. Thus the EU adopted regulations which stress a child sensitive approach with the affected child as the victim in the center of any action.

¹⁶ See: Agenda for Action against CSEC. Stockholm. 1996. Number 2(ii).

1.1.2 Second World Congress on CSEC, Yokohama, 2001

In December 2001 the Japanese government together with ECPAT, UNICEF and the NGO Group on the Convention on the Rights of the Child again invited representatives from governments and international, regional and national organizations, including non-state actors to participate at a second world congress against the commercial sexual exploitation of children with the venue in Yokohama. The conference aimed at the exchange of new information and experiences, the strengthening of networks which had been established at the first congress in Stockholm and the discussion of the progress and lessons learned since 1996. Furthermore the actors intended to develop new plans of action and to put forward the fight against CSEC. However it was difficult to evaluate the progress that had been made since Stockholm and to build on lessons learned since no children rights' monitoring mechanism had been implemented at the intergovernmental level. Reports, published by ECPAT, which describe the implementation of national measures concerning CSEC and the existence of a special rapporteur on the sale of children, child prostitution and child pornography were the only tools trying to overcome the missing monitoring system.

The congress ended with the Yokohama Global Commitment which again reinforces the need to develop common strategies that involve governmental as well as non-governmental actors from the national, regional and international level. The topic of the conference, CSEC, which traditionally only covers forms of trafficking in children for sexual purposes, child prostitution and child pornography was expanded to all forms of sexual abuse.

The congress addressed a number of factors which must be reinforced in the future by governments and other actors. Existing national and international laws and measures such as policies and programs need to be reviewed concerning their effectiveness and where needed renewed. Furthermore should national laws be harmonized in a way that they work consistent with international measures. Thereby political and other actors are strongly recommended to stronger participate in the fight against CSEC by ensuring the implementation of national actions plans and international conventions. Especially the work of non-governmental actors need to be respected in a stronger way and the creation of networks should be facilitated. Concerning the treatment of prostitutes the participants emphasized once again that the child prostitute should under no circumstances be penalized but rather be viewed as a victim which need to be protected and supported concerning its future life. One important point while discussing measures to protect children was the explicit statement that all children under eighteen years need to be protected from CSEC irrespective of the sexual consent. However the protection and victimization of child prostitutes should not leave affected children without a voice. As one participant, a survivor, stated:

“Crucial to this understanding is the voice of vulnerable and exploited children. I believe their voices must become central to our actions against the sexual exploitation of children. If you see us only as victims, you have missed the point. We could be leaders, indeed many of us are...”

With statements like that in mind the congress emphasized the participation of the most important stakeholders within the fight against CSEC.

1.2 Crises

Congresses and campaigns are not the only focusing events by definition. Instead of intentionally organizing an event in order to create attention, events such as crises can happen at any point in time changing the whole situation. However as in the case with conferences these crises need to be instrumentalized. Although they may create huge attention among the public and politicians, entrepreneurs need to use this possibility for pushing forward their issues which they would like to see on the agenda. Furthermore crises do normally not fit particular issues of entrepreneurs. Consequently actors need to frame a crises in a way that it fits their issue in order to increase the possibility of this issue to be defined as a problem.

1.2.1 The Dutroux Scandal

1996 constituted a terrible year for Belgium and at the same time a year with enormous influence on the European behavior in the context of CSEC. A male Belgian, Marc Dutroux, was arrested and accused for abducting, sexually abusing and killing several children. The case initiated a huge shock wave among the Belgian population as well as internationally due to massive media coverage going beyond the national borders. Large funeral marches increased the creation of global awareness for the case. Additionally demonstrations took place addressing the government and the authorities and claiming for action which would protect children. In July 2004 Dutroux was convicted by the Belgian court.

The case had a powerful influence on the European Union since it turned the abstract issue of sexual abuse of children into a real and horrible picture showing how the reality looks like. The public was showed that dignity and the human rights of the most vulnerable societal group, namely children, had been violated. The protection of its children and of vulnerable groups in general is a strong interest of the society which can be observed quite globally. Furthermore did the case illustrate that sexual exploitation and abuse of children does exist right in front of the European people rather than in countries far away.

“In the Commission the engagement against sexual violence was bigger because, suddenly, because of what happened in Belgium: they realized it’s our children! We have it at home! It’s not only these children in Thailand or the Philippines or children of color, these children that are different and far away. But now, really, you got an engagement in the Commission. [...] You could just not ignore it! [...] Our children. It could be yours – or as Bangemann said, ‘it could be my grandchildren!’”

(Anita Gradin, Swedish Commissioner to the European Union. In: Locher 2007: 235)

The European Parliament reacted to the incident directly and instrumentalized it for initiating more action within the European Union. CSEC and the related norms of trafficking and prostitution were framed within the broader frame of human rights and their violation. This is a quite new approach since the rights of the child were not seen as part of the human rights until the UN Convention on the Rights of

the Child was concluded which explicitly defined children rights as human rights.¹⁷ Although there were debates initiated by the Commission about human rights, the children rights approach has been left out until recently which was mainly due to missing knowledge and information about the topic.¹⁸

The Commission reacted as well by producing proposals and reports concerned with the issue. Furthermore the council did not stay behind and explicitly included the phenomenon trafficking in human beings as a concern which must be addressed within the area of Justice and Home Affairs at the European level. Thus, the issue trafficking was upgraded to an international concern which needs to be targeted through European cooperation and coordination measures.

Community action proceeded in the second half of the 1990s when the Commission initiated several programs aimed at combating trafficking and prostitution of children such as the STOP program which will be discussed in a later chapter. Now the Parliament was not the only body anymore who actively debated the phenomenon. The behavior of the Commission introduced the involvement of the European Union not only by formally adopting conventions and agreements but by actively creating policies and programs aimed at implementing adopted regulations. Furthermore did the Commission's action involve the Council of Ministers as well, an additional support for the placement of CSEC at the agenda of the EU.

1.2.2 The Fourniret Scandal

One week after Dutroux has been convicted, Belgium experienced the next scandal. The French Michel Fourniret who has been arrested in 2003 admitted to have sexually abused and killed at least nine women and girls. As in the Dutroux case, the Fourniret scandal did not only achieve international attention due to the cruel criminal acts but also due to the fact that the offender had been active in more than one European member state. The police investigated cases in Belgium and France. Additionally there was an investigation by the Danish authorities concerning an old but never closed case of a murdered girl in Denmark. The German police authorities reinvestigated cases which happened in the nineties.¹⁹

The scandal, just as the Dutroux scandal, initiated a debate about effective regional police and judicial cooperation all over Europe. National authorities and politicians demanded a more effective and faster exchange of information concerning criminal acts and offenders in EU member states.²⁰ The European Parliament referred to the very fact that Fourniret had been convicted of sexual abuse in France already in 1987. However in spite of this conviction he was able to engage in a profession where he worked close to and with children in Belgium years later. The Belgian authorities as well as Fourniret's employer had no knowledge about the earlier conviction. The Fourniret scandal showed once more which consequences uncoordinated proceedings of national EU authorities can have.

¹⁷ Banotti. In: Parliament. Debate. 13 January 2003.

¹⁸ Ibid.

¹⁹ See: e.g. Tagesschau: Geständnisse nur Spitze des Eisbergs?. 5 July 2004.

²⁰ Ibid.

1.3 The Cost Aspect

Another factor pushing actors to behave a certain way can be costs. (Kingdon 2003) Although a phenomenon such as CSEC would at first sight be considered as an issue that is debated on the basis of ideational aspects, such as norms and values, that does not mean that cost-benefit-calculations should be seen as not applicable and consequently ignored. As discussed rational calculations come into play mostly after actors defined the elimination of CSEC as their goal based on norms, values and appropriate behavior. But is it possible to identify rational thinking already at the stage of the goal definition? For some actors it might have been logical to assume EU action because a police and judicial cooperation in the case of CSEC would contribute to the realization of some general EU interests. First cooperation reduces costs. Using collective training seminars for instance where EUROPOL experts share their skills with national authorities who then spread these skills at home is more cost-efficient than having each member state done these training activities individually. Second cooperation of police and judicial authorities may gain the support of the European population. Especially after the scandals, an EU who would have stayed quite and passive would have reduced the confidence of the population in this institution. Thus, although an issue such as CSEC is mainly based on norms, values and conceptions about appropriate behavior, rational behavior and calculations should not be underestimated. A brief analysis of adopted decisions regarding judicial and police cooperation will illustrate how far the EU followed these rational calculations.

1.3.1 Community Action Programs

1.3.1.1 The Stop Program

In 1996 the STOP²¹ program was created by a joint action²² adopted by the Council of Ministers in order to more systematically combat the trafficking and exploitation of children. The establishment and development of the program, which is the first community measure in form of a program explicitly aimed at eliminating CSEC, was actively supported by the Council, precisely by a Justice and Home Affairs committee. STOP is a funding program which allows the exchange of those persons employed in the public service who are responsible in the area of combating trafficking in children and the exploitation of children. This implies lawyers, judges, police and authority staff concerned with CSEC cases, persons engaged in measures for the prevention of CSEC, persons concerned with the care of victims and the handling of offenders and exploiters, etc. The goal is to encourage the establishment of cooperation and network structures in order to exchange knowledge and information. Measures supported by the program are seminars for the diffusion of training, information and experience, exchange programs and internships, research studies, etc.

The Commission in collaboration with expert groups is responsible for the establishment of measures which aim at the realization of the goal as stated in the joint action. This implies the creation of criteria

²¹ “STOP” is the acronym for “Sexual Trafficking of Persons”.

²² Joint Action 96/700/JI. 29 November 1996.

needed for the evaluation of and decision on project proposals. Subsequent to each year the Commission had to report on the progress of the program and the measures she took related to the program. The funding of the program is coordinated by the Commission of the EU as well. After the finalization of STOP in 2000, the Council decided on a second round (STOP II) which lasted until 2003.

The preparations for the joint action and the STOP program took place parallel to the Dutroux scandal, by which the finalization of the program profited from the scandal and the huge public representation of the case in the media all over Europe. Furthermore lobbying done by advocates of women as well as children rights supported a quick approval of the program. The participation of women as well as children rights' advocates in the lobby work makes once more clear that there is a strong link between children and women issues. Besides children, women constitute a vulnerable societal group do to several reasons such as unequal economic opportunities. Thus, it is not rare that policy decisions and programs address both groups at the same time and that NGOs concerned with women rights' support the institutionalization of children rights as well and vice versa.²³ Especially in the case of trafficking in human beings and the commercial sexual exploitation it are women and children that are affected. Although earlier conventions, agreements, resolutions and debates were mainly concerned with women and only included the girl child they still pointed in the same direction as those supported by children rights' advocates. An EU Communication from 1996 on trafficking in women emphasized that:

“Trafficking in women raises questions which are also relevant to traffic in children. However, current concern about abuse and exploitation of children raises many other issues besides trafficking which must therefore be specifically addressed. The particular needs and situation of children require targeted analysis and responses, both socially and legislatively.”

However the communication also emphasize the need for measures exclusively addressing the protection and welfare of children. The increased engagement of the European Union in the 1990s forms the practical execution of the statement.

With the STOP program which explicitly addresses the girl and the boy child, the case is reverse to the cited statement and women rights' advocates support measures primarily aimed at the protection of children rights in order to support their issues as stated by Locher, “in order to make use of the momentum created by the Dutroux scandals, the [...] link [...] between women and children” was created.

1.3.1.2 The AGIS Program

AGIS replaced STOP II in 2003 and lasted until 2006. The goals of the program were similar to the STOP program. It was aimed at facilitating the combat of crime in the European Union. Thereto it supported the establishment of networks between experts working in the authority areas of police and customs, the exchange of information, knowledge and experience as well as the treatment of victims of criminal acts. The Commission was responsible for execution and evaluation of the program.

1.3.1.3 The DAPHNE Program

²³ Parliament. Debate. 11 June 2001.

In 2000 the Council and the Parliament decided upon a decision²⁴ which established a community program aimed at actively supporting the elimination efforts concerning violence against women and children, namely DAPHNE. The inclusion of the sexual exploitation and abuse of children is explicitly referred to. In its explanation for the decision towards a transnational action program the EU pointed to the international dimension of the violation of children rights and emphasized the need of transnational including regional efforts which are beside national efforts extremely important in the fight against CSEC.²⁵ The influence of international conventions like the CRC and international conferences like the World Conference on CSEC which emphasized the need for inter- and transnational measures already earlier are strongly identifiable when analyzing the program.

The program lasted from 2000 until 2003 and was funded with 20 Million Euros. It was then replaced by DAPHNE II²⁶ which is planned until 2008 and has 50 Million Euros at its disposal. The Commission is, as already in the STOP program, responsible for the execution of the program. This includes an evaluation of the progress which needs to be submitted to the Parliament and the Council of Ministers.

The DAPHNE program is the beginning of a regional European cooperation among non-governmental organizations as well as between non-governmental organizations and governmental institutions which is coordinated and funded by the European Union. The program aims at the exchange of information, knowledge and experiences as well as the coordination, cooperation and network building among international and national NGOs as well as between NGOs and authorities of the member states (e.g. the police, social workers). Field studies, training seminars, support and treatment programs for victims and offenders and instruments aim at preventing violence against women and children. Furthermore NGOs and national authorities are required to include the public by creating campaigns and programs for sensitizing the public. Creating awareness among the population for the threat as well as the consequences of sexual violence and violence in general against women and children is an important goal as stated in the decision of the Council.

The recognition of non-state actors such as NGOs by the European Union has been frequently emphasized by EU bodies as an important aspect²⁷ since it does not only strengthen the role of NGOs but also acknowledges them as important actors beside states in the regional field needed to combat CSEC. Thus, the program combines the testimonial knowledge and the practical experiences of NGOs with the procedural knowledge provided by politicians. This allows actors to use platforms, created within the program, for the establishment of networks. On the one hand politicians and consequently the EU can take advantage from the contact with non-state actors who experienced cases of CSEC firsthand and thus shape measures in a way that they respond effectively to the thread of sexual exploitation and abuse. On the other hand NGOs can use the structural and institutional knowledge of politicians to lobby their interests. Furthermore the stated advantages of those programs which include non-state as well as state actors from the member states of the EU are not only limited to the national level but expand to the regional level which enhances the effectiveness of a program such as DAPHNE. Therewith the DAPHNE program

²⁴ Decision 293/2000/EG. 24 January 2000.

²⁵ *ibid.*

²⁶ Decision 803/2004/EG. 21 April 2004.

²⁷ Parliament. Question Number 24. 5 July 2001.

forms an important tool for those actors identified in the stakeholders analysis and for the realization and diffusion of their interests and preferences.

1.3.2 Cooperation Authorities

1.3.2.1 Europol

In March 1995 the Council adopted the joint action 95/73/JI and therewith established Europol. The joint action is legally based on the Treaty on European Union, Article 30 which lists Europol as one instrument needed to achieve effective cooperation of the member states in criminal matters and article 34(2)(b) which requires the Council to adopt framework decisions²⁸ in order to approximate national laws and thus to achieve the most effective collaboration among the authorities of the member states in criminal matters as defined in article 29, TEU. In September 1996 an additional joint action²⁹ extended the mandate of Europol by including the combat of trafficking in human beings in the area of Europol's competence. Article two states the objectives of Europol, which is the improvement of cooperation in the fight against "serious international crime", and explicitly lists trafficking as an issue of interest. Thus regional cooperation measures and especially the collaboration of national police authorities with Europol include the issue of trafficking in human beings as one aspect of CSEC.

The second more important point of interest is the fight against CSEC in the context of child prostitution. Child prostitution could fall within the competence of Europol as soon as two or more member states are affected by the offence. In the case of Dutroux and Fourniret the exploiters were active in more than one member state which moved the cases into Europol's area of competence. The same is true for those crime networks that are active transnational. In all of these cases child prostitution would be an issue of interest for Europol. The annex of the joint action 96/748/JI supports this argumentation. Additional forms of crime which Europol is responsible for are listed which inter alia include murder, grievous bodily injury, kidnapping, illegal restraint and hostage-taking. At least one of these forms applies to every single case of child prostitution and sexual abuse of children. However it gets difficult when considering the aspect of sexual consent. Every member state is authorized to define the age of sexual consent nationally. As soon as a child passes the age of sexual consent, prostitution cannot be defined as for example a form of illegal restraint anymore. Contrary as long as a child is under the age of sexual consent as defined by the national law, child prostitution can be defined as a form of illegal restraint or hostage-taking since the child is forced to do something it does not agree to. Furthermore the annex enhances trade in human beings and states those kinds of trafficking with a view to the exploitation of prostitution as an issue which falls within Europol's area of competence. Thus, depending on the case, the age of the child and the national law, child prostitution may fall within Europol's area of competence.

Article three of the joint action lists the tasks of Europol. Several tasks are of interest since they touch the cooperation of the member states in the field of CSEC. Article 3(1) requires the national police authorities of the member states to exchange information in general as well as of particular cases in order

²⁸ The Treaty of Amsterdam replaced the instrument of the Joint Action (Title VI, TEU, in force from 1993 until 1999) into the instruments of the Decision and the Framework Decision (Title VI, TEU, in force since 1999).

²⁹ Joint Action 96/748/JI

to facilitate investigations. Article 3(2), (3) demands Europol to assist member states and their police authorities in regard of training and exchange of experience. Technical as well as procedural knowledge fall within the task field of Europol.

1.3.2.2 Eurojust

Eurojust came into force through a Council decision³⁰ in February 2002. The legal base for the decision is the Treaty on European Union, article 31 and article 34(2)(c) which require the Council to adopt decisions in order to achieve judicial cooperation among the member states in criminal matters as defined by the objectives of title VI³¹. The proposal for the decision was submitted by France, Belgium, Sweden, Portugal and Germany.

Article three lists the objectives of Eurojust which in general are aimed at facilitating and supporting the cooperation efforts of the national judicial authorities. The area of competence of Eurojust with regard to the fight against CSEC is congruent with the area of competence of Europol as stated in the decision, which includes measures concerning the fight against trafficking in human beings and child prostitution as analyzed above.

1.4 CSEC: Still just an Issue or already a defined Problem?

The events, may they have been created intentionally by entrepreneurs or may they have happened out of the control of entrepreneurs, contributed to the recognition of CSEC as a problem. The congresses as well as the crises emphasized the intrinsic character of the phenomenon and therewith linked them to the related anti-trafficking and anti-prostitution norms. Children belong to the most vulnerable group among the population. They are not able to go on the street and demonstrate for awareness, especially not when being victims. Thus it needs actors such as organizations who take up the issue and push the children's voice into the public as it was done at the two world congresses where reports and stories told by victims were used to create awareness. The congresses further convinced through studies, statistics and reports of NGOs and other actors with experiences on the ground telling that Europe is not free from the phenomenon CSEC and that the issue needs regional attention. The second congress emphasized the problem by showing once more that it has not disappeared since the first congress. Although the congresses missed on an appropriate monitoring system which would give information about possible progress or regress the second congress nevertheless emphasized the existence of the problem by using indicators such as reports conducted by state and non-state actors which were discussing the progress, lessons learned, experience reports, etc.

The two scandals in Belgium and France illustrate how crises may push an issue forward by creating attention. But why did it need a crisis for the EU to become active and define a problem? For most Europeans sexual abuse with a commercial character such as child prostitution is only present in third world countries and is consequently far away. These incidences shock the European public from time to time when seeing or hearing through the news that something happened in Latin America, Asia or Africa.

³⁰ Decision 2002/187/JI

But it is still far away and people quickly go back to their own problems. A crisis in the middle of Europe however wakes up the people, the public in the same way as the politicians. Suddenly it is a problem in the own country with the offenders coming out of the own society. The people recognize that it could happen to their own children and not only to children far away at the other end of the world. Beside the attention that such a crisis creates, it is also the personal experience and concern which come into play and which contribute to define the issue as a problem. Furthermore the people recognize that they are not able to deal with the issue anymore which again makes it to a problem. The way it has been addressed until now, by every member state separately, has been ineffective and it needs a policy change, namely to take the issue up onto the EU level and to turn a transnationally operating problem into a transnationally discussed issue.³² As suggested by Schäfer integration constitutes a response to the societal demand for regional rules and action.

However just as it is the case with the congresses crises need to be accompanied by actors who create just that important link between the pure event and the attention it needs but which it cannot create itself. It needs to be illustrated, to the public and to politicians, that the scandals did not happen because parents need to watch their children better so offenders do not have a chance but rather that this is a transnational problem and that offenders have chances because of a weak police and judicial cooperation among the member states. The fact that two transnational cases happened one after the other constituted a good possibility to reinforce just this transnational character of the problem and to emphasize the need of the EU to take action. Furthermore the second scandal made it impossible to ignore the issue anymore since it could not be dismissed as an isolated fluke as it could have been done after the first scandal. Another conference on CSEC which was held in Ljubljana with the goal to evaluate the dimension of the issue in Europe and Central Asia was another instrument with which entrepreneurs emphasized the problem by referring to the crises.

When trying to link an event to a particular issue it is not always the case that both aspects fit just perfectly. Thus it is necessary for actors to pack the event into a certain frame in order to make it useful for the issue. In the case of the Dutroux and Fourniret scandals it was even more necessary for CSEC entrepreneurs to frame the issue. The two scandals had actually nothing to do with CSEC. Both cases were sexual abuse offences without bearing a commercial aspect. However the commercial aspect is crucial to CSEC. In order to still profit from the scandals entrepreneurs needed to reverse the framing process. Instead of framing the scandals in a way it would fit their issues they framed their issues so these would fit the scandals. CSEC can be framed in different ways. Illustrated by two examples and based on the theoretical assumptions discussed under the 'path dependence' feature of norms³³ it will be shown how important it is to choose the right version. As mentioned CSEC has a commercial character. One form of CSEC is child prostitution. Consequently the issue can be framed referring to the phenomenon of prostitution. However as mentioned in the introduction the term prostitution is misleading when used in the context of children. The abuse character which is certainly inherent is hidden. Another way of framing CSEC and child prostitution would be by emphasizing especially this abusive character. When terming CSEC as sexual abuse of children the violation of children rights which is the dominant part of the offence

³¹ The objectives of title VI are defined in article 29, TEU.

³² See: e.g. FAZ: Der reisende Täter im Visier. 5 July 2004.; FAZ: Kritik am französischen Justizsystem wird immer lauter. 5 July 2004.; Tagesschau: EU-Kommission will gemeinsame Strafschänder-Datei. 2 July 2004.

becomes obvious. In order to be able to relate the issue CSEC to the scandals in Belgium and France it was necessary to frame the issue by emphasizing its abusive character. In addition with highlighting the transnational character of CSEC which became obvious not only through the scandals but also through the congresses the entrepreneurs were able to not only convince that CSEC constitutes an European problem which deserves to get the attention of the EU but also to emphasize the huge magnitude of the problem.

Another tool for creating attention is the media which spreads the issue to reach as many people as possible. Although the media coverage during and shortly after the scandals was more a sensational one than a seriously reporting one³⁴ it still opened up the public's and politicians' eyes as the above quoted commissioner (Anita Gradin)³⁵ illustrated. Although it is contestable and not to prove whether the EU response would have been the same without the immense media coverage, the media turned the incidence into a transnational discussed issue and emphasized the EU wide dimension of CSEC and the helplessness of the member states towards international and/ or organized crime.³⁶

2 Do we have a Solution available?

It was argued that alternatives need to be available if an issue seriously considers to enter the political agenda of the EU. In the following it will be tested if the EU in general or more precisely any EU body has been dealing with CSEC in particular or with issues closely related to CSEC before it entered the political agenda. Here again it is important how the issue is framed. When framing it in the context of sexual abuse and the violation of human rights, a lot more alternatives fit the problem than when merely framing it in the context of a *commercial* sexual abuse. The following illustration will show that the EU had addressed related issues before it adopted legal instruments particular concerned with CSEC. The analysis of those legal instruments which explicitly address CSEC do not only show that earlier alternatives were picked up but furthermore that those factors which were discussed under the second sub-question are reflected.

2.1 The first “Sign of Life” of the EU

During the late eighties two resolutions concluded by the European Parliament came into existence. The resolutions finally cut the non-response of the European Community and livened up debates at the regional level which touched the phenomenon CSEC and went beyond actions concerned with illegal immigration. The conclusion of the resolutions were influenced by the d’Ancona report, which explicitly mentioned the sexual abuse of children and which strongly pointed out that the European Community and

³³ See: chapter C 3.4.3.

³⁴ See: e.g. FAZ: Ich war heute auf der Jagd. 7 July 2004.; FAZ: Den Sadismus auf viele Opfer ausgedehnt. 7 July 2004. Stern: Dutroux ist ein Monster. 24 May 2004.

³⁵ See: chapter D 1.2.1.

³⁶ See: e.g. FAZ: Polizei hat deutsche Fälle im Blick. 8 July 2004. Tagesschau: Geständnisse nur Spitze des Eisbergs?. 5 July 2004.

its member states need to establish certain measures in order to combat trafficking and the commercial sexual exploitation of children and furthermore need to assess the dimension which the phenomenon already achieved in the European states.

The resolutions which followed addressed the violence against women including girls. Now the European level emphasized to not only treat prostitutes as victims but also to claim clients as criminals rather than leaving them unpunished. Hereby a strong link to the international level can be observed. While international conventions and agreements included this victim-criminal-claim already much earlier, now the European Parliament took it over. Furthermore the European Parliament linked the anti-trafficking and anti-prostitution norm to the human rights-norm in a way that it called trafficking and sexual exploitation a violation of human rights. Thus, a already deep-rooted norm, namely one that sees the recognition of human rights as appropriate, was used to frame the new norms concerned with trafficking and prostitution. This way public and political debates about CSEC were strongly supported at the European level.

Although the d'Ancona report and the resolutions stopped the non-recognition of the phenomenon at the European level, this was only limited to the Parliament. Both, the Commission and the Council did still not respond to the efforts of the international level and now the European Parliament. Contrary the Council and the Commission continued to look at the phenomenon from the illegal immigration angle. However a different framing of one and the same issue as it was done within the European Community makes it difficult to start common debates which are necessary to react to the problem in an appropriate and effective way.

2.2 Regional Measures in the early 1990s

In 1993 the Justice and Home Affairs Council initiated an European conference on Trafficking in Human Beings for the Purpose of Prostitution and therewith put an end to the silence of the Council. However the conference did not keep what it promised in its title. Recommendations for the member states which emerged from the conference did not recognize the very nature of trafficking and prostitution and remained in the context of the control of illegal immigration.³⁷

The Council of Europe showed much more effort in combating the phenomenon prostitution with the right tools which go beyond simple anti-immigration measures. The European Convention on Human Rights from 1950 addresses slavery and forced labor and frames the trafficking in human beings and the exploitation of human beings as a violation of human rights just as it was done by the European Parliament thirty-five years later. In the beginning of the nineties the Council of Europe became active again by initiating a seminar titled 'Action against Traffic in Women and Forced Prostitution as Violations of Human Rights and Human Dignity'. The seminar which included women and girls explicitly emphasized the linkage between the anti-trafficking and the anti-prostitution norm with the human rights norm. The efforts of the European Council in the context of trafficking for the purpose of sexual exploitation remained strong.

The conference of the Council of Ministers, the efforts of the Council of Europe and beginning efforts by the OSCE marked the beginning of actions against the trafficking in human beings and the prostitution of human beings at the regional level.

2.3 Joint Actions and Framework Decisions addressing CSEC

From the nineties on the EU addressed the phenomenon CSEC explicitly. CSEC stopped to be a small problem hidden behind anti-slavery and anti-immigration regulations.

2.3.1 Joint Action on Combating Trafficking in Human Beings and sexual Exploitation of Children

The joint action 97/154/JI from February 1997 is an important predecessor of the framework decisions which address CSEC and were adopted under the new TEU. The joint action is legally based on the Maastricht Treaty from 1992, article K3. The aim is to word common definitions concerning terms such as trafficking in human beings and sexual exploitation of adults and children. Furthermore the joint action formulates common definitions in regard to penalties and regulates cooperation measures at the regional level.

In July 2002 the joint action was replaced by the framework decision on combating trafficking in human beings³⁸.

2.3.2 Framework Decision on Combating the sexual Exploitation of Children and Child Pornography

Within the long-term goal of creating an area of freedom, security and justice, the Council of Ministers has adopted several resolutions, conventions, decisions, etc. Since CSEC is seen as a threat to the freedom, security and justice of the European citizens³⁹, the Commission proposed action in this field and initiated a framework decision. After the European Parliament gave its opinion to a proposal drafted by the Council in 2003 the final framework decision 2004/68/JI which aims at the elimination of the sexual exploitation of children was adopted by the Council. The cooperation in the field of police and judiciary is part of the intergovernmental area, namely the third pillar of the European Union. The legal base for the act is the Treaty on European Union. The Council is competent in “adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the field of organized crime [...]” (Article 31(1)(e)) in order to “provide citizens with a high level of safety within an area of freedom, security and justice” (Article 29). Making use of a framework decision is appropriate according to Article 34(2)(b) which states that framework decisions may be used “for the purpose of approximation of the laws and regulations of the member states”.

³⁷ The recommendations demanded by the Council: Information exchange, police and judicial cooperation and coordination, border control, etc.

³⁸ Framework Decision 2002/629/JI

³⁹ Framework Decision 2004/68/JI, Introduction, Number one.

In January 2004 the framework decision 2004/68/JI came into force obligating the member states of the European Union to translate the decision into domestic law until January 2006. The framework decision aims at creating common minimum provisions concerning the cooperation of the police and judiciary in areas of trafficking and sexual violence against children. The behavior of the Council was provoked by several preceded actions by different actors from the national and regional level. The conference in Tampere ended among others with a demand by the nation states to further regulate the dealing with criminal matters on the regional level. The European Parliament joined this demand in a resolution in April 2000 and demanded further common regulations as well.

The framework decision from 2004 is explicitly and exclusively concerned with combating CSEC. It defines CSEC as a violation of human rights.⁴⁰ Thus the phenomenon CSEC including the anti-trafficking and the anti-prostitution norm are placed within the human rights frame. Human rights are taken for given and thus are not contested anymore. Putting an issue or a new norm within an existing and consolidated frame facilitates the diffusion of the new norm. Naming the sexual exploitation of children in the same context as the violation of human rights enables norm entrepreneurs to win over additional actors who support the human rights norm and may now also support the anti-trafficking and anti-prostitution norm. Additionally it is much easier to create awareness among the public when framing debates and discussions within a context which is known to the public for a quite long time.

When comparing the subject of the framework decision with the declarations of international organizations as well as international conventions and resolutions it is noticeable that the decision uses measures and definitions which have been present at the international level for already a few decades. This includes the framing of the anti-trafficking norm and the anti-prostitution norm within the human rights frame which has been done at the international level already earlier. Thus the framework decision declares international organizations as important predecessors in the fight against CSEC and connects their work to the task of the European Union to further the fight against sexual abuse at the regional level.⁴¹ The process of trickling down of norms from the international to the regional level is explicitly emphasized. Conventions and resolutions which had been debated and adopted at the international level created a “toolbox” of measures which can be translated to the conditions of the regional European level. The principle of subsidiarity as one of the conditions when working within the European Union is respected throughout the whole framework decision.⁴²

The framework decision addresses the ‘child’ which means all human beings irrespective their sex who are younger than eighteen years (Article 1(a)). Here the decision uses international conventions such as the CRC. However the Council decision differentiates in one important aspect from the CRC, namely that the EU article does not restrict this definition by referring to national regulations as done by the CRC. The CRC defines a child as a person younger than eighteen years unless domestic laws prescribe a different age. A common provision concerning the age ensures that persons up to seventeen years are considered as children and are protected by the member states even if these persons already reached a certain stage of maturity. Concerning the definition of the term ‘prostitution’ the framework decision does not move away

⁴⁰ Framework Decision 2004/68/JI, Introduction, Number four.

⁴¹ Framework Decision 2004/68/JI, Introduction, Number six.

⁴² Framework Decision 2004/68/JI, Introduction, Number eight.

from those definitions given by international conventions and action plans which is presented in chapter A 'Introduction'.

A weak point where the framework decision which is incompatible with international predecessors is the regulation of the 'sexual consent'. Article 5(2) refers to higher penalties concerning offences with aggravating circumstances. One criteria which defines a criminal act as an offence with aggravating circumstances states that prostitution of children who are below the age of sexual consent must be punished with maximum penalties, meaning imprisonment of at least five to ten years. The article however leaves the fixing of the age of sexual consent open to member states' laws. (Article 5(2)(b)) Therewith the framework decision is incompatible with international provisions. The declaration of the second World Congress on the Commercial Sexual Exploitation of Children explicitly states that the age of sexual consent is only achieved when a persons turns eighteen years and thus achieves majority. The declaration of the World congress goes further than some domestic laws as for example the British law, which states that only children of fifteen years and younger are not able to give sexual consent. (First World Congress; Second World Congress) Different domestic provisions and the fact that the EU does not prescribe a common rule regulating the age of sexual consent consequently implies that the prostitution of children aged sixteen who agree to the act of prostitution does not constitute an offence with aggravating circumstances. This means that men or women who pay for the sex with a sixteen year old child may not be punished with higher penalties⁴³ since the prostitution was agreed upon from both sides and thus does not constitute an offence with aggravating circumstances according to article 5(2).

The framework decision does not purely define common provisions concerning penalties for exploiters but also covers the field of preventive measures and victim support. Article nine explicitly states that child prostitutes certainly need to be seen as victims which requires the state to offer appropriate support facilitations which help and rescue children from being as well as getting engaged with prostitution and reintegrate affected children into the society. Support and protection aspects for victims of child prostitution and trafficking in human beings has been seen as important measures since the second half of the nineteenth century when feminists opposed the traditional approach of the regulatory model and prostitutes were not viewed as criminals anymore but rather as victims. (Locher 2007)

Before using international models of behavior for the regional level the European Union needs to adjust and translate these models to the particular features of the European level. This was done when among other things introducing the aspect of double criminality. Article eight regulates the jurisdiction and explicitly elaborates on possible problems concerning the judicial competence of the member states. In order to avoid that criminals may move to another state of the EU due to missing competencies the article regulates that a member states is competent in executing its jurisdiction as soon as the offender commits the criminal act within the territory of the member state at stake or as soon as the offender is a citizen of the member state at stake. Another point which goes in the same direction is the aspect of disqualification. As stated by article 5(3) persons who commit a criminal act as defined in the framework decision at hand may be disqualified by each member state from working with or close to children. However until recently there did not exist any data bases which list child abusers and thus enable the member states to control disqualifications that has been pronounced by one member state and need to be

ensured within the whole European Union in a coordinated way. The problem has been addressed by different members of Parliament at a debate of the European Parliament in December 2003⁴⁴ and can be observed in other countries such as the United States where child abusers are registered in a national data base⁴⁵. The below analyzed framework decision on the regulation of the exchange of information extracted from criminal records will illustrate the current state of the art at the European level.

2.3.3 Framework Decision on Combating Trafficking in Human Beings

Already in July 2002 the Council adopted a framework decision which addresses the phenomenon CSEC in some single points. It covers one aspect of the commercial sexual exploitation of children, namely the trafficking in children for the purpose of exploitation. Child prostitution as well as child pornography are not addressed. Therewith the framework decision constitutes to a certain degree an important step concerning the progressive role of the EU in protecting children. However the later framework decision on combating the sexual exploitation of children and child pornography was necessary in order to completely cover the phenomenon CSEC through regional legal provisions.

The Commission initiated a legal act concerned with the trafficking in human beings through a proposal. After the Parliament gave its opinion the framework decision 2002/629/JI came into force in July 2002. The legal base for the act is similar to the framework decision on combating the sexual exploitation of children and child pornography, namely Article 29, Article 31(1)(e) and Article 34(2)(b) of the Treaty on European Union.

The subject of the framework decision on combating trafficking in human beings follows a line which is similar to other acts in the field of the protection of women and children. Thus, the decision defines trafficking in human beings as a violation of human rights⁴⁶ and therewith places the anti-trafficking norm within the human rights frame. In addition to the use of already established frames the decision refers to the work of international organizations⁴⁷ which is translated to and continued at the regional level. As with the framework decision on combating the sexual exploitation of children and child pornography, the decision at hand uses established norms which are taken for given and not contested anymore as well as international predecessor which both facilitate the diffusion of a new or alternated norm at the European regional level. However the content of the framework decision does not only address those aspects which support the police and judicial cooperation at the regional level (e.g. the double criminality (Article 6), the protection and support of victims (Article 7). The decision also implies weak points such as a missing rule concerning the consent of sexual consent (Article 3(2)(b)). A point which is still being contested and which can also be observed in those framework decisions that followed, such as the one on combating the sexual exploitation of children and child pornography.

⁴³ Article 5(2) states that offences with aggravating circumstances need to be punished with a maximum of at least between five and ten years of imprisonment.

⁴⁴ Parliament. Question Number 54. 18 December 2003.

⁴⁵ United States National Sex Offender Registry. Internet: www.nsopr.gov.

⁴⁶ Framework Decision 2002/629/JI, Introduction, Number three.

⁴⁷ Framework Decision 2002/629/JI, Introduction, Number six.

2.3.4 Framework Decision on the Regulation of the Exchange of Information extracted from criminal Records

In June 2007 the Council decided on a framework decision which would regulate the exchange of judicial information and which is based on title VI TEU. Common rules are supposed to ensure that information concerning criminal matters are available all over Europe. The framework decisions obligates the member states to forward convictions they execute to the home country of the respective offender which is then obliged to store these data and make them available for all member states. This way data about convictions of European citizens are available for every member state. Up to now a member state needed to apply separately for every single police or judicial information concerning criminal matters that happened in another member state.

Followed by the Fourniret scandal the Belgian government proposed a framework decision by the end of 2004 which would have ensured that sex offenders who have been disqualified by one member state to perform a profession directly connected to children will not be able to work with children in any EU member state. This way they reacted to the fact that Fourniret had been convicted of sexual abuse in France and later worked with children without having the Belgian authorities to know anything. The framework decision proposed by Belgium aimed at regulate the judicial and police cooperation more efficient and to avoid any further scandals of that kind. The framework decision at hand included the Belgian proposal. Certificates issued by the police contain every single conviction executed by a European member states.

Although the framework decision may facilitate the judicial and police cooperation it contains some weak aspects. Thus there is a problem with the age of sexual consent. As regulated by the framework decision on combating the sexual exploitation of children and child pornography as well as by the one on combating trafficking in human beings state, the member states are authorized to individually determine the age of sexual consent of children. Consequently there is no full harmonization of the national criminal law. This can have negative impacts for adults as well as for children. In the first case it could happen that there are two member states with diverse laws concerning the age of sexual consent. In one member state it is not illegal for an adult to have sex with a sixteen year old girl while in another member state the same issue is illegal until the girl reached the age of eighteen. If a person is convicted of sexual abuse in the second member state and this conviction is registered and available for all national authorities, the person will not get a job in the first member state although the issue at stake does not count as a criminal offence in this country. Vice versa, sex offenders can take advantage of the framework decision and use it for their own benefit. Thus it is necessary to have a common European criminal law if the framework decision is supposed to function effectively without discriminating individuals.

The framework decision needs to be adopted formally by all member states before it will come into force.

2.4 Do the Alternatives fit the Problem?

The empirical discussion illustrates that European actors such as the Parliament and the Council of Europe debated alternatives which timidly pointed in the direction of CSEC already in the eighties. In order to enhance European debates the Parliament framed the anti-trafficking and the anti-prostitution norm within the human rights frame. Therewith the Parliament facilitated public and political discussions and created awareness for the phenomenon CSEC. The instrument of framing has been used by the international level and through trickling down it was picked up by regional actors.

Thus, when the issue CSEC was defined as a serious problem capturing the attention of the EU in the nineties, policy entrepreneurs did not appear with empty hands on the agenda setting stage. When the “policy window” (Kingdon 2003) opened, which means the point in time when the problem is defined and the political environment is in favor, advocates of all diverse sorts of proposals used the chance to push up their solutions. This implied not only one or two alternatives which addressed solely and explicitly CSEC but also alternatives which were linked to the problem in wider terms. The empirical analysis shows that the EU adopted regulations explicitly concerned with CSEC as well as regulations which only addressed one single part of the phenomenon, namely trafficking in human beings, and regulations which, though mentioning the phenomenon explicitly, went beyond the police and judicial cooperation in regard of CSEC only and addressed criminal matters in general. It can be observed that the scandals for instance where also used by actors who proposed solutions for violation against women and for organized and/ or transnational crime and thus were used beyond child related matters.

3 Does the political Environment fit the Issue and the Solution?

The thesis broadened Kingdon’s approach of the political stream a bit and argued that three more factors may emphasize the need to place an issue such as CSEC on the agenda of the EU. The empirical analysis will test how far these additional factors apply and whether changed international constellations, the development and settlement of crucial norms at the regional level as well as a changed legal framework may have reinforced the need to seriously discuss CSEC and thus favored the placement of the problem on the agenda.

3.1 Changes in the international and/ or regional Constellation

3.1.1 The End of the Cold War

The turn of the decade brought beside new international measures aimed at protecting children rights also new threats, addressing the welfare of children, in form of structural transformations. The end of the

Cold War implied major structural changes, both political and economic, in the Central and Eastern European countries. This of course influenced the whole European continent. Borders between West and Central and Eastern Europe which have been insurmountable until now were suddenly open and people could move from the East to the West and vice versa. The consequence seems predictable, the traffic in human beings including children from the East to the West increased dramatically. Bordering countries like Germany or Austria were and still are strongly affected.

The transformation process led to a major change in the trafficking character. While until now women and children have been trafficked from Africa, Asia and Latin America suddenly the Central and Eastern European countries turned into the main source for prostitutes caused inter alia by the poverty increase which affects women and children much harder than men. The trafficking way for exploiters and pimps is much shorter from the Central and Eastern European countries than from Southern countries which implies less costs, the opportunity to easily replace women and children and to faster fulfill demands. The phenomenon commercial sexual exploitation of children is now a fully European phenomenon including the demand and the supply side. The existence of organized networks of traffickers, pimps and exploiters which turns the business into an organized crime increases the dimensions and makes responses by the authorities more difficult. Furthermore no support coming from the European Community exists while anti-immigration measures remain the main instrument.

3.1.2 The Eastern Enlargement of the European Union

The EU enlargement eastwards constituted a huge challenge for the European Union. Flows of prostitutes including child prostitutes increased subsequent to the end of the cold war. The freedom of movement for the citizens of the ten new member states may intensify the threat of trafficking in human beings as soon as fully implemented. Already nowadays the border between Germany and the Czech Republic poses a venue for child prostitution. German as well as Austrian citizens travel to the border area looking for cheap child prostitutes.⁴⁸ Consequently the European Union debated about measures in order to combat an increasing flow of child prostitutes. Programs has been made available to and included acceding countries in order to support their efforts in the fight against CSEC. (Locher 2007) Furthermore the new member states were required to accept the *acquis communautaire* prior their accession. The Treaty on European Union which in title VI explicitly states the fight against CSEC as a goal of the EU needed to be adopted by all countries. Furthermore the acceding countries were required to adopt all framework decisions including those concerned with child rights and CSEC. However although the EU took action in addressing CSEC in the new member states, it parallel emphasized that the “old” member states should not forget that the problem is present within their own borders as well especially when taking a look at the demand side.⁴⁹

⁴⁸ Parliament. Question 29. 17 December 2003.

⁴⁹ Parliament. Question 35. 11 April 2000.

3.2 Values and Norms

3.2.1 The very first Approach to Prostitutes – “A necessary Evil”

Debates and discussions concerned with the phenomenon CSEC and especially with the phenomena trafficking in children and prostitution of children are not only taking place since a few decades. Since the late nineteenth century the topic has engaged people in the form of debates and conferences and since the twentieth century there have been concluded a number of international agreements. The thesis argues *inter alia* that the actions at the regional European level were influenced by international actions and behavior. Thus in order to analyze the behavior at the regional level in an appropriate way it is necessary to take a closer look at the international level in order to identify the origin of European decision- and policy-making.

Early steps which pointed in the direction of an elimination of prostitution and trafficking in human beings and thus an anti-trafficking and anti-prostitution norm can be traced back to the Napoleonic time. (Locher 2007) The origin of the fight against prostitution and trafficking can thus be located in France, Europe where first public and political discourses took place. This is quite interesting, since it was necessary for action to develop from the national level within Europe to the international level in order to then influence the regional European level. However actions taken at that point in time did look quite different from actions taken nowadays. The anti-prostitution norm, traceable through debates and regulations⁵⁰ was not aimed at protecting the women which were engaged in this kind of business but the remaining society. Regulations which tried to control the prostitution especially when connected to the military purely addressed the welfare and protection of the men and the society which excluded the prostitutes. Particularly the fear of dangerous diseases led to regulations which did not forbid prostitution but tried to marginalize it. Prostitutes were seen as evil and the term victim was far from being used for a person who sold her/ his body for money, at least in the context of the regulations. The anti-prostitution norm which appeared back then, though seeing prostitution as an inappropriate behavior, was not put into reality through measures in favor for and aiming at the protection of women but men.

The control regulations spread from France to other European countries. However during the second half of the nineteenth century, feminists opposed the regulations concluded earlier. They demanded to treat prostitutes as victims which needed to be protected instead of “sexually deviants and dangerous spreaders of venereal diseases” (Locher 2007: 107). Furthermore they blamed men and their demand for paid sex as the problem of the situation. This was the first time that attention was paid to the demand side instead of the supply side. The feminist view included men into the discussion about prostitution as exploiters rather than innocent persons who need to be protected from diseases and the bad influence of prostitutes. The appearance of feminists implied an important shift in the view of the business. Prostitutes were seen victims while men were blamed as exploiters which touched especially those cases of forced prostitution. The feminist movement turned into an international movement.

⁵⁰ Regulations were for instance the French Regulatory Model in the nineteenth century or the Contagious Diseases Act from 1864.

The linkage between prostitution and trafficking in human beings was created already back then. Women and children were trafficked in order to, among other forms of commercial exploitation, be prostituted. Thus, one can observe a first connection between the anti-prostitution norm and an anti-trafficking norm. Most women and especially the children which were working as prostitutes after being trafficked were forced into the business which strengthen the efforts of the women movement even more. In 1877 the movement initiated an international conference which took place in Geneva and was joined by more than seven-hundred people. The consequently founded British and Continental Federation for the Abolition of Prostitution illustrates the possibilities which an event like that offers. Congresses and conferences are perfect occasions for NGOs and social movements to spread their issue of concern and to establish networks which can be used to diffuse norms in a coordinated way.

3.2.2 A new Approach to Trafficking and Prostitution

At the end of the nineteenth century a new idea grew, namely to raise the moral standards of the society. (Locher 2007) Youth protection committees were created in Europe with the goal to realize this idea. The consequence was a shift in European structures towards a way that protected women and female children. However the protection was strongly restricted. The phrase “white slavery” linked the trafficking in human beings to the slave trade which had been just eliminated. The phrase aimed at showing the public and the politicians the cruelty which was inhered in trafficking. This illustrates a direction of framing which is different from the ones analyzed earlier. The term “slavery” fits quite perfectly the interests of the entrepreneurs to raise awareness since it reminds the public of the terrible incidents during the slave trade period. Framing the anti-prostitution norm and the anti-trafficking norm within the, among the public well known, anti-slavery frame raised huge awareness. However the anti-slavery frame especially when called white slave trade showed that efforts at that time only addressed white women and girls. This illustrated the class as well as racial assumptions. Non-white women and girls and especially the boy child were totally ignored in the approach.

Nevertheless was there a huge response observable in various international organizations (e.g. International Federation for Aid to Young Women) and conferences on trafficking (e.g. an international conference on white slave trade, 1899, London). This led to the institutionalization of the anti-trafficking norm in various agreements and conventions, such as the International Agreement for the Suppression of the White Slave Traffic in 1904 and the International Convention For the Suppression of White Slave Traffic in 1910. Although both agreements followed a racial bias and did only include white persons it can be observed that the international law realized that trafficking in women and girls for the purpose of (forced) prostitution and other forms of sexual exploitation needed to be seen as a criminal act with international dimension. Thus, the agreements laid the foundation stone for international policies concerned with the trafficking in women and girls and sexual exploitation.

3.2.3 The Foundation of the League of Nations - A new “Playground” for Action

After World War I the League of Nations was founded. An international organization of such a dimension is of course a factor which needs to be well used by governments, NGOs and social movements in order to push through interests and preferences including new or altered norms. The League constitutes

an organization which lays a success promising foundation for new international agreements and foundations. The covenant of the League states in article 23c that “[...] the Members of the League [...] will entrust the League with the general supervision over the execution of agreements with regard to the trafficking in women and children [...]”. A quite perfect “template” which was used by norm entrepreneurs as a tool to gather more support for the anti-trafficking norm and to push its institutionalization at the international level even further. In 1921 the League of Nations initiated a conference on trafficking which led to the Advisory Committee on Trafficking in Women and Children. Furthermore was the International Convention for the Suppression of the Traffic in Women and Children another step towards further norm institutionalization. An important improvement with the convention was the fact that the convention avoided any racial biases by not using the term “white slave traffic”. Additionally the convention included the boy child, an important step towards the recognition of the fact that boys and young men are not excluded from the threat of trafficking for the purpose of sexual exploitation.

Subsequent to World War II the United Nations replaced the League of Nations and decided in 1949 on the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The convention, as most of its predecessors implied changes which to a certain extent were seen as important improvements. The agreement did not only emphasize the fact that prostitutes need to be seen as victims rather than criminals but furthermore demanded from the governments to establish national programs which would support women and children to get reintegrated into the society. The second main change touched the core of prostitution in a way that it stated that there exists no differentiation between voluntary and forced prostitution. This constituted a problem for various governments. While the anti-trafficking norm was institutionalized at the international level and not contested anymore by the nation states, it was much different with the anti-prostitution norm. Many governments did not agree with the non-differentiation between forced and voluntary prostitution and that only forced prostitution should be dealt with as a criminal act. This is a difficult issue especially in the context of children. As earlier chapters show there have been discussions about the sexual consent of minors concerning prostitution until today and opinions vary to which extent the sexual consent of child prostitutes should be regarded.

The outline and analysis of the time period until the foundation of the United Nations illustrates that the anti-trafficking norm has been institutionalized at the international level. This can be assessed with the help of the indicators given through the life cycle of norms. The second stage, namely the “norm cascade” (Finnemore/ Sikkink 1998: 901) is entered as soon as around one third of the states in a particular system adopted the norm. The anti-trafficking norm appeared through conventions and agreements concerned with the trafficking in human beings which were concluded at the international level. The International Convention for the Suppression of the Traffic in Women and Children which was concluded in 1921 was adopted by 46 countries. Due to the number of UN member states at that time it counts more than two thirds of the states. Furthermore the requirement of one third of the states is also fulfilled when only assessing the regional European level since thirteen European countries adopted the convention. Thus it fulfills the requirement of the life cycle and forms that point in the development of a norm when it is upgraded from the first to the second stage. Conventions and agreements which followed the one from 1921 led to the institutionalization of the norm in a way that it is not contested anymore. However the adoption of the norm have not been followed by particular policy actions and programs which would show

that the European level is active in implementing the norm in a way that it combats CSEC in its region. As earlier findings of the thesis show measures in such a way did only appear in the 1990s.

Concerning the anti-prostitution norm it is not possible to observe the same upgrade not even in the context of children. As mentioned the UN convention from 1949 and its non-differentiation between forced and voluntary prostitution was highly contested by several nation states including European governments. The anti-prostitution norm did not reach the same status as the anti-trafficking norm, neither at the international nor at the regional European level.

3.3 The Legal Framework

3.3.1 *International Conventions*

3.3.1.1 *The United Nations Convention on the Rights of the Child*

1989 marks a threshold in the developing of international measures aimed at protecting and consolidating children rights. While until now most agreements and conventions either addressed human rights and trafficking in human beings in general or included only the girl child when addressing women rights, the United Nations Convention on the Rights of the Child explicitly addressed children, including the boy child, and the violation of their rights. The convention was adopted in November 1998 and came into force in September 1990 covering different sectors of human rights. Beside the protection of civil and political rights, the convention also included social and economic rights. Especially the protection of the child's economic rights recognizes the threat of commercial sexual and non-sexual exploitation of children. Article 34 refers to the protection of the child from any form of sexual abuse and sexual exploitation and calls on the states to implement appropriate tools to prevent and combat these. Transnational cooperation is listed as an important measure necessary to eliminate the threat of abuse in an effective way.

State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, State Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement of coercion of a child to engage in any unlawful sexual activity;*
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;*
- (c) The exploitative use of children in pornographic performances and materials.*

Article 35 is concerned with the aspect of trafficking which forms part of the phenomenon CSEC and specializes the general anti-trafficking norm into a children rights context.

State Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Thus the convention, while covering political and civil as well as economic rights, addresses all features of the commercial sexual exploitation of children including the trafficking in children for the purpose of sexual exploitation and child prostitution. It constitutes an comprehensive approach of the issue at stake which for the first time explicitly and exclusively aims at the protection and provision of children's rights.

In 2000 the CRC was enhanced by an optional protocol which exclusively emphasizes the need of the states to fight the commercial sexual exploitation of children.⁵¹ The protocol as well as the convention includes both, the trafficking in children and child prostitution and emphasizes the issue in a way that it contains definitions and extends the measures which should be used by the states to combat the problem. A weak point which is important to be considered and which has been emphasized already earlier in the thesis is the fact that the definition of the child, as given in the CRC, states that,

For the purpose of the present convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

(Article 1)

This definition of a child which gives every state the possibility to lower the age threshold of eighteen years was not changed in the optional protocol although there were numerous complaints of NGOs, such as ECPAT.

Additionally to the CRC the UN Human Rights Commission established the position of a rapporteur for the field of trafficking in children, child prostitution and child pornography who is responsible for the evaluation of progress as well as incidents which violate the convention and the optional protocol.

3.3.1.2 The ILO Convention No. 182

Additionally to the United Nations the International Labour Organisation forms an important actor in the fight against CSEC. Concerned with labor rights and the (commercial) exploitation of human beings the ILO also addresses the phenomenon child prostitution. In its convention No. 182 from 1999⁵² the organization aims at the elimination of the worst forms of child labor which certainly includes child prostitution (Article 3b) as well as the trafficking in children (Article 3a). An improvement when compared to the CRC is the fact that the ILO convention does not restrict its definition of the child to national discretion (Article 2). However the ILO convention does not go as deep as the optional protocol to the CRC in its definitions and concrete measures which should be taken by the states.

3.3.2 The Treaty on EU - The legal Base for Action in the Field of CSEC

The Police and Judicial Cooperation in Criminal Matters as part of the Justice and Home Affairs is as the Common Foreign and Security Policy an area which strongly touches the sovereignty of the member

⁵¹ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Date of Adoption: May 2000 (by Resolution A/RES/54/236). Date of coming into force: January 2002.

⁵² Convention 182. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Date of Adoption: 17 June 1999. Date of coming into force: 19 November 2000.

states of the European Union. Those actions of regional cooperation which are linked to transferring parts of national sovereignty to the EU level regularly encounters reservation from the governments. This implies that cooperation in the field of police and judicial matters has not existed until 1997. For a long time there was neither intergovernmental nor supranational cooperation in this particular field of competence. However the Treaty on European Union shows that member states recognized that certain criminal matters, especially in the area of organized crime, go beyond domestic dimensions. While nation states' actions and behavior are constraint through borders does crime not stop in front of national borders. Thus, it is necessary to establish instruments which confront inter- and transnational criminal networks in an effective way. This is only possible through a close collaboration of the Union's member states.

The Treaty on European Union established in Maastricht in 1992 brought first changes which pointed into an extended regional cooperation in police and judicial matters. With the Maastricht Treaty the European Union was established composed of the European Community (first pillar), the Common Foreign and Security Policy (second pillar)⁵³ and the Justice and Home Affairs (third pillar)⁵⁴. The EU executes a political mandate parallel to the economic mandate of creating a common market executed by the EC. A generally valid principle which needs to be respected in terms of actions and behavior in the second and third pillar and thus political competencies is the principle of subsidiarity. However the Maastricht Treaty has not yet included police and judicial cooperation as part of the Justice and Home Affairs and thus provides no legal base for actions and behavior in the field of CSEC.

The Amsterdam Treaty which was concluded in 1997 complemented the existing European treaties. The Maastricht Treaty was changed and enhanced in five major fields, inter alia through the establishment of a Community area of freedom, security and justice. Within these efforts the EU specified the goals of the third pillar and created an sub-area concerned with police and judicial cooperation in criminal matters. In order to strengthen the cooperation in this area, new legal instruments available for the Council to be used were determined. The instrument important for the issue of stake, namely the sexual abuse of children, is the framework decision which binds the member states regarding the achievement of the result determined in the framework decision. While the Amsterdam Treaty did not explicitly include the elimination of CSEC as a goal within the police and judicial cooperation⁵⁵, the Nice Treaty, adopted in 2001, explicitly states violence against children as one area of concern.

Title VI which is concerned with the cooperation in criminal matters affecting the police and judicial forces explicitly includes the phenomenon of commercial sexual exploitation of children within its legal competencies as stated in the treaty:

[...] the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters [...]. That objective shall be achieved by preventing and combating crime, organized or otherwise, in particular terrorism, trafficking in

⁵³ The Common Foreign and Security Policy is specified in Title V of the Treaty on European Union.

⁵⁴ The Justice and Home Affairs is specified in Title VI of the Treaty on European Union.

⁵⁵ The Amsterdam Treaty explicitly states police and judicial cooperation in the fields of terrorism and unlawful drug trafficking as a matter of common interest. Violence towards children, such as the trafficking in children or child prostitution, are not explicitly included, can however be seen as part of the further mentioned "unspecified serious forms of international crime" which demand for regional police and judicial cooperation as well. (Alexander et al. 2000: 487)

persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud [...].

(Article 29. Emphasis by the author.)

Article 29 states further that “common action among the member states” should be realized through cooperation and coordination measures of the national authorities which address the trafficking in human beings as well as criminal acts committed against children. Certain articles of the treaty are particularly important when analyzing the competence of the European Union concerning the measures (e.g. framework decisions) she has been taken to combat CSEC since the 1990s.

Programs aimed at the exchange of knowledge, expertise and experience are according to Article 30(1)(c) a measure necessary to realize effective regional police cooperation. Additionally programs should be created which support the research on criminal matters including the field of CSEC. Furthermore provisions in the different member states shall be adjusted in terms of minimum regulations concerned with definitions of criminal acts and penalties in those cases where it is required in order to combat organized crime and achieve the goal of security and freedom. (Article 31(1)(e))

Article 34 lays down instruments which should be used by the European Union in order to achieve the goals set in Title VI of the TEU. Among these instruments are framework decisions (Article 34(2)(b)) and decisions (Article 34(2)(b)) which have the goal to approximate regulations of the member states. Both instruments are binding on the member states in a way that the member states are required to achieve the result of the (framework) decision, however the member states are able to choose individual tools in order to achieve the result.

The Council of Ministers remains the main actor in the field of cooperation in criminal matters. The Commission as well as member states have the right of initiative and may propose (framework) decisions which can then be adopted by the Council (Article 34(2)(b), (c)) with a majority of its members (Article 34(3)). The Parliament needs to be consulted by the Council prior the Councils decision on measures. The Parliament may then respond with its opinion. (Article 39(1)) Furthermore the Parliament is authorized to direct questions and recommendations to the Council concerning decisions of the Council in areas which are covered and controlled by Title VI of the treaty. (Article 39(3)) Additionally a discussion concerning the progress of decisions and measures need to take place once a year. (Article 39(3)) Coordination and Cooperation may be achieved through measures which include the European police office EUROPOL. (Article 30(2)) as well as the judicial cooperation unit EUROJUST (Article 31(2)). The member states remain important actors in the field of common police and judicial cooperation since the third pillar is part of the intergovernmental decision making. This implies the principle of subsidiarity which still needs to be respected in all actions aimed at the regional decision and policy making.

3.4 The political Environment: Favorable for CSEC?

The political environment as the third important aspect according to Kingdon experienced diverse changes prior the agenda setting of CSEC. Just as it is the case with the problem definition process, only

when certain conditions are fulfilled, the issue CSEC will be able to enter the agenda of the EU. With regard to the question of why CSEC entered the agenda only in the ninetieth, the political stream may give those answers that were missing until now.

Changes in the international as well as the European constellation reinforced the problem of CSEC and thus the need for the EU to become active. Furthermore the EU has been influenced by norms which slowly developed at the international level. While in the beginning of the nineteenth century prostitutes were seen as criminals who need to be controlled, a change of the anti-prostitution and anti-trafficking norm by the end of the nineteenth century led to new measures and started to define prostitutes, especially child prostitutes, as victims. After internalized at the international level the norms spread to the regional level and the anti-trafficking and anti-prostitution norm settled in Europe as well.

The last condition to be fulfilled concerned the legal framework. Although many diverse factors have been at work in influencing the European behavior towards debates concerned with CSEC, an important aspect needs to be fulfilled before the EU can become active. The bodies of the European Union and especially the Council can only make decisions and adopt laws when there exists a legal base for action. The treaty on European Union requires the Council to take action concerning the phenomenon CSEC and to implement efficient and effective measures to combat sexual abuse of children. However title VI which provides the Council with the competence to take action did not exist as such ever since the EU exists.

The Maastricht Treaty from 1992 established the third pillar and therewith competence of the EU in justice and home affairs. However it was not possible to establish cooperation measures in police and judicial areas concerning criminal matters until the Amsterdam Treaty from 1997 which then served as the first-ever base for Council action in the area of CSEC. The Amsterdam treaty required cooperation of national authorities in serious forms of international criminal matters which included cases of sexual abuse of children as soon as they occur transnational. Furthermore did the treaty introduce the possibility of the Council to adopt framework decisions in order to coordinate the police and judicial cooperation. The Nice Treaty finally stated the fight against CSEC as an explicit goal. As defined in the treaty, trafficking in human beings and violence against children constitute forms of crime which need to be combated at the European level in order to meet the challenges of international crime in an efficient way. Thus, the European Union had despite international and external influences not the possibility to take action at the European level until 1997.

E Conclusion

Child prostitution and trafficking in human beings as parts of the phenomenon CSEC have been present in Europe for more than thirty years. However although constituting a huge problem on European streets CSEC did not reach the political agenda of the EU until the 1990s. Prior this time no policy programs have been implemented aimed at fighting the sexual abuse of children at the regional level. While different structural changes even reinforced child prostitution and trafficking in human beings in Europe, such as the end of the Cold War which replaced African and South American countries as main suppliers of women and children through Middle and East European countries, the European Union still did not show any signs pointing towards serious action taking in the field of CSEC. Thus, there need to exist other factors which caused the different behavior of the EU prior and after 1990 and which may explain ‘How and why an issue such as CSEC entered the political agenda of the European Union in the 1990s?’.

The analysis of theoretical perspectives which would be able to explain the agenda setting process of the EU in the case of the example CSEC offered diverse theories. Due to the complex character of the theoretical discussion the theoretical part was divided into two separate sub-parts. The first analyzed the processes an issue goes through before being placed on the agenda. Based on suggestions by Kingdon and broadened a bit further by the thesis at hand, it was concluded that an issue needs to be defined as a serious problem which catches the attention of crucial actors (e.g. the Commission, the member states), that solutions need to be available which may solve the defined problem and that the political structures within which the problem and the actors float need to be in favor for the identified problem as well as the proposed solutions. Through the definition of the three different processes the theory offers a tool able to analyze the time factor inherent in the central research question, namely why the EU placed CSEC on its agenda in the 1990s and not at another point in time. The by Kingdon suggested policy window pays attention to just this aspect and made it possible to answer the time question during the research process.

While the first sub-part examined the processes that took place, the second went into greater detail to look inside these processes and thus sought to find out which particular factors were necessary for CSEC to enter the agenda. The thesis followed several theoretical approaches in order to be able to take an intersubjective view when analyzing the issue. The constructivism and the rationalism approach were combined. This way it was possible to identify norm-based as well as interest-based motivations of actors. For the former the thesis identified norms, values and sense for responsibility as factors by which actors were driven. The latter explained why actors preferred one strategy instead of another in order to achieve their preferences.

The case study combined the two theoretical sub-parts and tested the findings. While going through the three processes – problem, solution, political structures – the thesis examined diverse factors which seemed to be responsible to influence the EU’s decision of placing CSEC on its agenda. Examinations on key actors led to the result that a number of diverse actors were involved in the process including state as well as non-state actors which mostly operate at several levels (international, regional and national level). Through the whole integration process it can be observed that especially the international level served as a role model. Those actors which were in favor of the two identified norms (anti-trafficking and anti-

prostitution norm) and which were working towards an EU engagement in the field of CSEC used the work of the international level at several points. International conferences and debates were used by politicians and NGOs to spread their opinions and ideas about the issue at stake. Especially the two world congresses on CSEC did not only create attention for the issue but put the EU under pressure to strengthen its efforts in combating CSEC.

Analyses on the strategies which were used by actors to spread opinions and norms illustrated the appearance of frames. As an important strategic tool the framing of an abstract issue within known and accepted frames creates attention and makes the norm “discussible”. The two norms at stake were mostly linked to the human rights frame. Debates of trafficking and child prostitution in the context of human rights created political and public attention. Again this strategy had been first used by actors operating at the international level and then trickled down to the regional European level.

Beside international congresses, exogenous scandals created political but above all public pressure on the EU. Two sexual abuse cases in France and Belgium with transnational character woke up the public and forced the EU to act. The dimension of both scandals proved in a cruel way that sexual abuse of children is a huge problem in our society.

However though a number of strong international factors existed which emphasized the need of regional cooperation in CSEC matters, the EU could not become active when missing a legal base. The case study came to the result that the Amsterdam Treaty provided the EU with its first competence in deciding on binding measures which would coordinate and reinforce cooperation of police and judicial authorities in combating child prostitution and trafficking in human beings. Later the Nice Treaty emphasized the competence for cooperation in the field of CSEC more explicitly. Furthermore the institutional changes strengthened the European Parliament which appeared as the first EU body supporting measures in the field of CSEC⁵⁶ and which could then use its increased power in influencing the other bodies including the member states.

The anti-trafficking norm and the anti-prostitution norm play a crucial role when discussing the legal framework of the EU as well as the changes it has gone through since the fifties. As mentioned was CSEC not able to enter the agenda of the EU unless the legal framework provided the right foundation. The two norms trickled down from the international level as analyzed in the previous chapter. Since the late nineteenth century one can observe both norms as well as a very diverse way how they were used. While in the beginning prostitutes were seen as offenders rather than as victims this behavior changed over the years. Actors appeared at the international level who defined the norms differently and who thus also initiated changes in laws and regulations in the course of time. Locher analyzed these processes in detail in her case study. She also argued and examined how these norms and the behavior that is based on them trickled down from the international level to the regional level of the EU.⁵⁷ As showed by her in the case of trafficking in women, the anti-trafficking norm and the anti-prostitution norm influenced the legal framework of the EU strongly as soon as they were adopted at the European level. The treaty was expanded and issues such as criminal matters and especially violation against children were incorporated due to the fact that these things were seen as matters necessary to be dealt with at the regional level.

⁵⁶ This can be observed when viewing the debates etc. initiated by the European Parliament.

(Locher 2007) Subsequent the EU was able to address the problem CSEC and to implement policies and programs aimed at combating CSEC. Thus, it can be concluded that the two norms did not initiate the earlier discussed framework decisions directly but rather the legal framework which then initiated the respective framework decisions.

With regard to the central research question, namely ‘How and why did an issue such as CSEC enter the political agenda of the European Union in the 1990s?’ it can be summarized that the European Union started in the 1990s to develop and implement policies and programs which addressed the phenomenon CSEC as it exists within Europe’s borders. For this achievement a number of diverse processes and factors were necessary which mostly existed parallel to each other rather than occurring one after the other. Exogenous events in the area of CSEC and structural changes which caused spectacular developments of the phenomenon as such created awareness and provided entrepreneurs with support from the public. The international level provided the regional level and its actors with models and solutions of how to address the problem and thus supported the progress. And last but not least institutional changes provided the EU with the necessary legal competence without which there would have been no action.

However especially the lately decided framework decision on the regulation of the exchange of information extracted from criminal records proves that there still are diverse opinions on how far regional cooperation in the field of CSEC should go. While there are actors who share the opinion that EU cooperation should go much further (e.g. the Commission, police and judicial authorities⁵⁸), for other actors (e.g. experts in the field of data protection)⁵⁹ the framework decision reaches to far. Although the anti-trafficking norm as well as the anti-(child-)prostitution norm have concluded the third stage of the norm life cycle and CSEC has reached the political agenda of the European Union, sexual abuse of children is still part of the third pillar and thus cannot be addressed with supranational measures. The nation states are still the actors who decide on the grade of cooperation and further integration. It remains open if debates on combating CSEC will reach supranational character for instance by being moved to the first pillar.

⁵⁷ For more detailed information on the development and diffusion of the anti-trafficking norm and the anti-prostitution norm from the international to the regional level see Locher 2007.

⁵⁸ See: Tagesschau: EU-Kommission will gemeinsame Kinderschänder-Datei. 2 July 2004.

⁵⁹ See: e.g. Arge Daten. Internet: Internet: http://www2.argedaten.at/php/cms_monitor.php?q=PUB-TEXT-ARGEDATEN&s=80189hea

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