

"Combating sexual abuse, sexual exploitation of children and child pornography: the Commission's proposed Directive"

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

Ladies and Gentlemen,

Let me start by saying that I am honoured, and happy, to have been invited by ENASCO to open today's conference on *Protecting Children Online*. I welcome ENACSO's *Right Click* initiative. It gives us a comprehensive set of policy recommendations which deserve to be read carefully, and to be acted on.

As adults, parents and politicians, we have a shared responsibility for keeping our children safe. Sexual abuse, sexual exploitation and child pornography are crimes that pose tangible threats to children throughout the EU. The evolution of the Internet and the Digital World have changed the nature of these crimes, posing new risks and challenges.

Nobody contests the need for action at the EU level to combat sexual crimes against children. Not only is the *magnitude* of the problem frightening: as much as 10-20% of children in the EU may suffer some form of sexual crime during their childhood, hundreds of Internet sites disseminate child pornographic images – or as we ought to say "child abuse images", for that is of course what it

is, and social chat rooms are increasingly exploited for grooming children. The problem also has obvious *cross-border dimensions*: in the form of Internet child pornography and child sex tourism.

As you probably know, the Commission recently proposed a Directive on sexual abuse, sexual exploitation of children and child pornography. It contains a number of provisions aimed at keeping children safe in the Online environment.

What the Commission has proposed is a broad and ambitious set of measures. They reflect a comprehensive and holistic approach, something that I believe is necessary to fight these crimes efficiently.

The proposal includes provisions not only on *Prosecution* of offenders, but also on *Prevention* of offences and on *Protection* of child victims. They draw on the good work done in the Council of Europe in this area, but on several fronts go further than the [Lanzarote] Council of Europe Convention from 2007.

It is a comprehensive proposal, so I would like to focus on its key elements:

In order to strengthen **prosecution**, the proposal asks Member States to *criminalise* new forms of child sexual abuse and exploitation, such as *grooming* through social chat rooms and viewing child pornography on the Internet without downloading any files. And the proposal lays down *minimum penalties* at national level for 22 different types of offences, depending on the gravity of each offence.

The proposal also aims to help police authorities *investigating* offences, bringing charges even in the absence of reporting by child victims, and continuing legal proceedings even if child victims withdraw their statements. For the most serious offences, it would make it possible to prosecute offenders many years after the event, to ensure that justice is done even where victims dare to come forward only as adults.

Rules on so called *extraterritorial jurisdiction* would also be included to ensure that child sexual abusers from the EU can be prosecuted when they commit the crimes outside the EU. This means that it would be easier to, in Europe, prosecute a European citizen that has committed sexual crimes against children abroad, in the context of so called *sex tourism*.

To **protect** child victims in criminal proceedings, the proposal would enhance access to *legal aid* and, in some cases, a special representative. It would have rules on how police and judicial authorities should be specially trained in order to conduct *interviews* in a way which does not create additional trauma for the child.

In order to **prevent** crimes from being committed in the first place, we propose that all offenders should be offered *special intervention and treatment programmes*, and that offenders who are *excluded from working* (paid or voluntary) with children in one Member State should not be allowed to do such work in other Member States either.

A substantive part of the proposal concerns protection of children Online.

As I mentioned already, the proposal would establish a new criminal offence, namely *grooming* of children, when adults seek contact with children online for sexual purposes. Online grooming is a phenomenon that is on the rise. As more and younger children go online and use the Internet for social and educational purposes, so do the perpetrators, there is a need for criminalising this growing problem.

In addition, the proposal is aimed at fighting the distribution and use of **child pornography** via the **Internet**. The provision on child pornography is one of the core elements of my proposal. Child pornography – images of abused and raped children, or even infants – is a growing problem. According to the UN *special rapporteur on the sale of children, child prostitution and child*

pornography, up to 200 new child abuse images are placed on the internet every day. Information from different sources suggests that the images appear to be getting both more explicit and more violent. Police authorities tell us that the distribution is becoming more professionalised, responding to the large financial gains to be made.

This provision has attracted quite some attention, in blogs and online debates – perhaps more than it deserves and I would like to explain this provision a bit further:

The provision responds to the problem of internet child pornography in two ways: it imposes an obligation on Member States to *remove* child pornographic content from Internet sites at *the source*; *and* it requires Member States to ensure that *access by users* to Internet sites which disseminate child pornography can be *blocked*.

The Commission is therefore not proposing blocking of access *instead of*, or even as an alternative to, removal at source. Blocking is proposed as a *complementary* tool. We need both to tackle this issue effectively.

Removal at source is, of course, the best solution; nobody question that, and Commission's proposal itself explicitly recognises that this is so. We must of course do everything possible to take down internet sites spreading child pornography.

But the reality is that removal at source is difficult to achieve in practice, and that it may even be impossible in some cases, because the illegal content is hosted in different third countries, and may even move around between countries from day to day. In this regard, I can reassure you that the Commission is working hard with third countries, both bilaterally and in international organizations, to ensure that removal at source is possible.

In fact, in 2009 the Commission worked with the German organization ECO and the INHOPE network to screen the Internet and found 144 child pornographic sites in countries such as the US, Russia, Canada, Japan and Mexico. Despite efforts by national hotlines and authorities to have these sites taken down, many of them [59 of the 110 sites in the US] were still operating several months later. And a recent study from the University of Cambridge found that it takes on average 30 days for child pornographic material to be removed at source, with as much as 20% staying online for more than 6 weeks.

Despite efforts from all actors, including the Commission, it is unrealistic to believe that this will change dramatically for the better, in the short or medium term. The economic, technical, legal, practical and political issues are simply too complex.

I am aware that blocking has been criticised as inefficient and, even, contrary to human rights.

As for its efficiency, I entirely accept that computer specialists and - perhaps even committed amateurs - can circumvent some of the blocking filters used today. But the technology obviously evolves and I am still to be convinced that the majority of child pornography users are computer experts. Internet blocking already exists in a number of Member States, including Italy, Denmark, Finland, Sweden, and the United Kingdom. The experience of these countries shows that hundreds, or even thousands, of attempts to access child pornography sites are blocked every day.

As for human rights, I am – frankly – disappointed by some of the arguments I have heard. Child pornography consists primarily of images of children suffering sexual abuse in real life. How can anyone regard this as the expression of an opinion, or as information that anyone has a right to receive? I simply cannot accept that.

The European Court of Human Rights has dealt with the broader issue of online child sexual abuse (in a case against Finland):— details on a 12 year old child had been posted on an internet dating site, making him a target for approaches by paedophiles. The Court stressed in this case that States are under a positive obligation to take steps to effectively protect the right to private life of children.

It is my personal conviction that we must do our utmost to protect any child from the violation and trauma it is being exposed to every time a photo or film of it being abused is watched or downloaded. Blocking of access to this illegal content is one step in the right direction. Prevention of all sexual abuse of children is, of course, the long term objective. Removal at source and access blocking are both positive steps in that direction.

I am convinced that blocking and removal at source *together* can make a real difference. They will *reduce the availability* and circulation of child abuse images - making the trade in them less profitable - and *limit the trauma* experienced by victims' when their images circulate on the Internet. At the same time, they will protect against accidental viewing, giving people the confidence in the Internet they deserve.

Finally, some have voiced concern that blocking access to child pornographic sites is the inevitable start of a process leading to political censorship. They are right to raise this issue. The Internet is a powerful tool, and we should be extremely cautious in regulating it. But again, the Commission's proposal is about child abuse images, no more no less. The Commission has absolutely no plans to propose blocking of other types of content - and I would personally very strongly oppose any such idea.

So, let me conclude by saying that I look forward to working with all partners - the European Parliament, the Member States and civil society – to bring the debate forward, and hopefully see the proposal adopted soon. And I know that I

can count on the full support of the alliance gathered around ENACSO, as the voice of actors defending children's rights.

Thank you very much!

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Key Note speech (15 mins)
Commissioner Malmström