

PROTECTION, ASSISTANCE AND SUPPORT OF CHILD VICTIMS

PUBLIC HEARING

Combating sexual abuse, sexual exploitation of children and child pornography

Committee on Civil Liberties, Justice and Home Affairs

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Save the Children was established in 1919 and is at the forefront in the fight for the rights of the child.

Save the Children is an international movement for children's rights, currently comprises 29 organisations, spanning five continents and operating in over 120 countries.

Save the Children has been active for many years in raising awareness about the issue of child abuse and has implemented programmes to combat child abuse in all its forms. Within this programme framework, **Save the Children** gives direct help to children who have suffered sexual abuse by providing support through appropriate therapeutic projects. Given the fact that the sexual abuse of children represents a serious violation of children's rights in general terms, the advance of the new technologies in particular, has posed even greater concerns as perpetrators can easily exploit the technology for the production and distribution of child abuse images.

Since the mid 1990s six members of the **Save the Children** Europe group have been engaged in combating the digital distribution of images depicting the sexual abuse of children and in raising awareness about child sexual abuse and exploitation via the Internet and other new technologies. These organisations have worked together to implement hotlines, awareness raising campaigns and advocacy activities calling for increased and improved efforts at national and international levels to fight sexual abuse of children and the production and distribution of child abuse material.

Child sexual exploitation and abuse are severe violations of human rights and the United Nations Convention on the Rights of the Child. They have far-reaching and devastating implications for the present and future development of the child. While international law sets high standards for protection of children against sexual abuse, national law, justice and protection systems often fail to protect children adequately.

If the right of a child to be protected from offences committed against him or her is to have meaning, the EU must ensure that effective measures and the highest standard of protection are in place, in all member states, to guarantee that victims are identified and that they receive appropriate care and support.

To this end, Save the Children **welcomes the effort represented by the proposed Directive to improve the EU legislation** in order to develop a more effective up-to-date legal framework to tackle the problem of child sexual abuse and exploitation. At the same time, Save the Children **stresses the need to apply a child rights or *child's best interests* approach in this process** and suggests which recommendations and amendments that need to be considered in order to obtain that objective.

PROPOSED RECOMMENDATIONS TO PROTECT AND SUPPORT CHILD VICTIMS.

Measures intended to identify child victims

There are many obstacles to the adoption of effective measures to identify children who have been abused or are still abused. One need to take into consideration the fact that child sexual abuse is a problem, which is shrouded in secrecy and societal denial and that very few children who are abused will disclose their abuse; sexually abused children often feel shame and bewilderment at what has happened to them. Moreover, most victims are abused by a person they know, which often includes primary caregivers, and they are manipulated to silence and a sense of complicity through “grooming”.

Save the Children **welcomes the provisions included within the Directive proposal article 14 and 15** which aims to improve the investigative process, and stress the need to ensure that investigations are conducted “promptly and without any unjustified delay”, pursuant to Article 30(3)¹ of the Lanzarote Convention. We also welcome the recommendation urging Member States to take measures in order to encourage professionals called upon to work in contact with children any person who knows about or suspects, to report any suspicion they have of sexual exploitation

¹ “Each Party shall ensure that the investigations and criminal proceedings are treated as priority and carried out without any unjustified delay.”

or sexual abuse. However, we stress the need that training should be available to these professionals on the sexual exploitation and sexual abuse of children.

To the same end, the Directive should include a provision to ensure that Member States take the necessary measures to establish child helplines. Such a provision, could be inspired by the Lanzarote Convention article 13².

Since, as mentioned above, child victims of sexual abuse are often unable to report and/or disclose information about the offences that have been perpetrated against them, we believe that it is essential Member States take the necessary measures to extend the statute of limitations for initiating proceedings to sufficiently so that proceedings can start *after* the victim has become an adult. This period of time should be long enough to allow victims to file a complaint for authorities to bring prosecution for the offences concerned. Such a provision could be formulated on the basis of article 33 of the Lanzarote Convention.³

Finally, the proposed measures in relation to victim identification are particularly welcome. We strongly support article 14(4), which represents, along with article 6, an effort to catch up with developments, in particularly in the online environment⁴. Identify and protect the children victims abused for the production of child sexual abuse material must be a political priority for EU and its Member States. Very few of these children are being identified and protected from what could still be an ongoing abuse despite the fact that law enforcement and other child protection agencies have access to this primary evidence. Interpol's Child Abuse Image database has been in operational use since 2001 and consists of **more than one million images** showing the sexual abuse, **only 1800 of them have been identified and ensured to protection**. Every child abuse image contains primary evidence of a criminal act being committed against a child. None of these actual images of child sexual abuse has been produced without the child suffering or being exploited.

We therefore suggest that the language be strengthened by including reference to **“enable and support investigative units...”**, and that further steps are taken to ensure identification of victims, including ensuring that investigative units may take ownership of

² “Each Member State shall take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advise to callers, even confidentially or with due regard for their anonymity”.

³ “Each Party shall take the necessary legislative or other measures to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question”.

⁴ Which is also in line with the Lanzarote Convention: Article 30(5): Each Party shall take the necessary legislative or other measures, in conformity with the fundamental principles of its internal law: to enable units or investigative services to identify the victims of the offences established in accordance with Article 20, in particular by analysing child pornography material, such as photographs and audiovisual recordings transmitted or made available through the use of information and communication technologies.

investigations referred to in article 5 and 6 regardless of whether the nationality of the victim and/or perpetrator of the offence, or country in which the offence has taken place, has been established.

Article 6 of the Directive proposal is an important step towards ensuring protection of children against child sexual abuse, sexual exploitation and child abuse images.

We are however very concerned that this provision only protects children under the “age of consent”, leaving a large number of children of varying age (some as young as 13 years old) unprotected against grooming across Europe. We are in particular concerned that reference is made to “age of consent” in relation to article 5 (6) on production of child pornography, which protects all persons under the age of 18. In essence, the proposed Directive provides a loophole in that any child below the age of eighteen but above the age of consent in their country could be the victim of such solicitation, although the activity itself is a criminal offence. **We therefore strongly recommend that reference to age of consent is deleted in article 6**, at the very minimum in relation to article 5(6). It is suggested that the exemption for conduct between peers be extended to solicitation rather than an outright exemption simply because the age of consent has been reached.

Assistance and support of child victims.

The **best interest of the child** shall be the primary consideration in all actions involving child victims, whether undertaken by police, courts of law, administrative authorities or legislative bodies, public or private social welfare institutions. It is important to ensure assistance to victims in the short and long term, in their physical and psycho-social recovery, and that measures taken shall take due account of the child’s views, needs and concerns. Child victims are entitled to special protection measures, especially during the investigations and criminal proceedings in which they are involved both as victims and as children, in accordance with their special rights and needs.

Save the Children welcomes the steps put forward by the Directive proposal, which testify a political awareness of the problem. However, Save the Children **recommends the formulation of a more comprehensive child protection strategy for the victims of sexual abuse**. Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal. We therefore also recommend that the Directive proposal be amended **to ensure that child protection systems and multi-disciplinary systems are put in place in**

each Member State to provide the necessary support for victims, their close relatives and carers.

Child protection systems are comprehensive approaches to the protection of children from abuse, neglect, exploitation and violence and to the fulfilment of children's rights to protection. They are made up of a set of components that, when properly coordinated, work together to strengthen the protective environment around each child. These components include a strong legal and policy framework for child protection, adequate budget allocations, multi-sectoral coordination, child-friendly preventive and responsive services, a child protection workforce, oversight and regulation, robust data on child protection issues, etc.

Finally, **we welcome provisions, which intend to protect child victims in criminal investigations and proceedings** (article 19). We further recommend that a provision is included to ensure that the *best interest* of the child is a primary consideration in these contexts. We would also like to emphasise that it is important that assistance and support is not exclusively linked to criminal proceedings (before, during and/or after). Protection and assistance must also include e.g. measures for victims, who are *presumed* to have been abused or exploited. For instance, article 14.1 encourages initiatives to ensure suitable training for personnel involved in proceedings or otherwise in contact with victims.

Save the Children recommends the addition of certain provisions to article 19 stating that children shall be informed of their rights and the services at their disposal, ensuring that their needs, views, and concerns are taken into consideration. To this end, **effective measures need to be taken to ensure that investigations and criminal proceedings do not aggravate the trauma experienced by the child and/or other family members**: e.g. to protect the privacy of child victims, their identity and their image, to provide for their safety, as well as that of their families and witnesses on their behalf, from intimidation or other threats. To this end it is of paramount importance that **training should be available to the law enforcement operators, judiciary, prosecution and lawyers on children's rights and the sexual exploitation and sexual abuse of children**.