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CHILDREN**

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INTRODUCTION

Violence towards children is an issue of growing concern to the public, governments and international organizations. The wide media coverage given to crimes committed against children, together with the *daily reports* of the emergence of paedophilia cases throughout the world, would seem to indicate that the phenomenon is **on** the increase. It is not yet clear whether such problems have instead been cloaked in secrecy for centuries and are now emerging in the new context of globalization, with societies *only* now plucking up the courage to deal with them. It is certainly true that the international community is aware **of** the limitations it faces **m** tackling a problem which affects all countries and takes many different forms.

I. DIFFERENT FORMS OF VIOLENCE

This document will confine itself to analysing the forms of violence which have direct effects **on** the European legal and **social** area, such as the **sexual** abuse and exploitation of children within the family and in society, in the **form** of ill-treatment **or** incest, paedophilia and child prostitution, sex tourism and media-related pornography.

Other forms of violence which are more particularly related to the social context (particularly **in** the developing countries), such as child labour, the situation of street children and children in armed conflicts, will be dealt with **m** a later research paper.

However, there are **no** clear **limits** between the different forms **of** violence against children. Each act of violence is a reflection **of** social, economic, ethnic **or** cultural factors and can be perpetrated at family, national, transnational **or** world level. The different **forms of** violence described below, therefore, are necessarily linked to each other.

1.1. *violence in the family and violence used as punishment*

The Council of Europe defines **physical violence** within the family as *any act or omission which prejudices the life, the physical or psychological integrity or the liberty of a person or which seriously harms the development of his or her personality*'.

In practice, violence **m** the **family** can take the **form of** non-accidental physical i n . , physical neglect, psychological **or** emotional abuse **or** neglect, sexual abuse **or** abandonment², **all** these notions being taken up **in** Article 19 **of** the Convention **on** the Rights **of** the Child adopted by the United Nations General Assembly **on** 20 November 1989.

The greatest tragedy resulting from violence is the death of a child. Formerly, the only acts **of** violence discussed publicly were infanticide and the corporal punishment **of** children **for** disciplinary and educational reasons.

¹Recommendation No. R(85) 4 **on** violence in the family, adopted by the Committee **of** Ministers **of** the Council of Europe **on** 26 March 1985.

²B.G. Fraser, 'A Glance at the Past, a Gaze at the Present, a Glimpse at the Future: A Critical Analysis of the Development of Child Abuse Reporting Statutes', *Chicago-Kent Law Review*, 54:643, 1977-78.

Punishment was traditionally held to be a 'legal' form of violence by the parents, who were held to be the owners of the child, and it is **still** recognized in certain countries provided it is 'moderate' or 'reasonable'. In the meantime, countries such as Sweden, Finland, Denmark, Norway and Cyprus have outlawed any form of violent or humiliating treatment of children and, more recently, Italy declared illegal any form of violence for disciplinary purposes, whether at home or at school. This is currently the subject of debate in several countries, such as Portugal, where a review is taking place of forms of punishment at school.

In Ireland, it was **only** in 1997 that a law on protecting children against any form of cruelty repealed a provision dating back to 1884 on the various forms of child punishment².

The Council of Europe's European Court of Human Rights has a vast body of case-law relating to punishment meted out to children (with cases involving Ireland and the United Kingdom in particular) under Article 3 of the European Convention on Human Rights (**'No one shall be subjected to torture or to inhuman or degrading treatment or punishment'**). Article 24(3) of the United Nations Convention on the Rights of the Child **also** provides for the abolition of 'traditional practices prejudicial to the health of children'.

I.1.1. The scale of violence

Despite the efforts of various organizations, it is **almost impossible** to give an accurate estimate of the extent of violence within the family nowadays. The victims are often too young to be able to speak or communicate, or they are too embarrassed **or afraid** to report the abuse. Many incidents **occur** behind closed doors **and**, even when other adults witness inappropriate or criminal behaviour, they may not want to get involved in what they consider a '**family matter**'.

However, *society* is taking an increasing interest in the cases of abuse or neglect which are reported to the authorities. In France, for example, 'over 30 000 children are victims of violence each year, and this figure does not include the hidden acts of violence which the victims cannot or will not **reveal**³. Indeed, 'individuals of apparently **irreproachable** character commit monstrous acts and such individuals are often those who have most contact with the children: **in** 80% of cases, such violence is perpetrated by parents and, in the remainder of cases, by family members or those who have the care **of the children**⁴. Moreover, the ODAS (Decentralized Social Action Observatory) reports that the number of children in danger is steadily rising **in** France, not **only** because the phenomenon is becoming more widespread but **also** because such cases are being reported to a greater extent.

¹See 'Children and Violence', *Innocenti Digest No. 2*, September 1997, Unicef, p. 7.

²Cf. report of the Select Committee on Social Affairs on Non-Fatal Offences against the Person in respect of Children, *Dáil Éireann*, Dublin 1997, p. 19.

³Speech by Elisabeth Guigou, Minister of Justice, to the French National Assembly on 31 September 1997.

⁴*Ibid.*

L1.2. The causes of violence

Ill-treatment of children within the **family** is a complex problem involving many different factors. The ODAS attributes the phenomenon to the worsening social crisis, a weakened society and other symptoms of social upset as reflected in instances of depression, alcoholism, drug abuse and even an increase in the suicide rate. Studies carried out in the United States' have **shown** that the problem cuts across racial, ethnic, religious and socio-economic lines, affecting the entire spectrum of society. Abusive parents cannot be categorized by age, sex or educational level, and they come from varying cultural backgrounds.

Of all factors associated with child abuse, **two** are discussed **most** often: **(1)** parents who themselves suffered abuse as children tend to abuse their own children, and **(2)** isolated or alienated families tend to become abusive. A cyclical pattern of **family** violence therefore seems to be perpetuated from one generation to the **next** within families. The behaviour of abusive parents can often be traced back to highly negative experiences in their **own** childhood, such as physical abuse, lack of love, emotional neglect and incest².

The report by **Mrs Zimmermann** on measures to protect minors in the European **Union**, drawn up on behalf of the European Parliament's Committee on Legal **Affairs** and Citizens' Rights³, highlights the change in family structures, the steady increase in the number of single-parent families, sometimes involving a number of different partners, and the internationalization of a society in which working parents are absent more often and for longer periods.

L1.3. Social class and abuse

Certain surveys indicate a high rate of reported child abuse cases among lower economic classes living in poverty or experiencing financial hardship due to unemployment and economic recession. Another view is that poor families are more often dealt with by the social services, which automatically report suspected cases, whereas higher-income families can afford other solutions which shield their problems from public view.

1.2. Sexual abuse and exploitation of children outside the family

It was largely following the disclosure of the crimes committed against children in Belgium and the holding of the Stockholm World Congress against Commercial Exploitation of Children from **27 to 31 August 1996** that the failures and shortcomings of judicial and police cooperation in Europe in combatting paedophilia, the prostitution, traffic and sale of children, sex tourism and child pornography - all phenomena to be found on a worldwide scale - became apparent.

Webster-Stratton C., "Comparison of Abusive and Nonabusive Families with Conduct-Disordered Children", *American Journal of Orthopsychiatry*, 55:59-69, 1985; Fontana, "To Prevent the Abuse of the Future", p. 16; Fontana, "The Maltreated Children of Our Times", p. 451; Steele B. F. et Pollock C. B., "A Psychiatric Study of Parents Who Abuse Infants and Small Children", in Ray Helfer et C. Henry Kempe, eds., *The Battered Child*, University of Chicago Press, 1968, pp. 103-45.

²*Ibid.*

³A4-0393/96, explanatory statement, p. 17.

According to the joint action adopted by the Council on 24 February 1997 on combatting trade in human beings and the sexual exploitation of children, **sexual exploitation of children** covers the following:

- inciting or compelling a child to take part **in** illicit sexual activities;
- exploiting a child for the purposes of prostitution or other illicit sexual practices;
- exploiting children for the purpose of producing pornographic shows or other material, including the production, sale and possession for personal use of such material.

Moreover, **sexual abuse** is defined by child protection organizations as *the use of a child's body for the gratification of a person older than that child irrespective of their relationship and even if it does not involve constraint or violence*². It may range from rewarding a child for sexual behaviour that is inappropriate for **his** or her level of development to using force or the threat of force for the purposes of sex. **Sexual** abuse can involve children who are well aware of the sexual content of their actions as well as others who are too young to have any real idea of what their actions mean. It can involve a variety of facts from inappropriate touching or fondling to forcible sexual penetration, or rape.

Such acts have a devastating effect **on** the development of the children involved, who experience feelings of **guilt** and shame and suffer traumas which can continue into adulthood. Traumatic sexualization can lead young victims **in** turn to victimize their peers, act **in** a compulsive and promiscuous fashion, experience aversion to sex or trade sex for affection. Victims commonly suffer hallucinations, nightmares and periods of profound rage.

121. **Child and juvenile prostitution**

Child prostitution can be defined as *'the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organized by an intermediary (parent, family member, procurer, teacher, etc.)'*³.

Most children or young people **who** enter prostitution come from dysfunctional families or are migrants from the developing countries and the countries of Central and Eastern Europe. They have often **suffered** physical, *sexual* or **emotional** abuse and **m**any cases have run away from home. They generally suffer **from** a negative self-image and seek affection, **so** the attention they receive from 'punters' and pimps can foster the **illusion** that these people really care. Lack of qualifications and training can **also** mean that children turn to prostitution as a means of economic survival. **Pimps** and other prostitutes **may** offer food and shelter **in** exchange for money raised **through** prostitution, which makes it very **difficult** for the young people to get out of **this** lifestyle.

¹ OJ L 63, 4.3.1997, p. 2.

² Document de Travail du Sénat français, Serie Legislation comparee, N° LC 21, décembre 1996.

³ Vitit Muntarbhorn, 'Sexual Exploitation of Children', Centre for **Human** Rights, Geneva, 1996, p. 7.

'Public concern and international awareness have increased **through** the work of non-governmental organizations (**NGOs**), the United Nations and the Council of Europe". Given the transnational nature of trafficking in human beings, the EU has become aware of the need for judicial cooperation and coordination at international level and has decided inter alia to launch public awareness campaigns and training programmes for migration officials. The Commission states that 'a collection of more than 5 international instruments were drawn up in the period 1900 to 1950 dealing with trafficking **in** persons and prostitution..... None of these has been ratified by all 15 Member States''.

1.2.2 Child sex tourism

The widespread development of child sex tourism is a relatively recent phenomenon, which is partly linked to the considerable increase in the number of business travellers and international tourists in the second **half** of the 20th **century**³. The problem is linked to prostitution and paedophilia, which are encouraged by the promotion of 'exotic' holidays for Western tourists in the developing countries, particularly the Philippines, Thailand, **India**, Sri Lanka and various Latin American countries. NGOs have conducted campaigns aimed at changing the laws of various countries to enable those who have sexually abused children **in** another country **to** be prosecuted in their own country. The European Parliament has **also** added its voice **to** such campaigns.

In the report drawn up by Mr Schulz **on** behalf of the Committee **on Civil Liberties and Internal Affairs**⁴, the EP proposes various measures in this field, namely:

preventive measures: information campaigns, the inclusion of a reference **to** children's rights in the new Treaty, harmonizing concepts such as 'child' and 'paedophile' and applicable **penalties**, ratification by the Member States of the Europol Convention, the **setting** up of a centralized register of abducted and missing children as part **of** the future European Information System (EIS), international pressure **on** countries which tolerate sex tourism and support for NGOs combatting this threat in such countries;

law enforcement measures: creation of a database **on** paedophiles, treatment of paedophiles with a view to preventing them from reoffending, **making** the production, sale, exchange and possession for personal use of pornographic material **involving** children subject to penalties, banning tour operators which encourage sex tourism, adoption of a universal extraterritoriality clause, abolition of the principle of double incrimination, particularly **in** connection with sex **tourism**, and the confiscation of any proceeds deriving from trafficking **in** children;

¹Communication from the Commission to the Council and the European Parliament **on** trafficking in women for the purpose **of** sexual exploitation, COM(96)567, p. 1.

²*Ibid.*, p. 11.

³**Communication** from the Commission **on** combatting child sex tourism, COM(96)547 final, p. 2.

⁴A4-0306/97, explanatory statement, pp. 23-24.

rehabilitation measures: a non-punitive approach to victims, guarantees of confidentiality for young victims during criminal proceedings, social, medical and psychological assistance for victims, helping victims to adopt alternative ways of life and setting up shelters for young victims.

1.2.3. Child pornography and the media

Other topics on the agenda for the international debate on this subject are the possibility of regulating transnational information flows and the need to protect human dignity and human rights, particularly in view of the massive and virtually uncontrollable spread of the media and the information society.

At Community level, the Commission has drawn up **two** crucial documents:

- the **Green Paper** on the protection of minors and human **dignity** in audiovisual and information services (COM(96)483 final), and
- the communication to the Council, the EP, the Economic and Social Committee and the Committee of the Regions on **harmful** and illegal content on the Internet (COM(96)487 final).

The EP delivered its opinion on those documents in **two** reports, A4-0227/97 adopted on 24 October 1997¹ and A4-0098/97 adopted on 24 April 1997² respectively.

As far as children are concerned, it is necessary to protect their human dignity in the face of the growth of the **information** society, to review the various criteria in force in the different countries as regards media content and crimes of **child pornography on the Internet**, to define the requirements for and limits on controlling **illegal and harmful** media content while respecting freedom of expression and the right to access information and, more especially, to study ways of monitoring paedophile networks, trafficking in human beings and sex tourism via the Internet.

These are all new issues on which a worldwide debate is under way and possible measures are therefore still being studied. To clarify matters, the Commission draws a distinction between:

- **illegal** content: certain content considered as criminal by the laws of the Member States or which offends against human *dignity*, such as child pornography, trafficking in human beings, the dissemination of racist material or incitement to racial hatred. The exact definition of offences varies from country to country. In such cases, enforcement could be achieved by targeting Internet access providers, between the worldwide network and users, or by setting up a 'cyberpolice force' within the framework of Europol. However, the effectiveness of such forms of enforcement is questionable, as users could connect to other servers as an alternative to the local server;

¹See the minutes of proceedings of the sitting of 24 October 1997, **Part II**, point 3.

²OJ C 150, 19.5.1997, p. 38.

- **harmful** content: content which, although legal, is likely to harm the physical, mental and moral development of minors. It is more difficult to arrive at a general definition in this case, as the criteria vary depending **on** culture, national traditions and parental opinion. Whereas, **in** the traditional broadcasting media, it was possible to schedule broadcasting times or deliver warnings about programme content to parents, the content of the new media is available worldwide at **all** times, which makes it more difficult to monitor. The Commission believes that content could be monitored, either by parents or by certain forms of filtering software such as PICS (Platform for Internet Content Selection). Here again, however, it is necessary to take account of the **differences in** national and parental criteria, bearing in mind the right to **information**, freedom of expression and the limits **on** state action in the sphere of privacy and family life.

The European Parliament, for its part, **has** called for a legal framework **setting** out **minimum** standards **on** illegal content and the **definition** of principles and objectives to be attained for the protection of minors, and has put forward proposals **on** training police bodies in the new technologies and in detecting and **stamping** out *criminal* activities connected with telematics services. Lastly, it has called **on** the Council to set up a centralized register of missing children.

More recently the Commission published:

- a communication **on** the follow-up to the Green Paper **on** the protection of minors and human dignity in audiovisual and information services, together with a Proposal for a Council Recommendation **on** the protection of minors and human dignity in audiovisual and information services (COM(97) 570 final).

The document reviews the work carried out **within** the framework of the Green Paper and sets out the general principles **in** the context of protecting minors and human dignity, whatever the means **of** conveyance of audiovisual and information services. While stressing the need for respect for privacy and **freedom** of expression, the text puts forward proposals for international judicial cooperation and common guidelines for the implementation of a **self-regulation** framework **in this** sphere at national level with the **aim** of ensuring consistency at **EU** level **in** the activities carried out by the Member States. **In this** context, the proposal for a recommendation provides for codes of conduct at national level which should take account **of** certain basic rules and the **fundamental** principles mentioned earlier by setting **specific** objectives aimed at ensuring that minors do not have access to certain harmful content without the agreement of their parents or teachers.

Within the **Council of Europe**, the committee of experts **on criminal** activities in cyberspace (PC-CY) is working **on identifying** and **defining** the new offences being committed through the medium of the **Internet**, and attempting to establish criminal liability **in** the context of the transnational information flows circulating **on** the **Internet**. The group of specialists studying the impact of the new communication technologies **on** human rights and democratic values (MM-S-NT) is **also** looking at the effect the **Internet** is having **on** human rights, and at pornography **involving** images of children being shown **on** the **Internet**, from the point of view **of** Article 8 (the right to privacy) and Article 10 (freedom of expression and information) of the European Convention **on** Human Rights.

It. THE COMMUNITY LEGAL FRAMEWORK

II.1. Children's rights within the European Union

As Mrs Zimmermann stated in her report on measures to protect minors in the European Union, drawn up on behalf of the **Committee on Legal Affairs and Citizens' Rights**, 'the EU's citizens are seen **first** and foremost as employees, employers, consumers, etc. Their offspring are therefore primarily children of working parents''.

The same report **affirmed** (in Recital **H** of the resolution) that 'the European Union is not pursuing a policy geared directly to the rights of children', a remark taken up by nearly all the EP's resolutions on children's rights, which are seen *mainly* in the general context of human rights.

The report proposed many measures which could have helped to formulate a European Union policy on children but which were not followed up, such as the introduction of an additional protocol to the European Convention on Human Rights that meets the specific needs of children, the creation of a separate directorate general with responsibility for children's rights and the appointment by the European Parliament of a children's ombudsman to take responsibility for upholding children's rights in all areas of policy.

II.2. The Treaty of Amsterdam

During the IGC the Committee on Women's Rights, together with other committees, had called for the introduction of a provision in the **new** Treaty recognizing children's rights as full citizens of the **Union** so that they are automatically included in any discussion on fundamental rights''. It had **also** recommended amending Article **K 1** of the Treaty on European Union to make combatting trafficking in persons one of the priorities of the common policy.

While it is true that Article **K 1** of the Treaty of Amsterdam contains a reference to 'trafficking in persons' and 'offences against children' in the context of provisions on police and judicial cooperation in criminal matters, providing for action in this sphere by the **Member** States both directly and through the European Police Office (Europol), children as such are never mentioned in the Treaty and are not the subject of any specific **EU** policy. They are *only* indirectly represented in Article 6a of the Treaty, which stipulates that the Council may take appropriate action to combat discrimination based inter alia on **age** or sexual orientation.

¹A4-0393/96, explanatory statement, section 1, and OJ C 20, 20.1.1997, p. 170.

²Draft opinion of 5 May 1997 of the Committee on Women's Rights for the Committee on Civil Liberties and Internal Affairs on reinforcing the prevention of the sexual abuse and exploitation of children (PE 221.367).

II.3. Judicial cooperation in criminal matters and the joint actions of the Council

Following the *informal* meeting of the 'Justice and Home Affairs' **Council** in Dublin on **26** and **27** September **1996**, the **Council** adopted a number of joint actions:

- joint action of **28** October **1996** establishing an incentive and exchange programme for legal experts and the judiciary in the Member States (GROTTUS)¹;
- joint action of **29** November **1996** establishing an incentive and exchange programme for persons responsible for combatting trade in **human** beings and the sexual exploitation of children (**STOP**)(96/700/JAI)²;
- joint action of **29** November **1996** concerning the creation and maintenance of a directory of specialized competences, skills and **expertise** in the fight against international organized crime, in order to facilitate law enforcement cooperation between the Member States of the European Union (96/747/JAI)³;
- joint action of **16** December **1996** extending the mandate of the Europol Drugs **Unit** to cover trafficking in **human** beings (96/748/JAI)⁴;
- joint action of **24** February **1997** on action to combat trafficking in **human** beings and sexual exploitation of children (97/154/JAI)⁵.

However, faced with the more recent cases of paedophilia and sex tourism, the Member States are experiencing difficulties in prosecuting those **who** commit such offences. Similarly, the lack of coordination and cooperation in obtaining and disseminating the **information** available shows that the proposed mechanisms are not yet **fully** functioning in an area in which, as the events in Belgium have shown, prompt, decisive action is needed, often at international level. The EP accordingly, in proposing the adoption of extraterritoriality clauses, urges the Member States to 'abolish the requirement of double incrimination for sexual offences against minors; in other words, there should be **no** requirement that the crime be punishable in the place where it was committed in order for a prosecution to be brought'⁶.

¹ OJ L 287, 8.11.96

² OJ L 322, 12.12.96, p. 7

³ OJ L 342, 31.12.96, p. 2

⁴ OJ L 342, 31.12.96, p. 4

⁵ OJ L 63, 4.3.97, p. 2

⁶ Paragraph 5 of the motion for a resolution in report A4-0306/97, adopted on 6 November 1997, on L the communication from the Commission on combatting child sex tourism (COM(96)0547 - C4-0012/97) and II. the aide-memoire on the European Union's contribution to reinforcing the prevention of the sexual abuse and exploitation of children (C4-0556/96).

III. THE NON-COMMUNITY LEGAL FRAMEWORK

III.1. The United Nations

The **Convention on the Rights of the Child**, which has been ratified by all the EU Member States, was adopted by the United Nations General Assembly in Resolution 44/25 of 20 November 1989. It amounted to a genuine historic breakthrough in the sphere of children's rights, given that it was the **first** text with binding force under international law in which children were recognized, for the **first** time, as legal subjects with rights.

Article 12 of the Convention stipulates that States Parties **shall** assure to the child who is capable of forming **his** or her own views 'the right to express those views freely in all matters affecting the child'. Article 16 states that '**no** child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks **on his** or her honour and reputation'. Article 19 **affirms** that 'States Parties shall take all appropriate legal, administrative, social and educational measures to protect the child from neglect or negligent treatment or exploitation, including sexual abuse,!'

On such issues as paedophilia, prostitution and pornography, Article 34 of the Convention stipulates that 'States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. **For** those purposes, States Parties **shall in** particular take all appropriate.....measures to prevent:

- (a) The inducement or 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 provides that 'States Parties **shall** take all appropriate measures to prevent the abduction of, the sale of or traffic **in** children for any purpose or in any form'.

Lastly, as far as the reintegration of victims is concerned, Article 39 obliges States Parties to 'take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse.....such recovery and reintegration **shall** take place **in an** environment which fosters the health, self-respect and **dignity** of the child'.

III.2. The Council of Europe

The **main** instrument under the auspices of the Council of Europe is the **European Convention on the Exercise of Children's Rights**, which was opened for signature on 25 January 1996. 'The convention tries **not** to duplicate other universal or regional texts on children's rights' and 'focuses on children's procedural rights and on the exercise of those rights. In **this**, the instrument attempts to **fill** in the implementation gap **in** the international legal framework on children's rights'. It is therefore a crucial text as regards the exercise by children of their fundamental rights.

The Council of Europe has **also** adopted other important texts on children, including **Recommendation 1286 on a European strategy for children** (24 January 1996), in which it advocates the appointment by the Member States of a children's ombudsman and proposes that 'child

"The child as citizen', Council of Europe Publishing, 1996, p. 79.

impact statements' be drawn up to determine the probable impact **on** children of any proposed legislative, regulatory or other measures.

Moreover, the Council of Europe's **European Social Charter**, signed in Turin in 1961, was recently **revised** and opened for signature **on** 3 May 1996. The protection of young people at work has been completed by guarantees of protection against physical and moral dangers (Article 7). 'The dangers which **young** people face have evolved. The perceived dangers have traditionally been alcoholism, drug abuse, pornography and the recent danger posed by Aids. Now physical abuse must be added, including that of a sexual nature'.

IV. COMMUNITY ACTION AND THE BUDGET

IV.1 The STOP programme

The decision to establish the STOP programme (*Sexual Trafficking of Persons*) was taken by the Council of Ministers responsible for Justice and Home Affairs. The communication from the Commission to the Council and the European Parliament **on** trafficking **in** women for the purpose of sexual exploitation (COM(96) 567 **final**) states that ECU **6.5 million** have been earmarked for the programme for the **first** five years, subject to the appropriations decided **on annually** by the budgetary authority.

The programme forms part of the joint actions mentioned earlier and is covered by heading **B5-800** of the 1998 budget (Cooperation in the field of justice and home **affairs**) which provides funding, *inter alia*, for programmes **aimed** at those responsible for combatting trafficking of persons and the sexual exploitation of children. However, the Committee **on** Women's Rights proposal that ECU **2 million** be earmarked for financing the programme was rejected during Parliament's budgetary procedure.

IV.2 The DAPHNE initiative

The **DAPHNE** initiative follows the approach taken by the Commission **in its** above-mentioned communication and the declaration and agenda for action adopted by the Stockholm World Congress against the Commercial Sexual Exploitation of Children. It is covered by Item B3-4109 of the 1998 budget (Measures for combatting violence against children, adolescents and women) which provides funding *inter alia* for measures to protect children, preventive measures, **surveillance** of international paedophile networks and pilot schemes by non-governmental organizations working to promote the rights of children, adolescents and women.

The amendment tabled by the Committee **on** Women's Rights and the Committee **on** Civil Liberties proposed that these appropriations be increased **from** ECU **3 million** to ECU **7 million** and ECU **6.5 million** respectively, but they were rejected in favour of funding for the employment initiatives launched **by** the Luxembourg Presidency. ~~At~~ the very moment, therefore, that the EP was holding its debate **on** the Schulz report, paragraph 16 of which concerned that very budget heading, the additional appropriations proposed had already been rejected.

'Ibid., p. 64.

On 26 December 1997 the Commission allocated ECU 3 million to 47 projects under the DAPHNE initiative. The projects were selected from among nearly 1 500 applications submitted by NGOs aimed at setting up networks of experts to deal with such matters as missing children, a feasibility study into setting up a register of convicted child sex offenders, the analysis of EU legislation aimed at child protection or combatting child pornography on the Internet, training police officers in interviewing female rape victims, combatting the exploitation of migrant women or domestic servants, etc. The Commissioner responsible for Justice and Home Affairs, Mrs Anita Gradin, announced that the Commission would establish a legal basis for the DAPHNE initiative in 1998 and would submit a proposal to the Council for a four- or five-year action programme'.

IV.3. Combatting sex tourism

A new budget heading was proposed for the 1998 budget (B7-663) with funding of ECU 500 000 for action to combat child sex tourism in third countries.

CONCLUSIONS

The more recent documents on the situation of children in Europe and the world in general all highlight the need to harmonize certain concepts and criteria relating to children.

* Firstly, the notions of age, the age of consent, the word 'child', the age-limit for childhood and the concepts of minority and majority in relation to the notions of capacity and discernment must be looked at in greater depth.

Article 1 of the United Nations Convention on the Rights of the Child defines a child as *'every human being below the age of eighteen years unless under the law applicable to the child majority is attained earlier'*.

We must not underestimate, therefore, the problems experienced at national and local level when determining the criteria applicable to the age of children in relation to the offences committed. In many countries, the legal age of consent for sexual activity is between 13 and 17 years, which means that an adult is no longer held responsible for certain acts when it is concluded that the victim was a consenting party.

Given the international scale of paedophilia, prostitution and child pornography, it would be preferable if consensus could be reached in this area.

* There are also gaps in the definition and classification of certain offences involving child abuse and the sexual exploitation of children and in the notion of 'paedophile'.

* Lastly, as mentioned earlier, several countries have started to adopt extraterritoriality clauses, particularly since the early 1990s - for example, Germany, Austria, Belgium and Italy, which can

'See Agence Europe Bulletin of 29-30 December 1997, p. 10.

prosecute their **own** nationals who have been found **guilty** of abusing minors abroad, irrespective of the country where the offence was committed'.

Similarly, Chapter **III**, Article **8** of the Belgian law of **13 April 1995** on the suppression of the slave trade **in** human beings and of child pornography stipulates that any Belgian citizen, or foreigner in Belgium, can be prosecuted, even **m** the absence of a complaint or official notification from a foreign authority, **m** the event of offences committed outside the territory of the kingdom against minors less than 16 years old.

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'See in this connection 'Les abus sexuels **sur** les mineurs', Documents de Travail du **Sénat** français, Serie Legislation comparee, n° **LC 21**, decembre 1996.

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