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## Submission to the Office of the High Commissioner for Human Rights report "Information and communications technology and child sexual exploitation" by "Hope for Children" UNCRC Policy Center

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## PREFACE

The present report constitutes the submission of "Hope for Children" UNCRC Policy Center to the Office of the High Commissioner for Human Rights report "Information and communications technology and child sexual exploitation". It has been produced in collaboration with the Chairs and the officers of the Organisation, and academics. Evidence has been collected from several countries; presenting a variety of perspectives, initiatives and practices.

"Hope for Children" UNCRC Policy Center is an International Independent Humanitarian Institution based in Nicosia, Cyprus; founded on the standards and principles of the UN Convention on the Rights of the Child and European Union Law. The Organization focuses on humanitarian and development policy in relation to the advocacy and promotion of children's rights; through research, designing and implementing of grassroots programmes, and by offering advisory services to governments and international organizations.

"Hope for Children" UNCRC Policy Center also aims to improve the quality of life of socially disadvantaged children, such as asylum seekers, refugees and children in war-torn areas. Through education and social mobilization, "Hope for Children" UNCRC Policy Center works on raising awareness and promoting respect towards all cultures, religions and diversities within a society. The core objective consists in promoting and protecting the rights of children. We aim to realize our fundamental target through the implementation of a variety of projects on a national, European and global level.

Mr. Joseph Varughese,  
Director - General, "Hope For Children" UNCRC Policy Center.



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## 1. INTRODUCTION

Children are currently exposed to technology, the Internet and a number of content services such as game rooms, social networking sites, and instant messaging services. Sexual predators often go to these online areas to look for vulnerable victims anonymously, with their identity being concealed. Therefore, the risk for a child to be sexually exploited is now alarmingly high.

This submission illustrates the diverse standpoints of states adopted in this context. The second Chapter is developed in context of the United States of America, the third Chapter demonstrates the Danish framework, and the fourth elucidates the Italian approach. The fifth chapter focuses on Portugal. The subsequent Chapter presents a promising project set up in Romania, and the seventh Chapter illustrates a project developed in collaboration with "Hope for Children" UNCRC Policy Center in the context of Cyprus. Taking everything into consideration, a number of comparisons and conclusions are outlined as to where national approaches stand in relation to the correlation between information and communications technology and child sexual exploitation, and few recommendations are presented.

## 2. UNITED STATES OF AMERICA

The internet has become fertile ground for spawning the sexual exploitation of minors. Professionals and law enforcement leaders in the United States have taken actions to try and curb child prostitution, pornography, and sexual abuse, using a multifaceted approach that includes legal, technological, organizational, educational and interpersonal/psychological strategies. Although efficacy is being debated; a number of strategies have currently been adopted.<sup>1</sup>

In legal terms, a number of child exploitation statutory provisions have been enacted. To name a few; sections 2241, 2260, and 2422 of Title 18 of the United States Code criminalize interstate and international child sexual coercion, exploitation, solicitation and abuse via the Internet; as part of the Protection of Children from Sexual Predators Act (1998), the Child Abuse Prevention and Treatment Act (CAPTA) imposes a legal obligation for online service providers to report evidence of child pornography and exploitation. Technological approaches include the use of firewalls, the installation of anti-virus or anti-Trojan software, the installation of a key logger, encryption or monitoring of browser history, a privacy filtration installation, application use tracking, chat logging, and surveillance. K-12 education; also called Erin's Law, constitutes an educational initiative. It involves public awareness campaigns, child sexual abuse prevention trainings for staff, and teaching children internet literacy.

Organizational strategies include the creation of groups like the National Sexual Violence Resource Center, the National Coalition to Prevent Child Sexual Abuse & Exploitation, Stop It Now, Darkness To Light, University of New Hampshire Family Research Lab/Crimes Against Children; and the

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<sup>1</sup> David Finkelhor, "The Prevention of Childhood Sexual Abuse", available here: [www.unh.edu/ccrc/pdf/CV192.pdf](http://www.unh.edu/ccrc/pdf/CV192.pdf)



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creation of action plans against exploitation.<sup>2</sup> In addition, most organizations require background checks for anyone working with children. Interpersonal and psychological tactics, include the identification of internet dangers and avoidance techniques. Through user contracts, minors are expected to understand the parameters of their internet use. For instance, placing the computer in a publicly visible area, having adult authorization and contact information for internet accounts that minors may use; adult knowledge and authorization of minor's screen names and log-in information; knowledge of screen friend contacts, and awareness of grooming and solicitation techniques.

### 3. DENMARK

In Denmark, the protection of children from sexual exploitation on the internet is comprised of both criminal legislation in regard to the perpetrators, and a restorative public and private framework in regard to the victims.

In relation to the legal framework in Denmark, article 235 of the Danish Criminal Code criminalizes possession, viewing via the Internet, and proliferation of obscene photographs and films involving persons under the age of 18. The digitization of child pornography, means that numerous duplicates of such material can be made without significant demands on time or resources. Sexually exploiting children is independently criminalized. According to Danish law, the proliferation of child pornography constitutes a separate and individual violation of the rights of the children involved. The ban aims to reduce the demand of such material, and thus prevent the commission of sexual offenses against children. The legislative framework, is developed in compliance with the recommendations made by the international bodies and agreements. Irrespective of the fact that a specific provision concerning "grooming" within Danish law is wanting; these activities are punishable under the general rules of criminal attempt against children. Crucially, the wide scope of the criminal complicity term under Danish law, entails that internet service providers can be subjected to a de facto duty to act (e.g. to remove sexually explicit material involving children), provided they have been notified of the illegal content.

It is also worth noting the initiative developed by Save the Children in cooperation with the country's largest internet service providers. On this basis, the police can register internet sites that could potentially include child pornography, so that internet providers become aware of their content and block access to the site. The police will also register the users that circumvent such site-blockings. People can report websites to Save The Children Hotline as well, and with the courts' approval the police can confiscate computers and servers that have been used for the sexual exploitation of children through the Internet. Denmark is also a participated in the creation by the EU, the US and 54 other countries, of "The Global Alliance against Child Sexual Abuse Online" in 2012.

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<sup>2</sup> For example the National Plan to Prevent the Sexual Abuse and Exploitation of Children, Developed By The National Coalition to Prevent Child Sexual Abuse and Exploitation, available here:  
[www.preventtogether.org/Resources/Documents/NationalPlan2012FINAL.pdf](http://www.preventtogether.org/Resources/Documents/NationalPlan2012FINAL.pdf)



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Another positive aspect of the Danish approach, consists in using technology to the advantage of minors. Victims of sexual assault or violence under the age of 12, are mainly questioned and recorded by specially trained police officers in rooms specifically made for questioning children. The rationale is for the video to be used as evidence in a subsequent court case, so that the child does not have to testify in court. When a sexual assault against a child is reported, the police must contact the parents and social services, who can psychologically support either the child either the parents. A child who has been exposed to a crime of sexual nature, has the right to a special counsel who will protect the child's interests throughout the criminal proceedings, and will seek economical reparations.

#### 4. ITALY

Italy has ratified the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse of 2007 with the Law n. 172/2012, and implemented the Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography with the Legislative Decree n. 39/2014. Under Italian law, a person below the age of 18 is considered a minor. According to art. 600-ter of the Italian Penal Code (henceforth ICP), child pornography encompasses any representation of a child engaging in real or simulated sexually explicit conduct, or the representation of the sexual organs of a minor below the age of 18 for primarily sexual purposes. Yet, the Italian legislator has decided not to criminalize knowingly accessing child pornography via information and communication technology.

In order to protect children and minors, the IPC criminalizes child prostitution (Art. 600-bis IPC). The term, includes the act of engaging or recruiting a person below the age of 18 in prostitution; favoring, exploiting, organizing, supervising or controlling the prostitution of a person below the age of 18; and realizing sexual activities with a minor between the age of 14 and 18 in exchange for money or other utility. Based on the case law, the offence also encapsulates prostitution "from away" through communication technology.

The IPC also contains a number of offences concerning child pornography, Art. 600-ter IPC, criminalises producing, distributing, disseminating and promoting child pornography; divulging or spreading information for the solicitation or the sexual exploitation of children; offering or supplying child pornography free of charge, or making profit out of pornographic material which involve children. Art. 600-quater IPC, penalises procuring or possessing real or virtual child pornography. Both articles 600-ter and 600-quater IPC also apply when the pornographic material represents "virtual child pornography", which consists of images of minors below the age of 18, or parts of them (art. 600-quater.1 IPC). In relation to the offences concerning sexual exploitation, art. 600-ter IPC punishes the use of a minor in order to realize a pornographic performance, which consists of causing or recruiting a child to participate in pornographic performances, or procuring a profit with these performances, or knowingly attending pornographic performances which involve the participation of a minor. As to the offences concerning sexual abuse, Article 609-



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quarter penalises engaging in sexual activities with a child below the age of 14; or below the age of 16 provided the perpetrator has a special relationship with the minor, such as it is the case with parents; tutors; teachers. Art. 609-quinquies ICP criminalizes the corruption of minors; in the sense of sexual acts in the presence of minors below the age of 14, causing the minor to witness sexual activities, or showing to a child below the age of 14 pornographic material in order to induce him into sexual activities. Art. 600-quinquies IPC penalizes the organization or the promotion of travels aimed at the exploitation of the child prostitution.

Article 609-undecies of the IPC, contain provisions specifically in regards the online and off-line solicitation of children for sexual purposes. Articles 14 ter and 14 quarter of the Law n. 269/1998 and Law n. 38/2006, impose specific obligations for Internet Service Providers (hereafter ISPs). Firstly, they are obligated to report immediately upon being so informed or at the request of the National Center fighting child internet pornography, users and/or legal persons which disseminate, distribute or commercialize child pornography through the Internet, online or other information technologies. Secondly, they must retain the material for at least 45 days. Thirdly, they are obliged to adopt technical measures; denying the access to websites that disseminate child pornography through black lists and filter systems and software. Violating any of these obligations directly by aiding or abetting; or indirectly by omitting to exercise control, constitutes a contribution to the commission of the offences, and could entail administrative; as well as criminal sanctions.

## 5. PORTUGAL

Portugal is part of the *Safer Internet Programme*; a network cooperation group, aimed at developing awareness campaigns to parents, children, teachers and schools for the benefits and risks of the internet, as well as to fight against child pornography in cooperation with INHOPE, financed by the European Commission. However, a specific legislative framework on information and communications technology and child sexual exploitation is lacking. Instead, the issue is dealt with by the Criminal Code, (Articles 174.<sup>o</sup> to 176.<sup>o</sup>-A), and the Conventions ratified by Portugal, such as the Convention for Protection of Children of Sexual Exploitation, and the Cybercrime Convention of Budapest, 23th November 2001. Portugal is also a participant in other international legal instruments, as the UE Directive 2011/93/UE, of the European Parliament and of the Council, of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography, and the UNICEF Protocol on selling, prostitution and child pornography.

## 6. ROMANIA

Sigur.Info constitutes a longstanding and successful endeavor set up in Romania; promoted and funded by the European Commission's Safer Internet plus since 2008.<sup>3</sup> Save the children Romania acts as the national coordinator of the project, which is run by FOCUS; the Romanian Center for Disappeared and Sexually Exploited Children, and Positive Media; in collaboration with the Romanian Anti-Trafficking Agency, the Romanian Police, the Ministry of Education, the National

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<sup>3</sup> Available here: <http://ec.europa.eu/digital-agenda/self-regulation-better-internet-kids>



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Authority for Child Protection, mobile phone and other Romanian companies. The underlying objective is to develop networks of safety, combat internet violence, cyber-bullying sexual abuse and exploitation, pornography and human trafficking; through the internet and other social media technology.

Overall, the project is composed of awareness raising campaigns for a safer internet use among children, young people, parents, teachers and other adults, by presenting both advantages and disadvantages of modern technologies; a free and easily accessible counseling Helpline developed for users who have experienced dangerous contents, and a Hotline set up as a free civic contact point for the reporting of illegal content in Romanian websites. The volunteer project on safe-internet use, was considered to be the best Romanian volunteering project of the year 2013.<sup>4</sup> Via TV spots, short films, classic and smart-phone flyers, Flashmobs, Facebook, and other social media in context of the above directions and activities, the public is being informed about the resource centers available throughout the country. Trainings sessions were also held; training-kits and other information were disseminated for children, parents, volunteers and professionals. Young volunteers distributed brochures in informative sessions organized in schools and other awareness events, spots, UPC guides for children and parents, CDs, advertisement T-shirts, information sheets online. In addition, the Game section of the website includes ten educative games on safety topics, like Big Brain which demonstrates the potential of new technologies to promote safe internet use; the child can be a part of 12 scenarios, in which he or she can identify viruses, block cyberbullies, or write hints to others while playing.<sup>5</sup>

More importantly, the reports of the project (Raport 2008-2009, Raport 2008-2010, and Raport 2012-2014), indicate the advancement of mobile internet use, and the increased risks of violence in Romanian context (data were collected via EU Kids Online Research I and II). In 2013, data showed that 90% of the Romanian adolescents use the internet on a daily basis; that same percentage has a social networking profile; and uses Facebook for regular communication. Children's name, age, and school are being disclosed, and pictures with their faces clearly shown are being shared. It is therefore undeniable that children's safety constitutes a major concern. Only half of the children have their profile set to private; 21% percent of children's profiles are set as partly private, and 21% are public. An alarming rate of 45% of children, has reported to have been in contact with persons they did not know online, and half of them even met with them. The percentage of children who have had face to face meetings with people they had never met before, rose by 15% between the years 2010 and 2013.<sup>6</sup>

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<sup>4</sup> Available here: <http://www.sigur.info/resurse-kit.html>

<sup>5</sup> Available here: <http://vsav.webducation.info/BigBrain.php?lang=ro>

<sup>6</sup> P. 35-36 of the 2013-2014 report, available here: <http://vsav.webducation.info/BigBrain.php?lang=ro>



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## 7. CYPRUS

In Cyprus as well, information and Communication Technologies (ICT's) form an integral part of the daily lives of children.<sup>7</sup> This can be viewed as either a threat to their wellbeing; which might very well be, or an opportunity to use the available ITC's in a manner that can be incorporated and used in order to promote their wellbeing and protection. With regards to the Cypriot context, it was alarming to realize that, despite children's regular access to ITC's; they rank low on digital literacy and safety skills compared to other EU countries<sup>8</sup>, and are thus exposed to increased risks related to their psychological and physical wellbeing.

"Hope For Children" UNCRC Policy Center, having in mind the great potential of ITCs in child protection efforts, has decided to use ITCs in a manner that would be beneficial to children; by providing a forum for reporting and preventing abuse, as well as providing support to victims of abuse. In order to do so, it is currently setting up, in cooperation with the Ministry of Justice and Public Order, a website where members of the public will be able to report inappropriate content (ie child pornography and/or child abuse). The designated officer of "Hope For Children" UNCRC Policy Center will then notify the Cybercrime Unit of the Police of this content, so as to investigate and take further action. At the same time, victims of abuse and members of their families will be able to receive psychosocial support and counselling by the specialized staff of "Hope For Children" UNCRC Policy Center, through the services provided via the website.

## 8. CONCLUSIONS

Taking everything into account, it would appear that most of the states in the present report have acknowledged the risks associated with the unlimited access to information and communication technologies and child sexual exploitation, and have responded accordingly. A dynamic multi-faceted response is noted in the USA, and a comprehensive framework has been similarly adopted in Denmark and Italy; with the child's best interests in mind. Another initiative widely approved, appears to be the reporting system; embraced in Cyprus, Denmark, Italy. What is more promising, is that government agencies, the police, humanitarian organisations, and other actors implicated

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<sup>7</sup> The "Information and Communication Technologies (ICT's) Usage Survey by Household and by Individual" (2014) by the Statistical Service of Cyprus indicates that with regards to access to a computer (desktop, laptop, netbook or tablet) at home with respect to household composition there is a gap between households with and without dependent children. A computer is found in 95,5% of households with dependent children. In households where there were no dependent children the percentage is only 63,2%. While this may not indicate whether the children are the direct users of the ICT services available through a computer, it is a strong indicator regarding children and their access to ICTs. (Summary of the survey available here: [http://www.mof.gov.cy/mof/cystat/statistics.nsf/All/D0926894A2730949C2257D970035C525/\\$file/ICT\\_HH\\_RESULT\\_S-2014-EN-261114.pdf?OpenElement](http://www.mof.gov.cy/mof/cystat/statistics.nsf/All/D0926894A2730949C2257D970035C525/$file/ICT_HH_RESULT_S-2014-EN-261114.pdf?OpenElement) )

<sup>8</sup> Haddon, L., Livingstone, S., and the EU Kids Online network, EU Kids Online: National perspectives. LSE, London: EU Kids Online, 2012, pag.13 – 14. For more information on the legal framework, policy and practice in Cyprus with reference to ICTs and child protection see also Salla, R., "Hope For Children" UNCRC" Policy Center, The impact of internet and new media on the occurrence of violence against children in Europe and Cyprus, 2015, available here: [http://www.uncrcpc.org/assets/images/The-impact-of-internet-and-new-media-on-the-occurrence-of-violence-against-children-in-Europe-and-in-Cyprus\\_final-draft.pdf](http://www.uncrcpc.org/assets/images/The-impact-of-internet-and-new-media-on-the-occurrence-of-violence-against-children-in-Europe-and-in-Cyprus_final-draft.pdf)



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such as the internet providers, are increasingly more aware of the need to work together; creating solid foundations against the sexual exploitation of children. Available funding however, constitutes a decisive factor for the success of any initiative, such as the multi-layered Romanian project. Given the likeliness for a child to be sexually exploited, it is crucial that this risk is minimized and children have the ability to access technology in a safe manner. Although awareness in relation to the risks of online communication has been raising, it is rather unfortunate that a specific legislative framework has yet to be achieved for all states.

## 9. RECOMMENDATIONS

Whilst measures taken individually by states are welcome, combat and prevention of child sexual exploitation via ICT's requires a holistic response both nationally and internationally. The obligation to report or block websites containing child pornography could be imposed by the legislator or common law, in compliance with the existing regional and international obligations of the state. It is thus recommended that guidelines are developed on a supranational or international level in consultation with the Special Rapporteur on the sale of children, child prostitution and child pornography. An adequate level of certainty and predictability for users, service providers and any implicated state actor must be provided; within which the national legislator can regulate the operations and use of the ICT's against the sexual exploitation of children. It will also provide states with inadequate or non-existing legal provisions in regards the safe use of the internet by minors, the minimum standards for an effective protection system.