

TRENDS REGARDING MEASURES TO COMBAT SEXUAL ABUSE OF MINORS IN THE ONLINE ENVIRONMENT

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ABSTRACT: *The increasingly complex geo-political and geo-strategical events and the appearance of new global security pawns determine the world states to find new forms and collaboration methods to ensure their own security and promote national and common concerns. The development and expansion of organized crime modes, equally as its globalization imposed by states and intergovernmental organizations the assimilation of international legal instruments with the purpose of facilitating the safeguarding of evidence, the elements of evidence, the fast transfer to the specialized judicial authorities for the administration of evidence and the prompt sanctioning of perpetrators. Child sexual abuse can take many forms, including harassment, touching, incest or rape, and can take place in different environments, including homes, schools, placement institutions, churches and last but not least, the online environment. Children are particularly vulnerable to sexual abuse because they are often under the authority and control of adults and have less access to the mechanisms by which they can lodge complaints. The European Parliament approved new rules this year to help online providers detect, remove and report further online material on child sexual abuse.*

KEYWORDS: *crime globalization; children exploitation; grooming warning; preventive measures.*

JEL Code: *K14, K24.*

1. GENERAL CONSIDERATIONS

The XXIth century is characterized by rapid evolution and without precedent of events, by the dynamic changes of a political and economic nature which determine a reposition of the report of forces on a mondial and regional scale, a redefinition of the global environment of security. The increasingly complex geo-political and geo-strategical events and the appearance of new global security pawns determine the world states to find new forms and collaboration methods to ensure their own security and promote national and common concerns.

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fast transfer to the specialized judicial authorities for the administration of evidence and the prompt sanctioning of perpetrators.

Nationwide, at present, organized crime represents a socio-legal phenomenon that cannot be ignored any further, additionally, the preoccupations about the analysis of favoring causes are increasingly current and constant. Romania, similar to other states, is confronted with a diversity of forms of organized crime, such as human trafficking, drug smuggling, illegal immigration, counterfeiting currency, strategic material trafficking, and money laundering felonies from these illicit activities and lastly, the exploit and traffic of vulnerable people, such as minors, the subject of analysis in the already stated thesis.

The phenomenon of trafficking, exploitation, and maltreatment of minors does not represent a new problem in the criminality sphere, it has been present in the history of mankind since ancient times. In other words, slavery in all its old and newer forms, as well as practices similar to slavery, continue to exist in all states of the world, all taking place under the umbrella of organized crime.

2. TRENDS OF ACTUALITY ABOUT THE SEXUAL ABUSE OF MINORS ONLINE

The information and communication technology and new media channels allow the cyberspace malefactors, motivated by their sexual satisfaction to target offspring and teenagers, being vulnerable enough to be lured in these ways since these methods stir interest in them.

The sexual exploitation and the online abuse of minors include a variety of practices in evolutions:

a. *Materials on the sexual abuse of children*

The production, distribution, dissemination, import, export, offering, sale, holding, and knowingly obtaining access online to materials on the sexual abuse of minors (despite the abuse described in the material occurring offline).

b. *Luring the minor for sexual purposes (grooming)*

Identifying and/or preparing children through online technology about sexual exploitation (it makes no difference if the actions that follow afterward take place online or offline).

c. *The broadcasting (livestreaming) of sexual abuse of children.*

Sexual exploitation implies the constraint, threat, or deceit of children to involve them in sexual activities, which are live transmitted (“streamed”) on the internet, to be remotely viewed by others

d. *Other practices*

Related concepts may include sexual online extortion, nonconsensual sharing of sexual auto-generated content which implies minors, and unwanted exposure to sexualized content among others. (*ECPAT International, 2020*)

In EU law, Directive 2011/93/UE¹ is the main legal instrument dealing with infantile pornography. Pornography is defined by:

¹ Directive 2011/93 / EU of the European Parliament and of the Council of 13 December 2011 on combating child sexual abuse, sexual exploitation of children and child pornography, OJ L 335/1, 2011, p. 1-14

- a. any material that visually depicts a child involved in explicit, real, or simulated sexual behavior.
- b. any representation of a child's genitals, essentially with a sexual purpose.
- c. any material that visually depicts a person that appears to be a child involved in explicit, real, or simulated sexual behavior, or any representation of that person's genitals, essentially with a sexual purpose; or
- d. realistic images of a child involved in explicit sexual behavior or realistic images of a child's genitalia, essentially with a sexual purpose².

Sexual abuse of minors can take many forms, such as harassment, groping, incest, or molestation, and can occur in different environments, including at home, in schools, residential institutions, churches, and last but not least, on social media. The minors are extremely vulnerable to acts of sexual abuse, due to the fact that they find themselves under the authority and control of adults and lack access to mechanisms by which they can lodge complaints.

In EU law, Directive 2011/93/UE – reflecting for the most part the approach on the Lanzarote Convention – seeks minimal adjustment of criminal sanctions granted, by the member states for various offenses of sexual abuse of children. (*Directive 2011/93/UE*) In accordance with the 3rd article of the directive, the member states must take criminal law measures to ensure the sanction of all forms of sexual abuse, including the perpetuation of children to assist in sexual activities or sexual abuse or engagement in sexual activities with minors. The directive provides greater penalties when the acts are committed by a person in a position of trust with extremely vulnerable offspring and/or by using constraint.

Under the Convention have been formulated complaints related to child neglect in state or family institutions. The obligations of the authorities in situations of child neglect by parents are similar to the ones stated previously. Firstly, the state needs to establish efficient mechanisms for the protection of children. Secondly, the state's authorities must take measures to protect children in reported cases of neglect or when they possess enough evidence of the child's neglect, either in the family or in private institutions.

3. INSTRUMENTS TO COMBAT THE SEXUAL ABUSES OF MINORS IN THE ONLINE ENVIRONMENT

The European Parliament (*Bejan, A-M, 2009*) approved this year new rules that will come into the aid of online companies to detect, remove, and report online materials representing sexual abuse of children. The institution claims that actions were taken considering that, in the quarantine periods during the COVID-19 pandemic, children spent longer time online, unsupervised, causing them to be extremely vulnerable in the face of online abuse.

Service providers will continue to be able to implement voluntary measures for the detection, disposal, and reporting of sexual abuse-containing materials, moreover, the national data protection authorities from each member state of the European Union (EU) will be regulated to strictly supervise the technologies used.

Taking into account the significant increase during the pandemic, in the volume of materials available online regarding child abuse, the legislative document approved by the

² Ibid., Article 2, point (c).

EP, which is a temporary derogation from Directive 2002/58/CE “will ensure more effective protection of children against sexual abuse and exploitation when using webmail, chat and messaging services”.

According to the adopted measures by EP, providers of e-mail, chat and messaging services on the Internet will be able to detect, voluntarily eliminate and report online sexual abuse of children. In this regard, they will have to use the least intrusive technologies for private life, through which they can still scan online content such as images and texts or traffic data. However, the new measures will not apply to audio communications scanning. (Cernat A., 2021)

Regarding the involvement of social media companies where children are omnipresent, Instagram tests new methods through which the users can verify their age, including an instrument of artificial intelligence made by a third party company, Yoti, which estimates people’s age by scanning their face. Officially, you must be at least 13 years old to create an Instagram account, but for years, the company has not made an effort to apply this rule.

However, after the experts on child confidentiality and safety took notice, Instagram introduced more and more age verification functions. The first method proposed by Instagram was for three mutual followers to confirm the age of the individual. The mutual followers must be over 18 and have 3 days to answer Instagram’s solicitation. The second method, the AI estimation, involves sending a selfie video to the Yoti company, which uses machine learning to estimate a person's age. Since 2021, the company has used automatic systems to search for minor users. These tools scan information such as users' birthday posts and the age of their groups of friends.³

The implementation of the new rules raises concerns about the impact on privacy. With regard to these rules, technology companies would also be required to monitor encrypted content, which many experts immediately denounced as an attack on privacy and a potential beginning of surveillance generalized in the EU. Therefore, the independent Supervisory authorities expressed their „serious concern about the impact of the planned privacy and measures of individual’s personal data” and stated that „ there is a risk that the proposal will become the basis for a generalized and without discernment scan of the practical content of all types of electronic communications”. (Stoica, 2022)

4. CONCLUSIONS

The various criminal means continue to affect the Internet, causing damage annually of millions of euros. Current and future trends in stopping the scourge of crime on the Internet materialized in Romania by trying to adapt legislation and cooperation with other countries. Therefore, for some time, our country has seen an increase in cybercrime, which brought us a world reputation, by incorporating the country name into the name of the method. (Postolache F., 2010)

The member states need to ensure that the prosecution of child abuse suspects takes place automatically and that persons convicted of sexual abuse offenses are prevented from engaging in professional activities involving direct or regular contact with children.

³ Detailed in the editorial The Verge apud Elena Moldoveanu, (2022) Instagram tests an artificial intelligence tool that checks the age of users by scanning the face from din <https://www.euronews.ro/articole/instagram-testeaza-un-instrument-de-inteligenta-artificiala-care-verifica-varsta>

The Directive 2011/93/EU of the European Parliament and Council from 13th of December 2011 on combating child sexual abuse, exploitation, and child pornography contains provisions centered on ensuring favorable procedures and ensuring the protection of child victims in a court of law.

Measures and initiatives to combat these types of crimes, and not only, must be analyzed and promoted over time because they can generate disagreeable effects regarding private life. As a result, *the European Data Protection Board (EDPB / Comitetul European pentru Protecția Datelor -CEPD) and the European Data Protection Supervisor (Autoritatea Europeană pentru Protecția Datelor -AEPD) joined the critics arguing in a joint opinion that the Commission proposal „ may present several risks to individuals and, by extension, for society in general, than for criminals prosecuted for CSAM”*. (Stoica, 2022)

In conclusion, it can be affirmed the fact that poverty, unemployment, discrimination in the labor market, domestic violence, and abuse induce teenagers to strike for an “escape to a better world”, hence misleading offers from criminals are easily accepted.

I’m joining many specialists in the field who are convinced that, with the increase in the number of children who frequently use the Internet, the number of potential victims among children in the online environment will also increase. The infractors who deal with child pornography take advantage of children's naivety by obtaining information with personal character and developing online relationships in order to lure them.

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