



**COUNCIL OF
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NOTE

From: Presidency
To: Law Enforcement Working Party

Subject: Results of the seminar on cybercrime "Combating sexual exploitation of children on the internet and child pornography" held on 12-14 February 2012 in Copenhagen

Background

On 12-14 February 2012, the Danish National Police and the Office of the Director of Public Prosecutions hosted a seminar on Cybercrime: "Combating sexual exploitation of children on the internet and child pornography" in Copenhagen, Denmark.

The seminar formed part of the activities of the Danish Presidency and dealt with the topic of combating sexual exploitation of children on the internet and child pornography by providing the opportunity for investigators and prosecutors dealing with these categories of crimes to exchange information on best practices regarding new and innovative methods of investigations, Joint Investigation Teams (JITs), challenges of practical and legal nature, judicial cooperation and questions related to presenting cases before courts.

The seminar was attended by experts from police and prosecution services of the EU Member States, Croatia, Norway, Australia, Serbia and the United States of America as well as representatives from Eurojust, Europol, Interpol, CEPOL, the European Commission, the Council of Europe, civil society and the private sector.

Discussions during the seminar took the starting point in a fictional case involving the setting up of a JIT connected to a fictional investigation of a case of sexual exploitation of children on the internet. The case formed basis for discussions in workshops, dealing with investigative measures and legal framework.

During the seminar, reference was made to the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography¹, the Stockholm Programme², the Internal Security Strategy for the European Union³, the Council of Europe Convention on Cybercrime and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which constitute the framework for Member States to bring cyber criminals in the field of child pornography and child abuse to justice.

General themes of discussion

The crime of sexual exploitation of children on the internet and child pornography has become an ever growing area of crime, both in terms of case load and criminal damage, and has an inherent organised and cross-border element.

During the seminar it was stressed that the severity of these crimes requires Member States to deploy all appropriate measures to combat both the direct sexual abuse of children and directly connected crime of child pornography and dissemination of such material through the internet. These crimes should be considered interlinked.

¹ OJ L 335, 17.12.2011, p. 1.

² OJ C 115, 4.5.2010, p. 1.

³ 7120/10 COEUR-PREP 8 JAI 182.

Discussions focused on the requirements for the exchange of information between Member States and between Member States and third countries, legal and practical possibilities of cooperation within the framework of JITs, and the legal and practical requirements and obstacles faced when investigating and prosecuting these categories of crime. General concern was expressed on the presence of existing obstacles of practical and legal nature for the exchange of information and evidence.

The application of new and innovative investigative measures, i.e. the deployment of undercover agents and the use of different investigative methods, were furthermore discussed in-depth.

Finally, discussions focused on the importance of enhanced and obstacle-free cooperation between Member States' police and prosecution services, private entities, service providers and civil society to achieve the common European goal of an effective fight against sexual exploitation of children on the internet and child pornography.

Conclusions of the seminar

The seminar on combating sexual exploitation of children on the internet and child pornography reached the following conclusions:

- The cross-border nature of the majority of cases relating to sexual exploitation of children on the internet and child pornography shows a need for advanced strategic, operational and judicial cooperation between the Member States of the European Union and between the Member States and third countries in order to limit and overcome legal and practical barriers when investigating and prosecuting such cases.
- Close cooperation between police and prosecution services and the private sector and civil society is important in order to facilitate the prevention and solving of crimes, i.e. through utilising national media where appropriate. The role of ensuring the existence of preventive measures like *inter alia* raising social awareness and public life involvement is on this basis vested in both the private sector, civil society and public authorities.

- Member States' close cooperation with Europol, Eurojust and Interpol when investigating and prosecuting cross-border crimes of sexual exploitation of children on the internet and child pornography is of the utmost importance in order to ensure coordination between national authorities that are investigating overlapping cases, i.e. involving the same perpetrators or victims.
- Eurojust's tools to facilitate coordinated investigations and prosecutions through the setting up of coordination meetings and utilising the function of the national members at Eurojust should be considered when investigating or prosecuting these categories of crime.
- The setting up and use of JITs and Member States' possibilities of close informal cooperation with existing JITs should be considered where appropriate. The relevance and added value of the participation of representatives from Europol and Eurojust should be noted. Europol's possibility to assist JITs with analytical and coordinated support and assistance is important to note in this regard. Furthermore, information on successfully concluded JITs should be communicated to the public.
- Furthermore, close cooperation with the US authorities is important when dealing with cases of sexual exploitation of children on the internet and child pornography and the efficient use of existing Agreements on Mutual Legal Assistance with the US is of great importance for the handling of investigations and prosecutions of cases.
- In order to ensure smooth international cooperation and efficient investigation and prosecution of cases there is a need for early communication of possible national requirements and legal restrictions on exchange and disclosure of information as well as requirements for the admissibility of evidence.

- Proactive measures of investigations, i.e. undercover agents etc., are considered to be valuable tools of investigation when dealing with cases of sexual exploitation of children on the internet and child pornography. The necessity of deployment and the possible legal and practical consequences of the use of such proactive tools should, however, be duly considered in the light of fundamental rights, existing legal restrictions and ethical considerations.

- The special nature of and key elements in crimes of the sexual exploitation of children on the internet and child pornography requires authorities to consider establishing specialised units in the police and prosecution services to deal with these categories of crime. It is in this regard of the utmost importance that efficient and adequate investigative methods and technical tools are available for investigations.

- Furthermore, training of investigators and prosecutors in dealing with and handling this category of cases is of the utmost importance. Providing specialist courses and seminars through *inter alia* CEPOL is regarded a major source of ensuring capacity building in the European Union.

- The vulnerable nature of children as victims of sexual exploitation on the internet and child pornography should be noted. Special measures of protection should be considered where appropriate during investigations and prosecution. Furthermore, the unnecessary dissemination of information on the child and the case should be avoided in order to reduce the risk of inflicting further abuse or trauma to the child victim.

