

# ICTs and Sexual Exploitation of Children in Europe

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## INTRODUCTION

‘Child pornography’ is a negative social phenomenon directed against children who are a more vulnerable group of society due to their age, as they are still undergoing intellectual and moral development. It is also a global phenomenon just like cybercrime where the created material can be distributed anywhere in the world.

- With the advance of information technology, new methods of creating, acquiring and distributing child sexual exploitation material have begun to surface. The newest manifestation of this trend is the emergence of the so-called ‘virtual pornography’.
- The technology is relatively cheap, easy to access and portable. It allows for storage of large amounts of material, which would be conspicuous if stored in hard copy.
- Cyberspace provides an inexpensive and anonymous arena for offering, procuring, distributing, transmitting and sharing indecent pictures and videos, and represents an easy and very cheap way to access or obtain child pornography.
- As a result of advances in digital technology and the proliferation of information and communication technologies (ICTs), new forms of crime have emerged, many of which, like “outing and trickery sharing”, “repeated cyberstalking” or “snuff videos”, may overlap with child pornography offenses (Váradi-Csema, 2013, pp. 14-16).

The aim of this chapter is to outline the characteristics of child pornography, including the proper definition of the phenomenon. Then the next chapter discusses how ICTs transformed the production and distribution of child pornographic materials and how modern technology can help in covering the tracks of perpetrators. The chapter also addresses the new phenomenon of ‘virtual child pornography’. The last chapter is about the EU’s response to these criminal behaviors and new developments. The chapter mainly focuses on addressing European answers and regional level supranational legislation. National regulations may appear as examples in the text but not in-depth, taking the limited space of this chapter into consideration.

## BACKGROUND

With each technological advance, the availability of child pornography was increasing, the latest being the Internet and ICTs (Quayle, 2011, p. 343). The origins of the development of child pornography can be traced back to the 1960s (Astinova, 2013, p. 4). Throughout these years, there was a gradual relaxation of laws regarding pornography (Gillespie, 2016, p. 227). For example, for almost a decade, all porno-

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graphic materials were decriminalized in some North European countries, as there was only concern for the consumer and not for the circumstances of the production of these materials. Anti-pornography laws were repelled in 1969 in Denmark and in 1971 in Sweden (Quayle, 2011, p.343). The availability and distribution of child pornography through the Internet has become a social concern for society since the mid-1990s (Akdeniz, 2008, p. 1) The number of prosecutions in the UK involving indecent photographs of children increased from 93 in 1994 to 1,890 in 2003 (Clough, 2010, p. 248).

Sometimes it is questioned whether it is necessary to criminalize child pornography. Astinova argues that it has a preventive function because the demand for such materials provokes further child abuse and exploitation (Astinova, 2013, 4). In Gillespie's opinion, the harm caused to children is the primary reason, while later victimization due to the spread of such material is the secondary reason (Gillespie, 2016, p. 228). The question arises from these opinions: what about those materials which were produced without any victims (digital images, drawings or willing contributors)? This will be addressed later in the chapter.

Child pornography has changed drastically, industrial and technological advances have affected availability, photography, printing and distribution online (Taylor & Quayle, 2003; Aiken, Moran & Berry, 2011). As these materials can be accessed globally through the Internet, an international response is required, especially because of the jurisdictional challenges it raises (Gillespie, 2016, p. 231). In order to fight child pornography, different initiatives were adopted by the international and regional organizations such as the United Nations, the Council of Europe and the European Union (Herczeg, 2014, p. 70).

## **CHARACTERISTICS OF CHILD PORNOGRAPHY**

The following chapters are focusing heavily on the regulations in various international and supranational instruments. Their territorial scopes differ significantly, as one is a global instrument while two were adopted by the Council of Europe (CoE) and thus include countries outside of the Europe Union and one is an EU Directive exclusively for Member States to observe. This means that the confusing situation caused by the already conflicting provisions is much worse.

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (United Nations General Assembly Resolution A/RES/54/263 of 25 May 2000; 'OPSC')
- Convention on Cybercrime (Council of Europe, ETS No. 185 of 23 November 2001; 'Budapest Convention')
- Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Council of Europe, CETS No. 201 of 25 October 2007; 'Lanzarote Convention')
- EU Directive 2011/93 on combating the sexual abuse and sexual exploitation of children and child pornography ('Directive 2011/93')

The UN's OPSC, an optional protocol to the Convention on the Rights of Child ('CRS'), although drafted in the digital age, pays little attention to the ICT-based abuse of children (Gillespie, 2016, p. 231). The CoE drafted the Budapest Convention as the first international treaty seeking to address Internet and computer crime by harmonizing national laws. As of the end of 2018, more than sixty countries joined the convention ('Council of Europe', 2018) which has a wide range of topics, focusing on both criminal law and criminal procedural law issues. It should not come as a surprise that child sexual exploitation only constitutes a small proportion of the content of the Convention and the only offense it covers is

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