



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the International Catholic Child Bureau, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



## Online Child Sexual Abuse in Poland

### 1. Legislation

1.1. Chapter 25 of the Penal Code entitled “Crimes against sexual freedom and decency” and especially its articles 202 § 3 (), 202 § 4b (virtual child pornography) globally follow the spirit of articles 19 and 34 of the Convention on the Rights of the Child. Provisions contained in article 197 are related to sexual intercourse by force, illegal threat or deceit subjects and rape whilst article 200 refers to sexual intercourse with a minor less than 15 years old subjected to a sexual act or submitted to perform such an act. Taking into account the increasing number of cases of online child abuse, article 200a on “grooming” introduced by the 5 November 2009 amendments to the Penal Code, allows for penalisation of seducing children online. Furthermore, April 1990 amendment of the Act on the Police has already introduced the possibility to ensure control with regard to offences under the new article 200a. In addition, Poland ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) on 20 February 2015 which entered into force on 1 June 2015.

### 1.2. Recommendation:

**(a) Harmonize the domestic legislation with the Lanzarote Convention, including articles 18 to 23 and the investigation, prosecution and procedural provisions, taking into account current gaps in the national legislation as well as the opinion on article 23 and its explanatory note adopted by the Lanzarote Committee on 17 June 2015<sup>1</sup>.**

### 2. From the Increasing Access to the Internet to the Growing Threat for Children in Poland

2.1. Like elsewhere in the world, Information and communication technologies (ICTs) increase access to the internet in Poland, offering empowerment tools for people, including children and adolescents who expose themselves to both opportunities and risks. As children access to the internet is increasing and technological innovations transform the relationships, interactions and societies around the world, the threats to the safety of young people– including new types of child sexual abuse and exploitation – also increase.

2.2. The exposure to harmful online content is a reality, a situation in which a child accidentally or intentionally views pornographic or other content that is judged as detrimental to his integral development. European Union NET ADB research conducted by *Nobody’s Children Foundation*<sup>2</sup> in 2013 shows that 67% of respondents aged 14-17 have come across pornographic content online, and 32% of them have found the experience disturbing and unpleasant<sup>3</sup>. It is more common for boys to experience exposure to pornographic materials. Internet has become a setting in which pornography is easily accessible, and even extreme forms of pornography are not efficiently protected from access by young people.

<sup>1</sup> See also the General Comment n° 13 by the UN Committee on the Rights of the Child on “The right of the child to freedom from all forms of violence”, CRC/C/GC/13 (2011).

<sup>2</sup> Nobody’s Children Foundation (NCF), BICE partner in Poland, launched in 2004 a national campaign called “You never know who is on the other side” to addressing the problem of online grooming. In 2010, as an answer to the long-awaited amendment to the Penal Code, concerning penalization of online grooming, the campaign was reinforced and extended as “Every step online leaves a trace”. The other NCF media campaign in this area also included a recent “I think, therefore I don’t send” campaign addressing the problem of sexting among youth. As part of the national program “We protect children” implemented with Ministry of Education, NCF initiates systemic solutions in schools across the country. In the field of online safety and new technologies, those solutions comprise of three main processes: education and capacity building (of professionals working with children and youth, education of children and youth and parents), implementation of procedures of responding and support (towards victims, perpetrators and bystanders), construction of secure internet/Wi-Fi infrastructure on the school premises. Moreover, NCF operates two helplines: 116 111 for children and youth and 800 100 100 for parents and professionals experiencing safety concerns about children that allow for detection of abuse and support of children and youth.

<sup>3</sup> Research on Internet Addictive Behaviours among European Adolescents, 2013.

2.3. Due to the expansion of the availability and accessibility of ICT, offenders are able to gain easier access to children via social media, social networking sites, community games, chat rooms, blogs, online forums and other online communication tools. It is also much easier to access information about the victims. Young people have a tendency to uncritically share their personal information, often neither understanding the risks associated with such behavior nor the characteristics of social networking sites as geotagging, geolocating or checking in which make it easier for offenders to gain knowledge of the child location. Personal information found online can greatly facilitate the grooming process, as perpetrators can tailor their approach based on that knowledge.

### 3. Digital Poland and Online Child Sexual Abuse (CSA)

3.1. The Operational Programme Digital Poland 2014-2020 plans to strengthen digital foundations for the country socio-economic development but aims neither at fostering access to internet at school nor including children as such. Digital Poland could have been instrumental in maximizing internet benefit to children and safeguarding their best interests through a series of prevention, assistance and protection mechanisms to minimize risks on internet and social media. At the digital age where internet and social media become a “playing ground” for children and adolescents, early education programs at school are needed to sensitize, inform and educate them about safe navigation and risks they could encounter.

#### 3.2. Recommendations:

- (a) **Current objectives of the Digital Poland 2014-2020 should further integrate schools as key State institutions to benefit from the program and implement effective awareness and sensitization courses that associate parents;**
- (b) **For the protection of (potential) victims, implement procedures and enforce support mechanisms that are transparent, accessible and enforceable in schools as well as in other child care or training institutions.**

### 4. Online Grooming

4.1. Even though it is difficult to give precise statistics on the magnitude of online grooming in Poland, because of the underreporting cases, some grooming reported cases allow for some indications. Hence, between October 2014 and October 2015, there were 159 cases reported to helpline 116 111 operated by *Nobody's Children Foundation*. Five years ago in 2010, a legal reform of the Polish Penal Code (PC) introduced new protection provisions for children.

4.2. As a result, the number of initiated proceedings and crimes recorded has been gradually increasing. From only 34 cases for initiated proceedings and 6 recorded crimes reported in 2010, statistics reached 156 for initiated proceedings and 129 recorded crimes in 2014, an increase of 53% and 75% respectively<sup>4</sup> in four years.

### 5. Sexting

5.1. Research conducted in 2014 for *Nobody's Children Foundation* shows that 11% of young people sent sexually explicit or sexually suggestive materials, while one-third of the respondents received such materials (photos or recordings). This alarmingly phenomenon of sexting has been confirmed during meetings and activities with youth conducted by NCF trainers, during which the problem of sexting is often raised by youth themselves. In addition, it is mirrored in the helpline reports. Increasingly noticeable issue is broadcasting of live sexual activities via such portals as *showup.tv*, which is in theory addressed to adults however it can be easily accessed by everyone and there have been reports of minors performing sexual acts live for profit. Mass availability of devices with internet access has increased the production of self-generated sexual content and eased the distribution process – such materials are often disseminated without the consent of the creator or maybe obtained and distributed from children's hacked accounts, computers or other devices.

### 6. Prevention Policies and Measures

<sup>4</sup> In 2011, 64 initiated proceedings and 62 recorded crimes; in 2012, 84 and 74; and in 2013, 129 and 132.

6.1. Poland has not a specific prevention programme dealing with online and offline child sexual abuse despite the harmful impact of both online and offline child abuse. Schools, children, parents and community as a whole as well as the internet, software and hardware industry are not adequately sensitised, informed, formed and educated to appropriately prevent and address sexting, grooming and other online risks and abuse.

**6.2. Recommendations:**

- (a) Establish a mandatory self regulatory framework for private sector companies dealing with internet, including mobile phones, computers, network hardware and software providers to fight online abuses;**
- (b) Ensure that internet providers, sex and ICT industry as a whole, set up on the web and other accessible public online products, safety nets that inform children about potential danger, how they can get help and allow for abuse reporting;**
- (c) Implement national sensitization and awareness raising campaigns mobilizing schools, children and youth institutions as well as parents in order to maximize opportunities for accessing internet and minimize risks for children, and ensure effective collaboration between all concerned stakeholders;**
- (d) Strengthen the ongoing capacity building among professionals working with children and youth.**

**7. Investigation and Prosecution of Online CSA Cases**

7.1. As for online sexual abuse, article 19 of the 6 April 1990 Act on the Police provides the police with legal resources to order operational control or preliminary investigation where there are reasonable suspicions of online abuse or beginning of abuse. However, the provisions do not specifically touch upon the complex situation of online evolving exploitation modus operandi of internet wrongdoers. Multifaceted and complex situations required sound and suitable solutions. Yet, the police needs more innovative technical investigation tools to counter cyber criminality. In addition, the current legal framework does not give police all necessary means to investigate grooming, bullying and sexting cases.

**7.2. Recommendations:**

- (a) Create a special police unit duly mandated and appropriately equipped to track cyber wrongdoers abusing children online and provide specific training to its officials on the rights of the child;**
- (c) Establish child friendly mechanisms for online and offline CSA reporting *inter alia* through reinforcement of helpline services that should be free and accessible, and connect victims or children at risks to appropriate child adapted counselling and rehabilitating services;**
- (d) Create a permanently updated database with information related to online abusers and ensure effective cooperation with Interpol in terms of data sharing for investigation and tracing of alleged child abuse perpetrators online;**
- (e) Establish or strengthen cooperation between Polish police and investigation services and Interpol to better track cyber criminals inside and outside Poland.**

Nobody's Child Foundation (NCF), an NGO without consultative status, also shares the views expressed in this statement.