



EPP GROUP PUBLIC HEARING 2016 COMBATTING THE SEXUAL ABUSE OF CHILDREN ON THE INTERNET

**State of play of the implementation of the
current legislative framework: is it
sufficiently robust?**

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Directive 2011/93/EU

- **Replaces** Framework Decision 2008/68/JHA
- Incorporates into EU law **COE Lanzarote Convention**
- Most **comprehensive and ambitious** piece of EU law ever in the area of fighting child sexual exploitation

Directive 2011/93/EU

- ***Prosecute*** offenders
- ***Protect*** child victims
- ***Prevent*** child sexual abuse

STAGES IN IMPLEMENTATION

- ***#1- Member States implement***
- ***#2- Member States notify***
 - *Dec 2013 ⇒ 2014, 2015, 2016*
- ***#3- Commission analyses***
- ***#4- Commission reports***
 - *Dec 2015 ⇒ end 2016*

Stage #1

Member States implement

- **CHALLENGES**

- *Wide range of **areas***
- *Different kinds of **measures***
- *Many **actors** involved*
- *Different **levels of government** (national/regional)*

Stage #1

Member States implement

Prosecution

- *Definition of offences*
- *Level of penalties*
- *Facilitate prosecution: reporting, statute of limitation, investigations*
- *Extraterritorial jurisdiction*

Stage #1

Member States implement

Protection

- *Assistance and support*
- *Avoid secondary victimisation*
- *Privacy*

Stage #1

Member States implement

Prevention

- *Disqualification, background checks, exchange of criminal records*
- *Offenders subject to risk assessment and offered intervention programmes*
- *Awareness raising, training of officials*
- *Removing child pornography from Internet*

Stage #1

Member States implement

Legislation

- *Criminal code*
 - § Definition of offences and level of penalties
 - § Statute of limitation, incitement, aiding and abetting, attempt
 - § Liability of legal persons
- *Criminal procedural code*
 - § Reporting
 - § Extraterritorial jurisdiction
 - § Investigative tools
 - § Participation of children in criminal proceedings, interviews
 - § Legal representation
- *Criminal records registers*
 - § Disqualifications
 - § Access to information
 - § Exchange of records with authorities of other Member States
- *Child protection, police, prisons...*

Stage #1

Member States implement

Administrative measures

- *Police units to identify child pornography victims*
- *Exchange of criminal records*
- *Protocols on children in judicial proceedings*
- *Training of police and judiciary*

Cooperation with private actors/funding

- *Clinical psychologists – intervention programmes for offenders*
- *NGOs – awareness raising campaigns*
- *INHOPE Hotlines, Internet Providers – reporting child abuse websites, removal of material*

Stage #1

Member States implement

Legislation

- *294 new pieces of legislation since 2012*
- *335 previously existing pieces of legislation*

Stage #2

Member States notify

- **CHALLENGES**
 - *Collection of information*
 - *Following adoption of measures*
 - *Pushing for adoption of measures*

Stage #2

Member States notify

Obligation:

"Member States shall transmit to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Directive"

- By December 2013
- Complete notification
- Extends to 'practical' implementation measures

Stage #2

Member States notify

INFRINGEMENT PROCEDURES FOR NON-NOTIFICATION:

- Opened against 15 Member States
- No communication/partial communication
- Opportunity to improve notifications
- Opportunity to improve content
- By summer 2016, all expected to be closed

Stage #2

Member States notify

SHARING OF COMPLETENESS REPORTS WITH MEMBER STATES:

- All 27 Member States bound
- Identification of gaps and existing legislation to notify
- Opportunity to improve notifications

Stage #2

Member States notify

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Stage #2

Member States notify

NOTIFICATIONS OF NATIONAL MEASURES:

- 629 notifications!!
- Over 120 notifications (40%) after the deadline of Dec 2013
- (All MS) complete notifications
- Average 25, median 23 per MS (up to 68!)
- Including legislation, administrative provisions, working arrangements
- Amending acts referring to other pieces of legislation
- In 22 languages

Stage #3

Commission analyses

EXTERNAL STUDY ON THE TRANSPOSITION AND IMPLEMENTATION:

- Identifying relevant national provisions
- Translations
- Legal analysis, taking account of national systems
- Need for thorough discussion with Commission
- CHALLENGE: Moving target – new legislation adopted and notified!
 - Romania – May 2016
 - Belgium – June 2016

Stage #3

Commission analyses

EXTERNAL STUDY ON THE TRANSPOSITION AND IMPLEMENTATION:

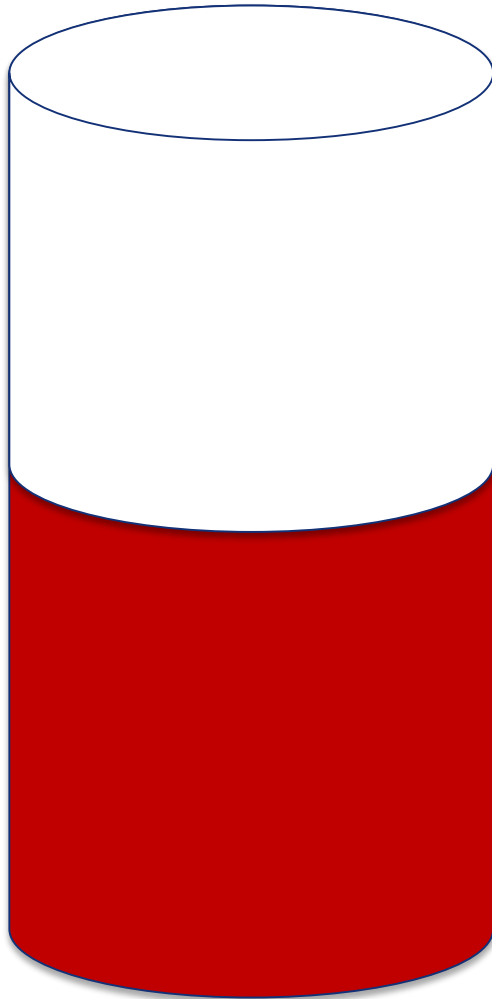
- 27 national reports – basis for bilateral discussions with MS
- Overall report

Stage #4

Commission reports

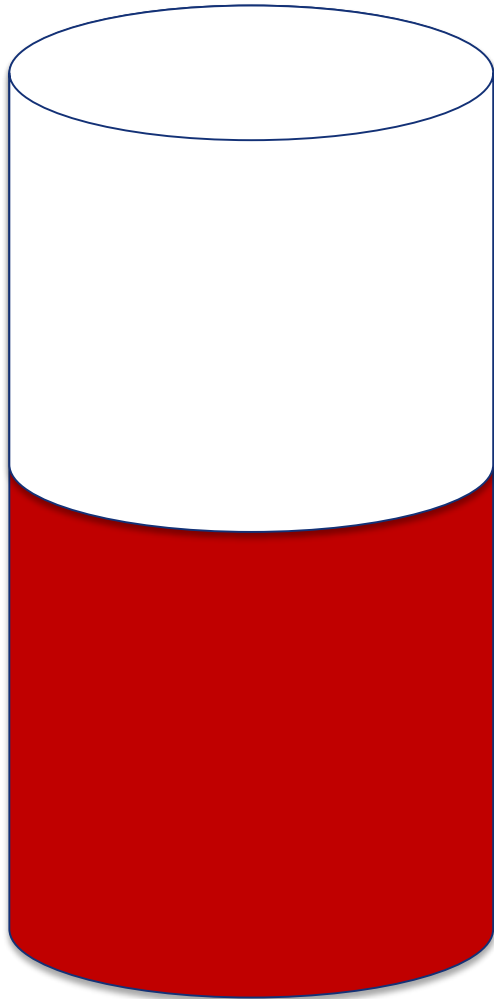
- General report
- Special report Art 25
- With/without legislative proposal
- Adoption (expected) end 2016

State of implementation – is it sufficiently robust?



BIG PROGRESS

- **Changes in criminal codes, criminal procedure, sectorial legislation**
- **Streamlining procedures**
- **Setting up / improving cooperation schemes**
- **Improving coordination of national actors**



STILL CHALLENGES AHEAD

- **Consistency within criminal law systems**
- **Improving procedures**
- **Strengthen administrative structures**
- **Provide resources**
- **Intervention programmes for offenders**

Conclusions

- ***Directive is a very solid and ambitious framework***
- ***Has led to very substantive progress in Member States***
- ***Still to deploy its full potential by improving implementation***

THANK YOU VERY MUCH

Further information:

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