

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA'**

COM(2010) 94 final — 2010/0064 (COD)

(2011/C 48/24)

Rapporteur: **Ms SHARMA**

On 22 July 2010 the Council and European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on the

*'Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA'*

COM(2010) 94 final – 2010/0064 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2010.

At its 465th plenary session, held on 15 and 16 September 2010 (meeting of 15 September 2010), the European Economic and Social Committee adopted the following opinion by 110 votes with 7 abstentions.

## 1. Conclusions and recommendations

1.1 **The EESC strongly condemns all sexual abuse and exploitation of children** and praises the Commission for strengthening Europe's commitment to fight child abuse by replacing Framework Decision 2004/68/JHA with a new, more objective Directive. The seriousness of the crimes, the degree of harm, and the level of risk and vulnerability of children worldwide must never be underestimated. The protection of children at all levels must be a priority, with victims and offenders given maximum assistance to support their recovery, in order to promote future social protection.

1.2 The EESC reiterates its call for those Member States that have not yet done so, **as well as the European Union, under the new Lisbon Treaty, to sign and ratify, as a matter of urgency, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse and the Optional Protocol to the UN CRC on the Sale of Children, Child Prostitution and Child Pornography**, to enable the EU to effectively review how it deals with Europeans who abuse children<sup>(1)</sup>. The European Union could

be influential, in the context of bilateral agreements, in persuading other European countries (e.g. Russia, Bosnia and Herzegovina) to sign the Convention. **Incorporating provisions from the Convention into EU law will be more effective than national ratification procedures in facilitating the rapid adoption of national measures, and will ensure better monitoring of implementation.**

1.3 It is important to have a legal framework to deal with the prosecution and sentencing of perpetrators of sexual abuse and sexual exploitation. However, **it is prevention that must be paramount across Europe, and it must be considered in parallel to legislation.** This is highlighted as one of the aims of the directive but is insufficiently addressed in it. The EESC could issue an opinion to review preventative actions, highlighting best practice case studies from civil society and governments worldwide in the field of prevention mechanisms.

1.4 The EESC recommends setting up a platform to exchange best practices in responding to these crimes, using both legislative and non-legislative mechanisms to develop methodological tools and training. This should include greater cooperation with civil society organisations, social partners and NGOs to support education and awareness raising at local level.

1.5 The EESC calls on the EU institutions (European Commission, Council and Parliament), which are all in a powerful and privileged position, to put joint pressure on third countries, particularly in the well-developed parts of the world (e.g. USA, Canada, Japan, Australia, Russia) to demand the **removal** of websites which host child sexual abuse material. The EU needs to be stronger in demanding responsible action from ICANN<sup>(2)</sup>.

<sup>(1)</sup> See reference in EESC opinion OJ C 317, 23.12.2009, p. 43. 'Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse', 25.10.2007, available at:

<http://conventions.coe.int/Treaty/EN/treaties/Html/201.htm>. The following Member States have not signed this Convention: Czech Republic, Hungary, Latvia and Malta (<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=201&CM=&DF=&CL=ENG>).

'Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography'. Adoption: May 2000. Entry into force: Jan. 2002. Available at <http://www2.ohchr.org/english/law/crc-sale.htm>. The following Member States have not yet ratified this CRC Optional Protocol: Czech Republic, Finland, Ireland, Luxembourg and Malta ([http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-c&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en)).

<sup>(2)</sup> Internet Corporation for Assigned Names and Numbers.

1.6 The EESC wishes to see the removal of websites containing child sexual abuse material as a priority, followed by blocking where removal is not possible. In this context, the EESC could draft an opinion, following consultation with stakeholders and civil society, on the implications of both removal and blocking.

1.7 The EESC would encourage Member States to use the opportunity presented by this new directive to open a debate on setting a minimum age of sexual consent across Europe. In the context of mobility, immigration and changing societal values across Europe, debates and consultations should be held on what impact 'traditions' have in this regard.

1.8 The EESC recommends that the Commission should provide clear definitions of certain terminology which could lead to ambiguities on transposition into national legislation.

1.9 The EESC requests that the directive should provide for uniform 'time limitations' across all Member States. Where appropriate the EESC would go further in suggesting that the 'statute of limitations' should begin when the victim reaches the age of 18.

1.10 The EESC has been supported in its work by many NGOs and experts working in the field of child protection, and their recommendations concerning the new directive can be found on their websites<sup>(3)</sup>. The EESC recognises the commendable work of all the NGOs working around the world to protect children and praises the European institutions, the Council of Europe and the UN for providing legal mechanisms in the field of protection against child sexual exploitation.

## 2. Background and objectives of new Directive

2.1 The EU recognises children's rights in Article 3 (TEU) of the Lisbon Treaty and in the Charter of Fundamental Rights, especially in Article 24 and its legal basis, which lays down a positive obligation to act with the aim of ensuring the necessary protection of children. It requires that in all actions relating to children **the child's best interests must be a primary consideration**, consistent with the UN Convention on the Rights of the Child. This has been translated into targeted policy on the promotion, protection and fulfilment of children's rights, including the EU Youth Strategy, in the internal and external policies of the EU.

2.2 The new Directive, in line with proposals on preventing and combating trafficking in human beings and protecting victims and with the 'Safer Internet' programme, takes forward more substantive rules of procedure and criminal law in Member States concerning the protection of children. The effectiveness of prevention measures across the EU will be enhanced, avoiding situations where perpetrators choose to go to Member States with less strict rules to commit their crimes. Common definitions would make it possible to promote the exchange of useful common data, improve the comparability of

data and make international cooperation easier.

2.3 The new directive will cover:

— New criminal offences in IT including the **new offence of 'grooming'**.

— **Assistance with investigating offences and bringing charges.**

— Prosecution of offences committed abroad, with both EU nationals and habitual residents **facing prosecution even if they commit their crimes outside the EU.**

— New provisions dealing with protection of victims to ensure they have easy **access to legal remedies and do not suffer as a result of participating in criminal proceedings.**

— Prevention of offences through actions concentrating on previous offenders to prevent reoffending and to **restrict access to child pornography on the internet.**

## 3. General comments on the explanatory memorandum

3.1 Considering that *'The child's best interests must be a primary consideration when carrying out any measures to combat these offences in accordance with the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child'*, the EESC supports the decision to respect the principle of subsidiarity, whilst updating, extending and strengthening national legislation. Member States must be able to exclude the double criminality requirement for establishing extraterritorial jurisdiction for offences. **Member States should have the authority to prosecute all forms of sexual abuse against children.**

3.2 **Existing and new legislation must be better enforced** and requires monitoring by the Commission, with support from Europol and enforcement agencies, to ensure that the protection of children is a priority. Common principles and criteria to determine the degree of seriousness of the crimes of sexual abuse and sexual exploitation must be established. Here the EESC recommends setting up a platform to exchange best practices in responding to these crimes, using both legislative and non-legislative mechanisms to develop methodological tools and training. This could include greater cooperation with civil society organisations, social partners and NGOs to support education and awareness raising at local level.

<sup>(3)</sup> IWF ([www.iwf.org.uk](http://www.iwf.org.uk)), ECPAT International (<http://www.ecpat.com>), Save the Children ([www.savethechildren.org](http://www.savethechildren.org)), Missing Children Europe ([www.missingchildreneurope.eu](http://www.missingchildreneurope.eu)), Amnesty International ([www.amnesty.org](http://www.amnesty.org)).

3.3 High profile cases, especially those with alleged political, religious or multiple case implications, must be monitored transparently at EU level in order to avoid repetition <sup>(4)</sup>.

3.4 In order to enhance prevention mechanisms and to mitigate the vulnerability of victims, the Directive should also be consistent with other EU policy, including social security, education, family, employment and the digital agenda. Particularly vulnerable groups of children at high risk include immigrants, asylum seekers, unaccompanied minors, socially deprived, excluded or disabled children, those in substitute care, and those living in a family with a history of violence and abuse.

3.5 Law enforcement intelligence from the US and Europe shows a strong correlation between downloading child sexual abuse material involving prelingual infants and offline child sex offending. Grading penalties solely on the basis of contact is likely to put more children (particularly infants) at risk of serious abuse.

3.6 92 % of online child sex abuse content is hosted in North America, Europe and Russia <sup>(5)</sup>. The EESC feels that the European Commission, Council and Parliament are in a powerful and privileged position to put pressure on countries outside the EU, particularly in the well-developed parts of the world, to demand the **removal** of websites which host child abuse material.

3.7 There needs to be greater promotion of a 'cybersecurity culture' and the European Digital Agenda <sup>(6)</sup> amongst citizens. With an increase in peer-to-peer sharing of child abuse images <sup>(7)</sup> and in grooming on social networking sites, immediate action must be taken to identify and prosecute the abusers, those viewing the sites or images and the service providers hosting the sites, and to trace and stop the flow of financial transactions undertaken to access child abuse images. The technology exists to identify all the components in the chain of abuse and the EU needs to be stronger in demanding responsible action from ICANN <sup>(8)</sup>.

<sup>(4)</sup> A number of recently reported cases of abuse, some uncovered due to State intervention, demonstrate wide-scale, systemic abuse in religious institutions, paedophile rings and schools/orphanages, many of which have been covered up for decades to protect individuals' and institutions' image or reputation.

<sup>(5)</sup> [http://www.iwf.org.uk/documents/20100511\\_iwf\\_2009\\_annual\\_and\\_charity\\_report.pdf](http://www.iwf.org.uk/documents/20100511_iwf_2009_annual_and_charity_report.pdf).

<sup>(6)</sup> [http://ec.europa.eu/information\\_society/digital-agenda/index\\_en.htm](http://ec.europa.eu/information_society/digital-agenda/index_en.htm).

<sup>(7)</sup> The ISIS Project has established that thousands of files per minute containing child sexual abuse images are shared in peer-to-peer networks. 'Supporting Law Enforcement in Digital Communities through Natural Language Analysis', International Workshop on Computational Forensics, Springer Lecture Notes in Computer Science 5158 (2008), pp. 122-134.

<sup>(8)</sup> Internet Corporation for Assigned Names and Numbers.

3.8 The Directive is clearly centred on 'the best interests of the child' and the 'protection of children'. Overall, however, the Directive lacks details on 'preventative' measures to be implemented. **Prevention must be paramount across Europe and considered in parallel to legislation.** The Commission has little competence in prevention but, within the Directive, it should promote and create mechanisms to enable others to implement preventative measures.

3.9 In the context of prevention, further funding could be requested to expand Commission programmes (for instance, DAPHNE and the Framework Programme) and develop new programmes to be delivered by civil society partners. The EESC believes that educating the public on the existence of specific laws to punish specific conducts harmful to children could act as an effective prevention mechanism.

3.10 Intervention is crucial to preventing child sexual abuse, and must be used in conjunction with legal sanctions. Therefore, the EESC would suggest that, under 'Grounds for and objectives of the proposal' where it reads 'specific objectives would be to effectively prosecute the crime; to protect victims' rights; and to prevent child sexual exploitation and abuse', the text should be amended to add '**including through the rapid identification of child victims by appropriately trained personnel and the provision of child-centred victim and offender intervention**'.

3.11 Consideration must be given to identifying preventative action and prosecution with regard to '**peer-to-peer**' abuse and trading of images. With an increase in file sharing and in grooming on social networking sites, immediate action must be taken to identify and prosecute the abusers, those viewing the sites and the service providers hosting them.

3.12 The proposal ('Grounds and Objectives') highlights that '*a significant minority of children in Europe may be sexually assaulted during their childhood*'. The threat to **children outside of Europe must also be considered**: a child is a child wherever it is in the world, and they need to be protected from travelling sex offenders from Europe abusing other European nationals or non-European children.

3.13 The term '*child pornography*' (title, definition and throughout text) should be replaced with the term '**child sexual abuse images or material**'. Pornography is associated with erotica.

3.14 **'Tourism'**: The directive (recital 9) uses the term 'sex tourism'. The word now used by experts and NGOs in the field is 'travelling sex offenders' <sup>(9)</sup>. 'Tourism' is associated with holidays and pleasure, as highlighted in a previous EESC opinion on the protection of children from travelling sex offenders <sup>(10)</sup>.

3.15 **'Traditions'** (recital 7): *This Directive does not govern Member States' policies with regard to consensual sexual activities in (...) the course of human development, taking account of the different cultural and legal traditions.* The EESC recommends that, in the context of mobility, immigration and changing societal values across Europe, debates and consultations should be held on what impact 'traditions' have in this regard. The consultation, and the legal implications, should also cover cultural practices, for example female genital mutilation, which could be considered as child sexual abuse.

3.16 **'Publicly accessible'** (recital 13): *Child pornography (...) cannot be construed as the expression of an opinion. To combat it, it is necessary to reduce the circulation of child abuse material by making it more difficult for offenders to upload such content onto the publicly accessible Web.* **The Directive must prevent child sexual abuse materials in any medium <sup>(11)</sup> and in any form.** The term 'visually' does not cover all the material available and the Directive should also cover non-visual child sexual abuse material. Additionally, the Directive should also take account of the concept of 'artistic freedom' as well as 'expression of an opinion', ensuring that neither can be misinterpreted in the context of child sexual abuse material. Therefore, the text of Article 2(b) containing the definition of 'child pornography' should be amended to read in (i): **'any material that presents a child (...)**, in (ii): **'any presentation of the sexual (...)** and in (iii): **'any material that presents any person appearing to be a child (...)**.

3.17 In the context of *'stimulating Internet Service Providers on a voluntary basis to develop codes of conduct and guidelines for blocking access to such Internet pages'* (recital 13), the EESC would stress that the priority must be to remove the content at source and only where this is not possible (outside the EU) to block access to those sites. Within the EU this should be made a legal requirement, if the industry, the ISPs, and economic and financial actors, such as credit card companies, are serious about their commitment to fight this abuse.

<sup>(9)</sup> CEOP.

<sup>(10)</sup> See footnote 1.

<sup>(11)</sup> OJ C 224, 30.8.2008, p.61.

#### 4. Specifics on the Directive articles

4.1 Article 1 ('Subject matter') should include **'sanctions in the area of sexual abuse and sexual exploitation of children, as well as the presentation of child sexual abuse material'**.

4.2 Article 2(b)(iv): *'realistic images of a child engaged'* should include **'or depicted as being engaged'**.

4.3 Article 2(b): The term 'primarily' should be deleted throughout, as it detracts from the focus on 'for sexual purposes'.

4.4 Article 2(e): Delete the exceptions *'for States or public bodies in the exercise of State authority and for public international organisations'*. In the context of a legal person, there can be no impunity relating to the sexual abuse of children.

4.5 Articles 3(3) and 8 on 'sexual consent': As regards the sentence 'Engaging in sexual activities with a child who has not reached the age of sexual consent under national law', it should be noted that the UNCRC and European definition of a child is 'below the age of 18' and that this terminology is therefore contradictory. This is partly addressed in Article 8 (*'Consensual sexual activities between peers'*). Additionally, Articles 3, 4, 5 and 8 do not govern consensual sex between children at or above the age of sexual consent. The EESC believes that this will require further discussion and more clarity. The EESC would encourage Member States to use the opportunity of this new Directive to set a minimum age of sexual consent across Europe. Greater clarification is also required of the concept of 'close in age'.

Article 3(4)(i): In light of the number of cases occurring within the family, *'parental responsibility'* should be itemised as a position of trust. This would be in line with Article 5 of the UNCRC. Additionally the term *'recognised'* should be deleted in reference to *'a position of trust, authority or influence over the child'*: This is of concern in connection with the events in Europe not only surrounding paedophilia rings but also within families and in religious, educational, and alternative care. It is essential that there can be absolutely no immunity from prosecution, questioning or access to the files of anyone in authority, be it political or religious.

4.6 Article 3(5): Offences concerning sexual abuse should also contain 'exhibitionism' in the list of practices following an acceptable definition for exhibitionism from the Commission (12).

4.7 Article 4(2), (3), (4) and (5) cover 'pornographic performances' and concern the direct involvement of the real child. This could be confused with Article 5 which covers 'offences concerning child pornography'. An explanatory note may be valuable to avoid this confusion.

4.8 Articles 4-8: With regard to the words 'knowingly' and 'intentional', the Directive must provide a clear definition of these terms.

4.9 Article 4(1): The term 'intentional' should be deleted since this would allow offenders to claim that they did not know the age of the victim to avoid prosecution (13).

4.10 Article 4(8): 'Engaging in sexual activities (...)' should include '**or agreeing to engage**' and should allow for the possibility of prosecution, '**irrespective of whether or not the sexual act is committed.**'

4.11 Article 6 ('Solicitation of children for sexual purposes') should be expanded to recognise different forms of grooming, including grooming by protective adults and offline grooming.

4.12 Articles 7 and 9: In line with the rest of the Directive, these articles should define a period of sentencing, or punishment, to be attached to the crime.

4.13 Article 7(3)(b): A proportion of travelling abusers are situational offenders who take up the opportunity of sexual abuse when it is offered. Thus, the EESC recommends that '**the organisation of travel and/or other arrangements in connection with the commission of any of the offences referred to in Articles 3 to 7**' should be punishable.

4.14 Article 8: The statement 'insofar as the act did not involve any abuse' should be replaced with '**insofar as the act did not involve any coercion.**'

4.15 Article 9 ('Aggravating circumstances') could also include '**(i) the offence involved serious violence or threat or caused or was likely to cause serious harm to the child.**'

4.16 In view of the damage that such crimes inflict on child victims, even into adulthood, the EESC would suggest that these crimes should not have a statute of limitations, or not lapse for a minimum period of time.

4.17 Articles 10 and 12 do not take into account offenders relocating, and do not go far enough to prevent abusers travelling. In a previous opinion (14), the EESC worked with ECPAT (15) and recommended:

- vetting and barring;
- bilateral cooperation agreements;
- agreements to deport convicted offenders;
- the use of Foreign Travel Orders (FTOs).

4.18 Article 11 ('Liability of legal persons'): Legal persons should be held responsible wherever they have enabled the conduct of the abuser, whether or not they benefit from it. Therefore, the phrase '*for their benefit*' (by any person) should be removed.

4.19 Article 12(b) ('Sanctions on legal persons'): This article should be modified to not only exempt the abuser from taking up commercial activities, but also prevent him from taking up 'any activities' in relation to contact with children.

4.20 Article 13 ('Non-prosecution') should '**ensure**' and not only '*provide for the possibility*' that children who are involved in unlawful activities as a consequence of being subjected to these offences are not prosecuted and do not have penalties imposed on them.

4.21 Article 14 relates to '*investigation and prosecution*'. In order for investigation and prosecution to be practical and effective, adequate provision must be made for access to funds for training and counselling and for research into new and emerging technologies. The investigation process must be fully transparent. This article should also allow for certain types of crimes to have no statute of limitations.

4.22 Article 14(2) With regard to '*a sufficient period of time*', Member States should have flexibility in applying the statute of limitations so that they can also take account of the gravity of the impact on the life, health and/or wellbeing of the victim.

4.23 The EESC recommends that the Directive should specify that the statutes of limitation existing under national law shall begin when the victim has reached the age of majority. It further suggests that the Commission should work to promote harmonisation of the national statutes of limitation in order to avoid confusion or mistakes when law enforcement agencies undertake cross-border investigations.

(12) This issue was recently highlighted in a case in Portugal.

(13) ECPAT recommends a specific provision reversing the burden of proof of the age of the person in child sexual abuse materials so that it lies on the people producing, distributing and/or possessing the materials. This step has already been taken in the Netherlands.

(14) See footnote 1.

(15) ECPAT – End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes – has special consultative status with the Economic and Social Council of the UN (ECOSOC).

4.24 In Article 14(3), '(...) *the necessary tools are available (...)*', it is essential to ensure that, alongside the tools, fully trained staff are also available to use the tools.

4.25 Article 15 promotes '*reporting*', but it does not identify specifics for mechanisms and funding to effectively support rapid intervention by professionals working with children. Considering the under-reporting of sexual crimes against children, effective and accessible reporting mechanisms should be established in all Member States.

4.26 In order to encourage timely reporting of suspects or actual instances of sexual abuse and exploitation it is important to ensure that professionals who report in good faith are protected from claims under criminal and civil law, complaints before ethical committees or prosecution for violation of the rules of confidentiality.

4.27 Article 16(1)(d) (*'Jurisdiction and coordination of prosecution'*) fails to cover any aspects relating to the extradition of suspects. This is covered in Article 5 of the UNCRC Optional Protocol and should be considered within the Commission Directive. In the same point, the phrase '*(...) a legal person established in a territory (...)*' should be expanded to '*(...) established in or operating from (...)*'.

4.28 Article 16(2): In the sentence '*(...) its jurisdiction includes situations (...) referred to (...) in Articles 3 and 7 (...)*', the EESC would suggest that Articles 3, 4, 5, 6, and 7 should be included.

4.29 Article 16(3): There can be no exceptions if Member States are to be serious about the global protection of children. Hence, the derogation '*A Member State may decide that it will not apply or that it will apply only in specific cases or circumstances (...) as far as the offence is committed outside its territory.*' should be deleted.

4.30 Article 17(1): As regards the sentence '*shall be provided assistance (...)*', the EESC recommends that each Member State should ensure that child victims of offences under Articles 3 to 7 are offered adequate and specialised assistance, including accommodation in a safe place, medical and psychosocial assistance and education. Member States should ensure that these services are provided by trained professionals and respect the child's cultural identity/origin, gender and age<sup>(16)</sup>. Such measures will reduce vulnerability and thus strengthen prevention.

4.31 Article 19 on '*criminal investigations*' is covered in Article 8 of the UNCRC Optional Protocol, which should be taken into account in the Commission Directive.

<sup>(16)</sup> Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents.

4.32 Additionally, the EESC would recommend making reference to the guidelines in the UN ECOSOC's Resolution 2005/20 on measures for the protection of child victims and witnesses of crimes<sup>(17)</sup>.

4.33 Many children who have been abused by their parents who have sold them, by traffickers or by adults involved in prostitution have lost their trust in adults, which means that a basis of trust has to be established between adult and child before investigations can take place. Member States therefore need to identify child victims and rebuild the child's life, for example by means of accommodation, care, protection and specialist psychological services, to assist in enforcing laws to prosecute such offences.

4.34 Article 19(e) Following the text '*the number of interviews is as limited as possible and interviews are only carried out where strictly necessary for the purposes of criminal proceedings*', the words '**or to secure the safety and wellbeing of the child**' should be inserted.

4.35 Article 21 (*'Blocking access to websites'*) should be redrafted<sup>(18)</sup>. Priority should be given to removing websites rather than blocking them, which should be a secondary measure where removal cannot take place. Blocking can work alongside removal as a short-term tactic to disrupt access and protect innocent users from exposure to child sexual abuse content<sup>(19)</sup>. This article should require Members States to act immediately to take down the site.

4.36 Where removal is not immediately possible efforts should be directed at tracking movements and activities on websites associated with the distribution of child sexual abuse content, in order to provide information to authorised bodies and international law enforcement to effect the later removal of such content and the investigation of its distributors. The EESC recommends:

- an international effort by domain name registries and relevant authorities to de-register domains associated with child sexual abuse;
- greater efforts to investigate file sharing activity, including peer to peer.

4.37 Article 21(2): Efforts should also be made to order or otherwise ensure that financial institutions take action to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child sexual abuse material.

<sup>(17)</sup> See: <http://www.un.org/docs/ecosoc/documents/2005/resolutions/Resolution%202005-20.pdf>.

<sup>(18)</sup> See Internet Watch Foundation report on blocking and removal.

<sup>(19)</sup> <http://www.iwf.org.uk/public/page.148.htm>.

## 5. Further elements for consideration for inclusion in the Directive

5.1 There is no mention in the Directive of data protection: child protection should take precedence over data protection and freedom of speech under certain well-defined circumstances as foreseen in the European Convention on Human Rights.

5.2 Greater law enforcement cooperation, national and international management systems for offenders and a 'Missing Child Alert System' must be adopted at an EU Level.

5.3 No consideration is given to child abuse where the perpetrators are children. This must be considered as a special case and could be covered under Article 9. It is only covered by a short comment about intervention programmes in Article 20 <sup>(20)</sup>.

5.4 Whilst fully respecting the principle of subsidiarity, the EESC calls on Member States to consider taking specific measures to ensure that the necessary supervision mechanisms and psychological support are provided for those working to protect victims, in order to avoid mental deterioration. From the personnel perspective, this should be a mandatory requirement and not a voluntary option.

5.5 The EESC praises the Commission for recognising the greater need for 'exchanging information and experience in prosecution, protection or prevention, awareness raising, cooperation with private sector and encouragement of self regulation'. In this connection the EESC would highlight the need to take account of the workplace. This would allow employers and employees to be aware of their responsibilities to report illegal activities which may first come to light in the place of employment or from customers/suppliers <sup>(21)</sup>.

5.6 The EESC notes that no additional costs will be incurred in implementing the new Directive. However, there is a need for more resources, including for investigation, publicity, training, counselling and legal support services, to ensure that this abuse is eradicated in the shortest possible timeframe.

5.7 Finally, the EESC would promote the establishment of an **international law enforcement body** dedicated to investigating child sexual abuse around the world, to identifying and prosecuting the content distributors and to rescuing children from suffering. There are a number of tactics <sup>(22)</sup> which could be effective in minimising the availability of content and which, if adopted on a global scale, could ensure that the international response to these crimes is more effective, faster and a better deterrent.

Brussels, 15 September 2010.

*The President*  
*of the the European Economic and Social Committee*  
Mario SEPI

<sup>(20)</sup> It is estimated that approximately a third of child sex offenders are under the age of 18 (May-Chahal and Herzog, 2003).

<sup>(21)</sup> The EESC has proposed a European project 'Europe Against the Sexual Exploitation of Children – SAY NO!'. See opinion quoted in footnote 1.

<sup>(22)</sup> See Internet Watch Foundation report.