

**PERMANENT MISSION OF DENMARK**

to the United Nations

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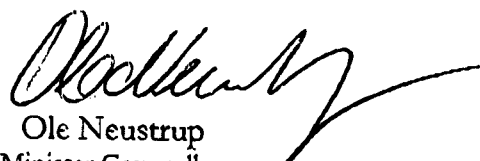
From		Date
Ole Neustrup/sl		12 October 2004
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**The Special Rapporteur on the sale of children, child prostitution and child pornography: Report to the Commission on Human Rights with a focus on a study of child pornography on the Internet.**

Dear Ms Steccazzini,

Further to a letter from the Special Rapporteur on the sale of children, child prostitution and child pornography, ref. G/SO 214 (69-14), regarding the Special Rapporteur's study on child pornography on the Internet please find herewith as requested the response from the Royal Danish Ministry of Foreign Affairs.

Yours sincerely,



Ole Neustrup  
Minister Counsellor

**OHCHR REGISTRY**

14 OCT 2004

Recipients : SPB

## **United Nations Special Rapporteur on the sale of children, child prostitution and child pornography. Study on Child pornography on the Internet**

Referring to the United Nation's letter of 30 July 2004 regarding the study of child pornography on the Internet, please find below the response from the Royal Danish Ministry of Foreign Affairs.

### **Ad Question 1**

Dissemination and possession of pornographic material concerning children under the age of 18 is an offence under section 235, paras. 1 and 2, of the Danish Criminal Code. Obviously, this also concerns dissemination by means of the Internet.

In March 2003, a legislative reform concerning child pornography, sexual exploitation of children and sale of children was adopted by the Danish Parliament. With the adoption of this bill, the Parliament gave its consent to the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Protocol was subsequently ratified on 24 July 2003. The new legislation further meets the obligations under the EU Framework Decision on combating the sexual exploitation of children and child pornography.

With the legislative reform, the maximum penalty for dissemination and possession of child pornography as well as for the use of porn models under the age of 18 (section 230) was raised. Further, section 235 of the Criminal Code (on child pornography) was broadened so as to include the so-called fictive child pornography.

"Child pornography" comprises pornographic photographs, films or other visual reproductions or the like of persons under the age of 18. "Other visual reproductions" cover the so-called fictive child pornography, for instance drawings. In this context "pornographic" means any situation where the child is involved in a sexual relation or where it can be presumed that a grossly offending act has been committed against the child, for instance by using the child as a model for photographing genitals.

There is no specific legislation concerning child pornography on the Internet, but section 235 applies equally to such situations. Thus, any dissemination by means of the Internet is punishable under section 235, para. 1. Equally, any possession of child pornography obtained through the Internet is punishable under section 235, para. 2.

Section 235, paras. 1 and 2, protects children below the age of 18, whereas the age of consent to sexual activity is 15. In order to bridge this gap, section 235, para. 3, states that sections 1 and 2 do not apply to possession of pornographic pictures of a person who is at least 15 years old, if that person has given his or her consent to the possession. This provision is meant to cover cases where, for instance, a 17-year-old girl gives her consent that her boyfriend can possess a photograph depicting her in a way which due to the above definitions would be characterised as pornographic. Upon ratification of the Protocol, Denmark has made a declaration to the effect that such cases shall not be considered covered by the binding provisions of the Protocol.

#### Ad Question 2

Combating child pornography has high priority in the Danish police. The National Commissioner of Police has established a specific IT-support unit consisting of personnel with specialised knowledge of investigation of crime committed by use of the Internet. The police districts can upon request receive support for the investigation of such cases, including cases involving child pornography on the Internet. Though crimes committed by use of the Internet should usually be reported to the local police, cases of child pornography on the Internet can also be reported directly to the IT-support unit on [kriminalitet@politi.dk](mailto:kriminalitet@politi.dk).

Also the NGO "Save the Children, Denmark", which cooperates with the Danish Police, can be contacted on-line in cases of child pornography ([www.redbarnet.dk](http://www.redbarnet.dk)).

#### Ad Question 3

In August 2003, the Danish government published an action plan on combating sexual abuse of children. The action plan contains a description of existing rules and regulations, initiatives and measures aimed at preventing and combating sexual abuse of children, rehabilitation of sexually abused children and treatment of sexual offenders. The action plan

also contains a number of new initiatives, which aim at further strengthening the efforts in the area of protection of children against sexual exploitation.

Chapter 1 of the action plan contains a brief summary of the content of the action plan and lists the initiatives, which the Danish government will take in the different areas covered by the action plan.

Chapter 2 of the action plan contains summaries of recent studies, which have been conducted in the field of sexual abuse of children and chapter 3 gives an account of the preventive rules and regulations, measures and initiatives in the area of sexual abuse of children.

Chapter 4 of the action plan contains guidelines that aim at ensuring that people that work with children professionally, e.g. teachers, and others responsible for child related activities are able to detect signs of sexual abuse and handle a suspicion of sexual abuse correctly.

Chapter 5 of the action plan contains a description of relevant provisions in the Danish Criminal Code and provisions concerning criminal procedure, which are aimed at protecting sexually abused children during the investigation and prosecution phase, e.g. rules related to the taking of a child's testimony.

Chapter 6 of the action plan lists measures aimed at rehabilitating children who have been sexually abused and chapter 7 of the action plan lists measures aimed at providing offenders with medical or other forms of treatment.

Finally, chapter 8 of the action plan contains a brief summary of the most recent international initiatives in this area.

Furthermore, as mentioned above, in relation to child pornography the NGO "Save the Children, Denmark" cooperates with the Danish Police and can be contacted on-line ([www.redbarnet.dk](http://www.redbarnet.dk)). The cooperation also includes a hotline where citizens can report child pornography.

"Save the Children, Denmark" has also in cooperation with the Danish Crime Prevention Council opened a website concerning safe chat on the Internet ([www.sikkerchat.dk](http://www.sikkerchat.dk)). The website aims at children, their parents and others, e.g. teachers. The website contains

information on precautions to take when chatting with strangers and information and educational material can be downloaded. As part of the campaign, folders and posters have been distributed to schools, libraries and cafés, supplemented with radio spots.

A formal code of conduct is not in place yet, but the Danish Telecom Agency is currently talking to ISP's and other relevant partners in order to strengthen and formalize the existing cooperation.

Specifically concerning sex tourism, "Save the Children, Denmark" and 6 Danish travel agencies have published a booklet to discourage potential travellers from engaging in sex tourism."

Finally, it should be mentioned that in addition to the initiatives carried out within the European Union, the Council of Europe and the United Nations, cooperation also takes place among the Nordic countries. One result of this cooperation is a 2001 report from the Nordic Criminal Law Expert Group on Child Pornography on the Internet.