



GEN0003-173

VERBAL NOTE

The Permanent Mission of Finland to the United Nations and other international organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to submit the attached statement of the Finnish Government with reference to the letter (Ref.: G/SO 214 (69-14)) of 30 July 2004 concerning the Special Rapporteur Juan Migel Petit's report on the "sale of children, child prostitution and child pornography".

The Permanent Mission of Finland to the United Nations and other international organisations avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurance of its highest consideration.

Geneva, 22 October 2004



ENCL. Finland's statement for the Special Rapporteur Juan Miguel Petit's report on the sale of children, child prostitution and child pornography (3 pages)

Office of the United Nations High Commissioner of the Human Rights
GENEVA

OHCHR REGISTRY

27 OCT 2004

Recipients :S.P.B.....

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The request for information of the Special Rapporteur Juan Miguel Petit on the sale of children, child prostitution and child pornography dated 30 July 2004.

1. Information on existing legislation on child pornography on the Internet:

The Criminal Code:

Chapter 20 in Criminal Code includes sexual crimes against children. The forms are

- Rape and gross rape,
- Sexual abuse of children and gross sexual abuse of children under 16 years
- Sexual abuse of a minor under the age of 18 if the person abuses his/her authority
- Buying sex from a minor under 18 years

Chapter 17 in Criminal Code includes

- Incest,
- Child pornography and
- The distribution of pornography to minors.

Chapter 21 in Criminal Code includes physical abuse of children which can be mild or gross. There are separate paragraphs if an injury or handicap has resulted, or if the victim has died.

The Criminal Code (see above) includes penalties which differ from crime to crime. For instance, the penalty for gross sexual abuse can vary from one year to ten years in prison.

The Criminal Code includes a separate paragraph of the sexual abuse of minors less than 18 years if the perpetrator has abused his/her authority in a school or an institution.

Chapter 17 in Criminal Code forbids the production, possession and discrimination of child pornography.

Chapter 17 in Criminal Code forbids selling or other dissemination of pornography for children under 15.

The Child Welfare Act:

Paragraph 40 of Child Welfare Act obliges all civil servants and elected officials in social services, health professionals, teachers and church servants to report to local child welfare authorities of a child in need for protection. In mild cases, the families are given advice and support. In severe cases, the child is taken into custody.

Legislation on Internet Service Providers in relation to child pornography on the Internet and other form of sexual exploitation of children through Internet

Act on the Exercise of Freedom of Expression in Mass Media (460/2003)

Section 18 — *Order to cease the distribution of a network message*

On the request of the public prosecutor, the head of a pre-trial investigation, or the injured party, a court may order that the publisher, broadcaster or keeper of a transmitter, server or other comparable device is to cease the distribution of a published network message, if it is evident on the basis of the contents of the message that providing it to the public is a criminal offence. The court shall deal with the request as a matter of urgency. Before issuing a cease order, the court

shall reserve the intended addressee of the order and the sender of the network message an opportunity to be heard, unless the urgency of the matter otherwise necessitates.

Notice of the cease order shall be served also on the sender of the network message referred to therein. If the sender is unknown, the court may order that the keeper of the transmitter, server or other comparable device sees to the service.

A cease order referred to in subsection (1) shall lapse, unless within three months of its issue a charge is brought for an offence arising from the contents of the relevant message, or a demand referred to in section 22 is made, or a tort action pertaining to the contents of the message is brought. On the request of the public prosecutor or the injured party, submitted before the deadline referred to above, the court may extend that deadline by three months at the most.

The person who has been issued with a cease order, as well as the sender of the network message, have the right to apply for the reversal of the cease order from the court that originally issued it. The provisions of chapter 8 of the Code of Judicial Procedure apply to the proceedings for the reversal of a cease order. However, the court shall take the necessary measures to hear the public prosecutor in the case. The application for a reversal shall be filed within fourteen days of the service of notice of the cease order. The network message shall not again be provided to the public while the reversal proceedings are pending, unless the court seized of the matter otherwise orders. Also the public prosecutor has standing to appeal against the reversal of a cease order.

On the request of the public prosecutor or an injured party, the court may issue a cease order referred to in subsection (1) also when it is hearing charges based on the contents of a published message, a demand for a sanction referred to in section 22, or a tort action pertaining to the contents of the message. A cease order under this subsection shall not be open to appeal as a separate matter.

3. Information or initiatives to prevent and combat child pornography on the Internet and other forms of sexual exploitation of children via Internet, such as sex, tourism and trafficking.

The municipalities and NGOs can apply for resources from the Health Promotion funds as well as from the Cash Machine Association which are under the Government for activities to address violence against children. Mostly the money is used in different projects and programs on local level. The Ministry of Social Affairs and Health has granted funding to be used for the own share of Finnish Daphne projects. The EU Daphne II programme is the programme of Community action (2004-2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk. Finland also takes part in many programs especially in Russia, Estonia, and in many African countries to respond to the problem of violence against children.

A joint program of various administrative sectors has already been started to increase the security of citizens and to reduce violence. Ministry of Interior prepares at present a programme on internal security. A central goal of the programme is to decrease the number of violent crimes. The National Council for Crime Prevention (Ministry of Justice) has the task of preparing a programme for crime prevention. The prevention of violence against children is included. The Ministry of Justice has set a Working Group to address violence against children and youth. In the years 2004-2007 the Ministry of Social Affairs and Health is preparing a second phase Action Plan at the prevention of domestic violence which meshes with parallel programmes being developed by the Ministry of the Interior and Ministry of Justice). The action plan will continue with a more general scope on preventing family violence. The action plan will run until 2007 and aims to improve on work already carried out, in particular by developing services nationwide to help

victims and perpetrators of domestic and intimate partner violence against women and children. The other goals of the Action Plan are: intensifying the support for children and young people who witness or experience violence and developing the professional skills required for the work against violence and for handling related issues. The aim is to improve the professional skills of employees so that they would be able identify and intervene in problems of violence at an early stage. The Action Plan is being linked to the work of the Ministry on improving child welfare, which is taking place within the National Development Project for Social Services.

The National Research and Development Centre for Welfare and Health STAKES conducted in 2000 an enquiry of the incidence of the suspicions of child sexual abuse brought to the knowledge of welfare and health authorities.