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DRAFT REPORT ON CHILD PROTECTION

Draft Directive 2010/64 (COM 2010/94) – Angelilli Draft Report on January 10th

Bruxelles, January 10, 2011

Dear GREETING SURNAME,

During the next few weeks **you and the LIBE committee face a few fundamental decisions**. One of them will be the question of **whether the European Parliament wants** to encourage EU member states to create and implement **an Internet blocking infrastructure**.

Creating a **centralized infrastructure** proposed to block so-called child pornography will put in place a **system to automatically control** what most of the **general public will be able to see, while still permitting circumvention** by anyone that wants to see the illegal material.

We must not undermine the **huge value of the Internet**. There never has been such a medium where **instantaneous end-to-end communication** with people from all over the world was easily possible. **Everybody can share his/her thoughts with everybody else to read, hear or see**.

One of the **best guarantee for continued peace is communication**. In our opinion the **European Union and the Internet are all about communication**. With the **blocking infrastructure** introduced you would allow member states to **shut it's citizens out of the communication**, to present them a skewed world view. **Actually you are not only allowing it, you could be encouraging it by the directive**.

For example the proposed blocking infrastructure will enable the Hungarian administration to **enforce it's new national media laws on foreign Nationals**, non-compliance could lead to sites being blocked there. Basically **a handful of people will be able to control** what citizens of a member state will or will not be able to find on the Internet.

Blocking is not possible without a **supporting infrastructure**. Once it is there it can and will be used to **control more than just the accidental viewing** of child abuse images (this is what the blocking is currently proposed for, as **it can not block deliberate viewing** by a committed individual)

As a cautionary example: the **US Airforce started to block** not only Wikileaks but also **any news-source reporting about information from Wikileaks** – at the moment this includes the New York Times, Le Monde, The Guardian and German Spiegel ONLINE.

While the benefits of blocking are quite illusory, the dangers are already present. That is why we as victims of sexual abuse oppose Internet blocking. **Please lets stop the abuse of sexual abuse for furthering 3rd parties interests**.

page 2 will continue with the framework of penalties proposed by the draft

As **MOGiS e.V.** is not only an opponent of Internet Blocking but also a **proponent of the Help for Victims and Prevention of Crimes** we would also like to share our view on a few other aspects of the draft directive.

One of them is **the definition of "Child"** in Article 2. The word "Child" in the **context of sexual self-determination** carries a lot of **emotional weight**. Most **16/17 year olds** would probably describe themselves as **Adolescents** or **Youths** and not Children.

We propose that "Child" be changed to "Minor" (as in "unaccompanied minors") **throughout the directive**. A **definition of "Child" for the purpose of the directive** shall than be **"A Minor/Person who has not reached the age of legal sexual consent under national law"**. This is also more in line with the emotional value attached to the word "Child" in the context of sexual self-determination. **Also this definitions make many articles of the directive shorter and more clear**. Another option would be to adopt the wording from the **CULT opinion**.

Additionally **MOGiS** believes that the **Directive should make sure not to criminalize consensual acts between children** (without any adults involved in any way). **Either we believe that a person can consent to sex and understands it's implications or does not**. A schizophrenic world where we consider children not to be able to consent into sex but punish them as sex offenders should be avoided.

Where a minor is below the age of sexual consent it should be clear from the Directive that s/he cannot be capable of criminal intent with regard to sex offences. Additionally we believe that young sex offenders should be helped with therapy before their disposition becomes solidified. **Also very often offenders are victims themself**.

We believe that **specifying minimum maximum penalties violates subsidiarity under the TFEU**. Additionally the system of penalties is different in different member-states. **The same maximum penalty will result in different sentences in different member-state**. Also even if the same prison time was served, we believe that **prisons in the European Union are not really comparable**.

So to improve the directive in that regard **it should be stated that sentences shall be appropriate for the severity of crime involved and in line with the system of penalties in the member state**. Also it should make clear that therapeutic intervention should be given where possible.

Article 6 regarding solicitation **should be worded in such a way as to become unambiguous, prosecuting an intention is next to impossible**. This intention will be **difficult to prove in court**, also it will be **difficult to disprove for an innocent suspect**. Especially because the **crimes involved are so grave**, any law trying to regulate this should make sure that it **does not create** the possibility for **hysterical reactions which damage** the life of innocent people and by that also the **reputation of child protection**.

To be more clear this Directive should clearly state that it's **the act of influencing a child for sexual purposes that should be defined as a crime**. Also **this criminalisation should not be limited to online contacts** because most children are not groomed online, but offline. **Child abuse happens in real life**.

What is **missing in this directive** from our point of view is a **focus on victims in families**. Most **children are being abused at home**. A recent study (to be released in February) shows that in about **30%** of all cases the **parents** were the abusers (the father mostly, but with the mother involved in a lot of cases), **10%** by **aunts and uncles**, **10%** by **grandparents** and about **8%** by their **own brothers and sisters**. Additionally **19%** of the **boys** and about **10%** of the **girls** have been **abused by their own friends**.

We strongly believe that a **thorough protection can not be achieved by just concentrating on the 10-20% cases where children are being abused in institutions** like school, sports clubs and the church.

Kind Regards,

Christian BAHLS; chairperson
MOGiS e.V. – A Voice for Victims