



**The Government of the Republic of Serbia, Ministry of Interior, Minister's Office**

**01 Number: 7875/17-2) 25 October 2017**

**Belgrade**

**MINISTRY OF LABOUR, EMPLOYMENT, VETERANS AND SOCIAL AFFAIRS**

**– Minister's Office-**

**Nemanjina22-26  
11 000 Belgrade**

**Subject: Lanzarote Committee Council of Europe,  
*Reply.***

**Ref: Your letter of 28/7/2017.**

Regarding the topical questionnaire for the 2<sup>nd</sup> round of the monitoring of protection of children from sexual exploitation and sexual abuse through IT technologies, please note the answers on prevention, protection and criminal persecution and partnership as provided by the Ministry of Interior.

The web locations of the Ministry of Interior, developed jointly with the Anti-Cyber Crime Division of the Ministry of Interior (<http://www.mup.gov.rs>), the following links are available for your peruse:

- **Advice – How to protect children from paedophilia on the Internet** (a PPT's section is devoted to protection of children from sexual abuse in pornographic purposes, offering "SOS hot-line" e-mail: [childprotection@mup.gov.rs](mailto:childprotection@mup.gov.rs) at which a message may be sent to the Anti-Cyber Crime Division regardless if a criminal offence is reported or help is asked for. Also, the web page contains useful advice, information on applicable legislation, glossary, etc.)

- **Advice – Cyber-crime** (a separate section of the web page of the Ministry of Interior, offering advice for citizens on cyber-crime and legislation, useful advice and how to protect one's PC and personal data and advice for parents).

The Ministry of Interior takes part in raising the awareness of children, parents, teachers' social workers. The sessions are organized on how to use the Internet safely, what are the risks that children are exposed to, and which they are faced with when self-generated sexual content and sexually explicit photographs and video materials are produced and shared. The awareness raising is organised and delivered by the Ministry of Interior's police officers who combat the exploitation of children in pornographic purpose via the Internet. The sessions and lectures are organised and delivered upon an invitation by principals of primary and secondary schools across Serbia. Also, the lectures are delivered at municipal level and in cooperation with other authorities, NGOs and foundations (Ministry of Education, Association of Teachers of Serbia, JAZAS, Friends of the Children of Serbia, Foundation "Tijana Juric", Centre for Promotion of Living and Working Culture – ZIR, Adiaphora, etc.).

Also, the Ministry of Interior has established cooperation with the Ministry of Trade, Tourism and Telecommunications regarding the implementation of the Regulation on the Safety of Children when Using ICT, and with regard to the provision of support in the development of the Operational Guide for the purpose of Help Line/ Call Centre at which it is possible to report violation of the child's safety in cyber domain. The Operational guide also contains information on how to report detrimental, illegal and inappropriate content. Consequently, the Crime Police Authority in the Police Directorate has dedicated contact persons who receive reports from the National Help Line/Call Centre on the Cyber Safety of Children. Also, the experts from the Ministry of Interior have been active participants of this year's IT Caravan 2, delivering lectures to pupils from higher primary school classes on the topic of safe use of the Internet, organised in the cities on the route of the IT Caravan.

**Legal framework:**

- Criminal Code
- Criminal Proceedings Code
- Jurisdiction and Organization of Anti-Cyber Crime Authorities Law
- Special Measures to Prevent Criminal Offences against Sexual Freedoms of Children Law
- Confiscation of Property Proceeds from Criminal Offence Law
- Law on Children Criminal Offenders and Protection of Children under Criminal Law
- Special Protocol for Police Officers Protecting Children from Abuse and Neglect.

**The Criminal Code of Republic of Serbia** sanctions almost all forms of sexual violence (sexual abuse, sexual exploitation and abuse in pornographic purpose) against children, minors and juveniles. Under the Criminal Code:

- a child is a person who has not yet reached/completed 14 years of age (-14)
- a minor is a person who has reached/completed 14 years of age, but has not reached/completed 18 years of age (14-18)
- a juvenile is a person who has not reached/completed 18 years of age (-18)

In Chapter XVIII of the Criminal Code – Criminal Offences against Sexual Liberties, the following criminal offences are included (Art. 178. - 186.) :

- Rape,
  - Copulation with a Helpless Person,
  - Copulation with a Child,
  - Sexual Intercourse through Abuse of Position,
  - Prohibited Sexual Acts,
  - Sexual Harassment,
  - Procurement of Sexual Services,
  - Mediation in Prostitution,
  - Exhibition, Procurement and Possession of Pornographic Materials and Exploiting Juveniles for Pornography
  - Incitement of the Child to Attend Sexual Acts, and
  - Abuse of Computer Networks or Other Technical Communication Means for committing Criminal Offences against Sexual Freedom of Juveniles (so called "grooming")
- Chapter XXXIV – Criminal Offences against Humanity and Other Rights Guaranteed

Under International Law (Art. 388.):

- Human Trafficking (regarding prostitution and other types of sexual exploitation and abuse for pornographic purposes to the detriment of a juvenile).

Under the Criminal Code Amendments in effect as of 1 June 2017, the sanctions have been made more rigorous for criminal offences against sexual freedoms and a criminal offence of sexual harassment has been inducted which is defined as any verbal, non-verbal, or physical behaviour the aim of which or which is regarded of as an injury to a person's dignity within the sphere of sexual life, and which also causes fear or creates hostile, degrading or offensive environments and for which three month to three year prison sentence shall be imposed if perpetrated on a juvenile.

Such criminal offences punish sexual exploitation and abuse of juveniles, i.e. foresee as particularly aggravating circumstances of the perpetration (eligible forms of such offences) if committed against a minor, juvenile or child, i.e. if pregnancy, severe bodily injury or death of a child has ensued as a consequence, in which case more rigorous sanctions are likely to be imposed on the offenders.

On the basis of an analysis undertaken in this field it has been established that in the Republic of Serbia no cases have been recorded which in international law and practice are identified as “sex-tourism”, organised child prostitution, abuse of children for mass production of pornographic content and distribution of the material generated in the abuse of juveniles for pornographic purposes on the Internet to larger extent. However, a rise in the number of offenders who via the Internet or in other way obtain for themselves or for another, possess, sell, show, publicly expose or electronically or in any other way make available photographs, audio and visual or other objects of pornographic content produced by abusing a juvenile. It is about the pornographic material which is not produced in Serbia, but it is distributed via the Internet in Serbia.

**The Criminal Procedure Code** is a piece of legislation that through a string of criminal procedure rules of general nature defines activities and actions producing evidence undertaken by the police and prosecutor and/or criminal offence court with a purpose to detect and put on trial a criminal offence and suspects if there is reasonable doubt that a crime offence has been committed which is persecuted *ex officio*, including criminal offence having elements of sexual violence against juveniles.

**The Jurisdiction and Organization of Anti-Cyber Crime Authorities Law** is applicable to detect and criminally persecute and put on trial, *inter alia*, for the criminal offence against sexual freedoms which on account of the manner in which they have been committed or the means used may be regarded of as cyber-crimes in compliance with this law. Henceforth the clearly delineated jurisdiction of special authorities of the state in charge of the fight against cyber-crime, and thus in cases of a commission of crime related to exploitation of juveniles in pornographic purpose.

**The Special Measures to Prevent Criminal Offences against Sexual Freedoms of Children Law** lays down special measures undertaken against criminal offenders against sexual liberties of juveniles and regulates the keeping of special records on the convicts.

According to the Law, the legal effects of the conviction include:

- termination of public office,
- termination of employment, and/or occupation involving contact with juveniles,
- ban on assumption of public office
- ban on entering employment, and/or taking up an occupation involving contact with

juveniles

Special measures to be undertaken under this Law include:

■ mandatory reporting to a competent police authority and to the Authority for Execution of Criminal Sanctions,

■ ban on going to the places where juveniles gather (kindergartens, schools, etc.)

■ mandatory call on the offices and institutions providing professional counselling,

■ mandatory reporting of any changes of place of temporary or permanent residence or of a place of work

■ mandatory reporting on travelling abroad

The Law lays down the obligation to maintain the special register on the offenders of crimes against sexual liberties which they committed against juveniles and who are duly convicted by court. In addition to personal data, the register must include the information of relevance for physical identification and DNA profile of a convict. The register is kept by the Authority for Execution of Criminal Sanctions, Ministry of Justice, and public authorities). The register is not publicly available and information are accessible for a limited number of users (competent authorities mostly) under conditions provided for by law.

**The Law on Juvenile Crime Offenders and Protection of Children under Criminal Law** contains provisions applicable to juvenile offenders. The provisions cover substantive criminal law, authorities in charge of the application of the law, criminal procedure and execution of penal sanctions imposed on the offenders. Also, the Law contains the provisions on redress and remedy for juveniles who are victims/plaintiffs in a criminal procedure. Juveniles enjoy special measures of protection when they are subjects of a criminal procedure in the Republic of Serbia. Given that, in its essence, a criminal procedure against a juvenile crime offender is a corrective and not repressive procedure, the juvenile crime offender is subject to special legal rules. Also, the Law foresees a string of procedural provisions with an aim of avoiding likely detrimental effects on the juvenile's character and development, by circumventing so called "secondary victimisation", taking due care of the juvenile who due to the nature of criminal offence is placed in a particularly strenuous mental condition, etc.

#### **Institutional framework**

The authorities in charge of the detection of criminal offence and suspects and persecution in the overall territory of the Republic of Serbia of the offenders against sexual freedoms whose criminal offences due to the method of commission or used means may be regarded of as cyber-crimes under **the Jurisdiction and Organization of Anti-Cyber Crime Authorities Law**, include:

- The Ministry of Interior – Anti-Cyber Crime Division (integral to Crime Police Authority, Anti-Cyber Crime Office), and
- The Belgrade Superior Office of the Public Prosecutor – Special Anti-Cyber Crime Division the Anti-Cyber Crime Division is the only specialized unit of the Ministry of Interior in charge of criminal offences of cyber-crime. It follows up on the request issued by the Belgrade Superior Office of the Public Prosecutor heading the pre-investigation procedure in such cases. The most processed criminal offence in the subject field is Exhibition, Procurement and Possession of Pornographic Materials and Exploiting Juveniles for Pornography (Art. 185. CC RS).

In all other cases, the authorities in charge of detection of crimes against sexual freedoms and other offences having elements of sexual violence which are committed to the detriment of a juvenile, include the organisational units of the Ministry of Interior, competent prosecutor and court on the basis of general principles contained in **the Criminal Procedure Code** and **The Law on Juvenile Crime Offenders and Protection of Children under Criminal Law**. The authorities to follow up in cases in which offenders are juveniles include special organisational units of the Ministry of Interior in charge of juvenile delinquency. Special divisions of prosecutors and courts for juvenile delinquency.

Anti-Cyber Crime Division was founded in 2007/08, as an integral part of the Anti-Organized Crime Office. It has two sections:

- Anti-Cyber Crime Section, and
- Anti-Intellectual Property Crime Section.

Under the amended job classification regulation of the Ministry of Interior, the Anti-Cyber Crime Division will have a specialized Section for Combating Illicit and Harmful Cyber Contents which, in addition to investigations related to cyber sexual exploitation of juveniles and other harmful cyber contents will be tasked with the development of a so called "National Base NASH values" gathered on the basis of materials generated through the exploitation of juveniles in pornographic purpose, and for the exchange of the data from this data base with relevant international organizations (Interpol, Europol, ICAC COPS, etc.), as well as with the identification of victims of crimes with elements of sexual violence against children, on the basis of analysis of the material gathered on exploitation of juveniles for pornographic purpose, such as photos, video and audio recordings broadcast or made available through ICT.

The Anti-Cyber Crime Division has direct online access to the data bases of persons who upload and download contents generated on the basis of the exploitation of juveniles in pornographic purpose in the territory of Serbia, including:

- To the database ICAC COPS (Internet Crimes Against Children/Child Online Protective Services – Operational group on cyber-crime against children established by the USA Ministry of Justice),
- To the database CPS (Child Protection System – Web-based Interface for identifying and rescuing children – founded by NCA UK).

In 2016/2017 all the required approvals were obtained from the Ministry for accession of Serbia to the INTERPOL ISCE international database of photos produced in the exploitation of juveniles in pornographic purpose which over 190 countries have acceded to, and which is an important tool for identification of victims of sexual exploitation through the international network of specialized police officers in the field. The connection to the database has been complete and response is expected from the Interpol's General Secretariat regarding dates on which the training on the use of the data base will be held.

The police officers and public prosecutors are relatively well trained. All the police officers and public prosecutors have passed through the system of continuous trainings, seminars and workshops at international level, and at local level, in Serbia, a number of regional level trainings on combating cyber-crime were organised. In 2016, under the UNICEF Belgrade Office capacity building programme on fight against cyber neglect, violence, maltreatment and abuse of children the "**Basic Training on Combating Criminal Offences of Cyber Sexual Abuse of Juveniles on the Internet**" was organised by police officers from the Anti-Cyber Crime Division, attended by 70 police officers from area police authorities across Serbia, and from the Ministry's headquarters.

**International cooperation** is exercised through all the standard channels of international police and prosecution cooperation, via Interpol and Europol, liaison officers at foreign diplomatic and consular missions in Belgrade, regional organisations (eg. SELEC) and very often also through direct police cooperation in joint international actions against exploitation of juveniles for pornographic purpose, including the system of international legal assistance in criminal matters.

In 2009, around the clock available focal points involved in anti-cyber-crime activities were set up at the Ministry of Interior of the Republic of Serbia, Anti-Cyber Crime Division. Their task is to exchange and freeze information in emergencies in investigations of cyber-crime and exploitation of juveniles in pornographic purpose.

Also, in 2014, Serbia acceded to the activities of EUROPOL focal points, e.g. two police officers at the Anti-Cyber Crime Division are involved in the activities of the analysis group "TWINS" the purpose of which is to combat cyber sexual exploitation of children and to prevent and combat activities by offenders migrating to other jurisdictions. This platform is accessible only to a few persons who are designated EUROPOL focal points "Twins" accredited as the experts on anti-cyber-crime. Hence, EUROPOL communicated the draft of the Arrangement on Affiliation of the Experts from Serbia which was signed in 2014.

In 2017, two police officers from the Anti-Cyber Crime Division were designated as focal points available round the clock for cooperation with the company Facebook in cases of emergency.

#### **Results achieved**

As of 2010, the Ministry of Interior's Anti-Organized Crime Office, in cooperation with the Belgrade Superior Office of the Public Prosecutor's Anti-Cyber Crime Special Division, have undertaking the open-ended operation titled "Armageddon", combating cyber exploitation of juveniles in pornographic purpose. Up until now, charges have been brought against 180 persons, in most cases for the criminal offence of Exhibition, Procurement and Possession of Pornographic Materials and Exploiting Juveniles for Pornography under Art. 185 of the CC or for the criminal offence of Abuse of Computer Networks or Other Technical Communication Means for committing Criminal Offences against Sexual Freedom of Juveniles. The most frequently undertaken activity is related to the obtainment of the referred to materials via peer-to-peer networks, as well as possession of the materials in the PCs and on other memory devices. Also, the offices followed up on reports submitted by citizens as well as on the requests received through the international police cooperation (Interpol, Europol, FBI, etc.).

ПОТПРЕДСЕДНИК ВЛАДЕ И МИНИСТАР



УНУТРАШЊИХ ПОСЛОВА

*Стефановић*  
 др Небојша Стефановић