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## European data collection on sexual offences against minors

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EU Forum on the prevention of organised crime  
'EU Action against child trafficking  
and related forms of exploitation'  
Brussels, 26 May 2004

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## Research background (1)

- > EC co-funded research projects (1)
  - > 1998 (96/STOP/003): IRCP
    - > systematic gathering & administration of data on
      - > missing minors
      - > minor victims of THB or sexual exploitation of children
      - > perpetrators of sexual offences against minors
  - > 2001 (2000/STOP/116): IRCP
    - > feasibility of further elaboration and implementation international recommendations 96/STOP/003
  - > 2002 (2001/GRP/024): IRCP
    - > blueprint for an EU criminal records database (including a European disqualification register)

## Research background (2)

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- > EC co-funded research projects (2)
  - > 2002-2003 (2002/STOP/108): CF/IRCP: 'Childoscope'
    - > 1st component: actual extent phenomenon (missing and) sexually exploited children
  - > new project proposal (to be introduced): IRCP
    - > elaboration methodological roadmap for the collection, administration and dissemination of reliable statistics (and legal information) on sexual exploitation children, missing minors (persons) and trafficking in human beings
- > all projects with participation of
  - > national LE and NGO experts
  - > international LE actors (Interpol, Europol, Eurojust)
  - > international organisations (EC, Council EU, CoE)

## 1996/STOP/003 (1998)

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- > need for establishment of
  - > international database missing minors
  - > international monitoring centre for sexual exploitation of and trade in children
  - > international database child pornographic materials
  - > international legal database
  - > European criminal records database
  - > international database sex-offenders
  - > international DNA-database

## 2000/STOP/116 (2001)

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- > final recommendations (+ implementation strategies)
  - > international/European database on missing persons
  - > reliable statistics and legal information
    - > EU monitoring centre on sexual exploitation of children and trafficking in human beings
  - > EU/international database on child pornographic images
  - > (EU network of national DNA databases)
  - > suspected and convicted sex-offenders
    - > (EU database on pending investigations)
    - > EU reference database on suspected and convicted sex offenders
    - > EU criminal records (and disqualifications) database

## International/European database missing persons

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- > purpose/scope
- > data to be stored
- > organisation/management database
  - > criteria for inclusion data
  - > access
- > data protection
- > options
  - > SIS (II)
  - > Interpol
- > proposed solution/strategy

## Purpose/scope

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- > trace/find missing persons
  - > worrying disappearances of minors and adults, which may include
    - > runaways (minors, mentally ill, ...)
    - > criminal abduction (by 3rd person)
    - > parental abduction (minors)
    - > missing unaccompanied migrant children
    - > lost, injured, otherwise missing persons
  - > could be victims of THB
- > ease/take away worries (e.g message home)
- > allow family mediation (parental abduction)
- > facilitate LE investigation/prosecution
  - > through forensic investigation
  - > links with databases unidentified corpses, child porn images, dna sexual offenders

## Data to be stored

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- > identity missing persons
  - > name(s), nationality, age, place of birth, gender, ...
- > additional identification items
  - > photographs (basic + age progressed)
  - > DNA, dental records, x-ray-pictures, ...
  - > medical data (medication needed, ...)
- > possible location
- > circumstances disappearance
- > action requested
  - > communication residence
  - > deliver message
  - > temporary custody in view of transfer/return
  - > ...

## Organisation/management database

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- > criteria for inclusion data
  - > 'worrying' disappearance
  - > international definition required
  - > no immediate notification (48h buffer)
    - > vast majority missing minors/persons recovered
- > access
  - > for operational purposes (limited)
    - > law enforcement authorities member parties
    - > Europol (analysis trafficking/child pornography)
    - > indirectly: NGO's qualifying for cooperation with LE
      - > Childscope
  - > for epidemiological exploitation (open)
    - > EU monitoring centre THB/sexual exploitation minors
    - > LE, policy-making, NGO's, research

## Data protection

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- > vital to respect European data protection acquis
  - > CoE Convention No 108 and R (87) 15
  - > EC Directives (95)46 ...
- > right to information, correction, deletion
  - > term for deletion: SIC 3 years too short?
- > purpose limitation principle
  - > no use of data stored for other purposes than foreseen
  - > no risk of discrimination persons working in prostitution
- > no sensitive data but in the interest data subject
- > confidentiality?
  - > including right (minor/+16 year) data subject to
    - > run away - not be returned home
    - > e.g. leave anonymous 'message home' to notifying NGO



## Option: SIS

- > advantages
  - art. 97 SIC: notification data missing persons with aim of
    - > for adults: communicating place of residence
    - > for minors: taking into temporary custody
      - > quid minors above age of (sexual) consent?
    - > SIS II: transmission photographs, fingerprints (+ DNA, X-Rays, ...?)
- > disadvantages
  - > no search tool (only hit/no hit)
  - > access restricted to border/police/custom checks or other LE services
  - > no transfer Schengen data to national LE databases allowed
  - > no transfer data to private organisations (NGO's) allowed
  - > no links with other databases possible (corpses; child porn, ...)
  - > geographical scope too narrow (even after new EU MS will join in)
  - > data (items) included insufficient

## Option: Interpol

- > advantages
  - > CIS – EAS – ASF - ...
  - > world-wide geographical area of distribution
  - > possibility to include all relevant data (items)
  - > possible links with
    - > database child pornographic material
      - > reference/checksum database (Interpol)
      - > analysis database (Europol, via bilateral agreement)
    - > database of unidentified corpses (Interpol)
- > disadvantage
  - > weak legal basis for data collection/protection
  - > = main problem to overcome
- > solution
  - > strength Interpol + appropriate data protection

## Proposed solution/strategy

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- > database located at Interpol
  - > large area of distribution
  - > links with other databases
- > Interpol mandated through CoE Convention
  - > principles of data protection legislation
  - > advantage: accession by non-Member States
  - > stepping stones (for sufficient political support)
    - > common position EU MS
    - > inter-institutional request European Commission
- > national level
  - > national central body (within LE) for administering data on missing persons and exchanging data with international database
  - > access for NGO's via national body
    - > protocol (based on international standard protocol?)
  - > comparable data registration

## Reliable statistics and legal information

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- > EU monitoring centre on sexual exploitation of children and trafficking in human beings
  - > national focal points
    - > gather all relevant information from governmental and private organisations
    - > uniform data collection
  - > cooperation with wide range of institutions active in the field of sexual exploitation of children and THB
  - > unrestricted access
    - > for governmental organisations/institutions, LE services, private organisations, scientific institutions, ...

## 2002/STOP/108 (2002-2003): Childscope

- > extent phenomenon (missing &) sexually exploited children
  - > state of the art in EU MS
    - > all national available figures on (missing and) sexually exploited children
      - > uniform research/data collection definitions (infra)
      - > insight in way national data collection is organised (infra)
      - > shortcomings and weaknesses applied working methods
  - > in order to
    - > ameliorate organisation data collection
  - > long-term objective
    - > establishment EU monitoring center on missing and sexually exploited children
    - > ensure centralization and administration of fundamental reliable and comprehensive data

## Uniform research/data collection definitions (1)

- > child: every human being below the age of 18 (UN CRC)
- > sexual exploitation generic concept (separate from THB)
  - > basis: EU FD sexual exploitation children & child pornography
  - > no distinction 'commercial' exploitation vs 'abuse'
- > subcategories (1)
  - > sexual assault: engaging in sexual activities with a child
    - > below the age of consent
    - > above the age of consent, where either
      - > use made of coercion, force or threats
      - > money/other forms of remuneration/consideration given as payment in exchange for child engaging in sex
      - > abuse is made of a recognised position of trust, authority or influence over the child
  - > use of parental/other family authority: incest



## Uniform research/data collection definitions (2)

- > subcategories (2)
  - > child prostitution
    - > coercing or recruiting a child into prostitution, profiting from or otherwise exploiting a child for such purposes
  - > child pornography (1)
    - > production, distribution, dissemination, transmission, supplying, making available, acquisition and possession of child pornography, i.e. pornographic material that visually depicts or represents either
      - > a real child involved or engaged in sexually explicit conduct, including lascivious exhibition genitals/pubic area of a child
      - > a real person appearing to be a child involved or engaged in the aforementioned conduct
      - > realistic images of a non-existent child involved or engaged in the aforementioned conduct

## Uniform research/data collection definitions (3)

- > subcategories (3)
  - > child pornography (2)
    - > however: exclusion from criminal liability allowed where
      - > real person appearing to be a child was in fact 18 years of age or older at the time of depiction
      - > in the case of production and possession, images of children having reached the age of sexual consent are produced and possessed with their consent and solely for their own private use
      - > child pornography consisting of realistic images of a non existing child produced and possessed by the producer solely for his or her private use, as far as no pornographic material involving a child or a real person appearing to be a child has been used for the purpose of its production, and provided there is no risk for the dissemination of the material
  - > child pornography on Internet (CoE Cybercrime Convention)

## Uniform research/data collection definitions (4)

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- > subcategories (4)
  - > sex tourism
    - > = same conduct as under 'sexual assault'
    - > with a child in another country than the country of origin of the perpetrator
  - > trafficking in children
    - > based on: EU FD trafficking in human beings
    - > recruitment, transportation, transfer, harbouring, subsequent reception of a child, including exchange or transfer of control over that child
    - > for the purpose of exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography

## National organisation data collection

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- > system of registration on different levels (police/judiciary/health/prevention/NGO's ...)
- > centralized or decentralized
- > exchange/sharing data between LE/NGO/GO ...
- > since when is data collection organized, period of time
- > electronic data collection or not?
- > anonymous/personal data?
- > in terms of victims : age groups/gender
- > in terms of offenders: gender/convicted or suspect
- > in terms of cases: pending/settled cases
- > differences for various forms of sexual exploitation
- > how to avoid double counting?

## Just a few findings ... (1)

- > in general more data available on sexual exploitation (minors) than on missing minors
- > various definitions LE/NGO's/GO's
- > relatively big difference of year(s) of reference between and within MS
- > data from justice authorities in most MS not available or difficult to access
- > apparent lack of detail/precision data stored by various actors
- > information largely decentralised/fragmentary
- > almost no info on pending/completed cases/convictions
- > data on offenders
  - > very basic
  - > breakdown mostly limited to gender and age

## Just a few findings ... (2)

- > sex tourism almost not covered in police/judicial/NGO statistics
- > child pornography
  - > victim identification and victim-related information rare
  - > frequently no distinction in statistics as to whether internet-related or not
- > important differences between MS regarding
  - > private/public crime
  - > (para-)judicial settlement
  - > legality vs opportunity
- > state of the art phenomena
  - > figures and data in general largely unavailable
  - > most national reports show rough estimates only
  - > at present impossible to give credible estimates
  - > still: unique overview & essential basis for future progress

## New project proposal (to be introduced)

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- > previous project has served as first basis for insight in (chaos of) data collection 15 MS only
  - > Agis proposal extension to 10 new MS
- > profound methodological preliminary study required for EU/international monitoring function
  - > elaboration methodological roadmap
    - > for the collection, administration and dissemination of reliable statistics (and legal information)
    - > on sexual exploitation children, (missing minors) and trafficking in human beings
  - > irrespective of question which organisation/international body should be entrusted with monitoring task
    - > = tough political decision
  - > Daphne?

## EU/international database child pornography

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- > pool of investigators monitoring Internet child porn at Europol
  - > currently no proper mandate
  - > lack of fully uniform definitions
- > child porn image database
  - > various expert meetings Europol-Interpol-G8 ...
  - > competition
- > 3 sorts of international databases for 3 types of functionalities
  - > reference database
  - > checksum database
  - > analysis/intelligence database



## Reference database

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- > duplication of efforts to be avoided (EU, Interpol, G8)
- > necessity to also allow participation NON-EU countries
- > international database
  - > Interpol + further G8 implementation
- > questions
  - > how to ensure that database is fed?
  - > obligation for EU MS to get their act together (establishment national units & obligation to feed to Europol, which could share images with Interpol on basis bilateral agreement & other way around)
- > real-time access for checking pictures?

## Checksum & Analysis/intelligence database

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- > checksum database
  - > allowing for states to directly check in checksum database whether materials seized contain materials registered in checksum database as child porn
  - > direct access
  - > Interpol/G8
- > analysis/intelligence database
  - > Europol = only logical location
    - > awf's
  - > necessity to also have the actual images
    - > to be retrieved from international database for non-EU MS on basis Europol-Interpol bilateral agreement
  - > necessity to have the case information



## Summary (1)

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- > EU « cocoon »
  - > obligation to establish national specialized units in MS
  - > obligation to filter & send images & case information to Europol (in view also of exchange images with Interpol)
  - > possibility to participate in/ask for analysis work at Europol
  - > proposal for analysis/intelligence database at Europol
    - > actual images and extensive case information (victims, perpetrators, scenery, ...)
    - > aimed at victim and offender identification
      - > Copine project?
    - > through permanent awf with full participation 25 MS?
    - > or specific additional legal basis required?
  - > same question for pool of investigators monitoring Internet child porn at Europol

## Summary (2)

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- > international image database at interpol
  - > Europol acting as a focal point on behalf of EU MS as regards input in & retrieval from international Interpol image database
    - > as far as exchange of actual images is concerned
    - > basis: bilateral inter-institutional agreement
- > limited mandate NGO's
  - > communication URL addresses child porn sites
  - > no storage and/or transmission child porn material

## EU DB on suspected/convicted sex-offenders

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- > European reference database
  - > of persons suspected of having committed, being prosecuted for or having been convicted for sexual offences against children
- > aim
  - > optimising law enforcement cooperation and coordination of pending investigations and prosecutions concerning sexual offences against children
- > IRCP-Europol draft Council decision
  - > hereafter

## IRCP-Europol draft Council decision

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- > entirely based on encoded information
- > checksums of convicted and suspected offenders
  - > safeguarding privacy rights and data protection rules
  - > no needless obstruction offender's re-socialisation/integration
- > responsibilities of Europol
  - > conversion and storage numerical codes
  - > hit: notification ENUs and Eurojust
  - > + possibility to check persons of EIS in reference database
  - > possible first shared Europol/Eurojust database
- > responsibilities for Europol's National Units (ENUs)
  - > centralisation, conversion and transmission of information
  - > informing competent authorities

## EU criminal records (& disqualification) DB

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- > addressing 2 goals EU 'Mutual Recognition Plan'
  - > (individualisation of) sanctions
  - > disqualifications related to criminal acts
- > additional goals
  - > facilitate work EU LE bodies
  - > restrict vulnerability certain professions/sectors
  - > 'active alert' system as possible patch to the ECR
    - > equivalent value as formal request for
      - > execution sentence
      - > supervision conditionally convicted/released
    - > comparable to SIS Article 95 notice/Interpol red notice
- > not limited to sexual offences against children
  - > general scope

## Approach

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- > 3 options in EU 'Mutual Recognition Plan'
  - > bilateral exchange of information
  - > network of national registers
  - > centralized criminal records database
- > preferred option (combined approach)
  - > improving bilateral exchange by EU initiative
    - > structural
      - > frequency higher than annually (monthly?)
    - > case-based
      - > EU model form (draft FD European Evidence Warrant)
  - > detailed information to remain decentralized
  - > central index system: labelling-technique
  - > use of existing IT facilities (Europol, SIS, EJN, Eurojust)

## Access

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- > authorities concerned with criminal investigations
  - > MS
  - > EU-bodies (Europol, Eurojust, Olaf)
  - > third bodies (Interpol) and states (various scenario's)
- > employers in vulnerable professions
  - > which?
    - > public professions (police, judiciary, government, ...)
    - > educational professions/working with children
    - > medical professions
    - > financial professions
    - > transportation offences
    - > trustworthy telecommunication professions
  - > through EU-certificate of non-prior conviction
    - > disclosure related to profession

## Questions and discussion

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