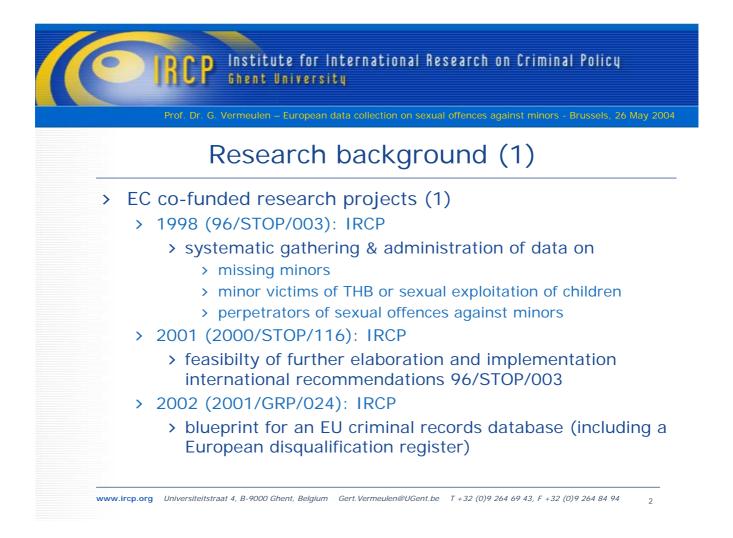
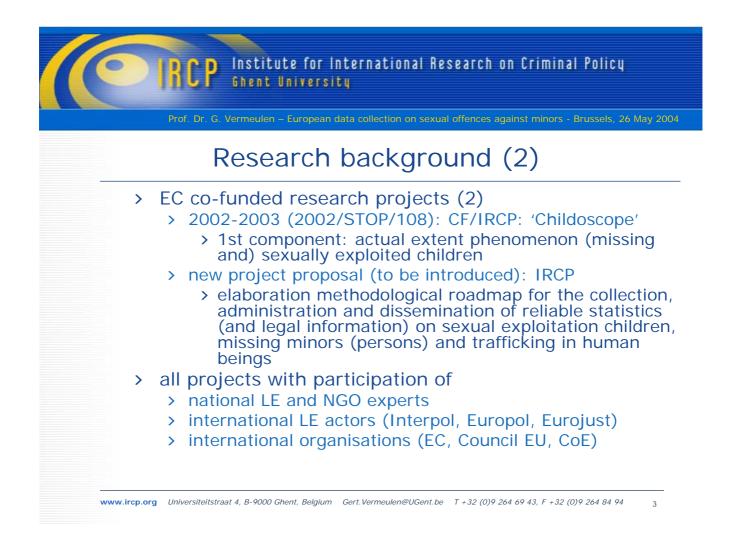
European data collection on sexual offences against minors

Prof. Dr. Gert Vermeulen

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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1996/STOP/003 (1998)

- > 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

Proceeding of the second of the

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International/European database missing persons

- > 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

> 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

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Data to be stored

- > 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
 - > ...





Data protection

- > 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 anonimous '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

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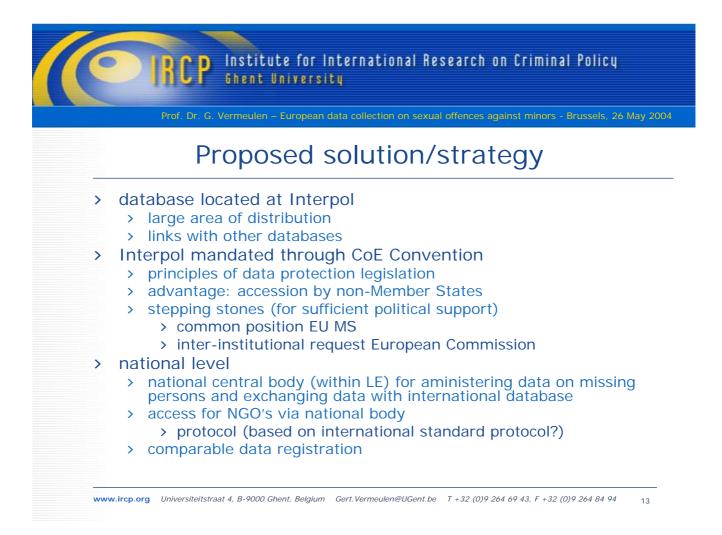
Option: Interpol

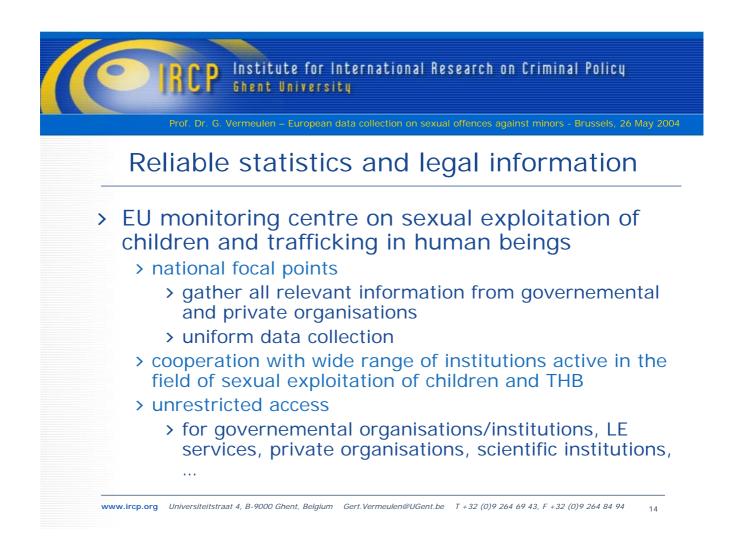
> advantages

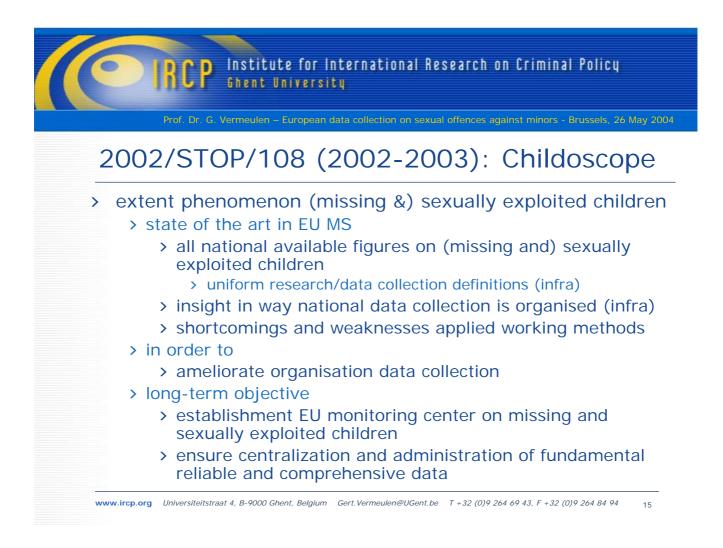
- > CIS EAS ASF ...
- > world-wide geographical area of distribution
- > possibility to include all relevant data (items)
- > possible links with
 - > database child pornographic material
 - > reference/checksum database (Interpol)
 - > analysis database (Europol, via bilateral agreement)
 - > database of unidentified corpses (Interpol)

> disadvantage

- > weak legal basis for data collection/protection
- > = main problem to overcome
- > solution
 - > strength Interpol + appropriate data protection



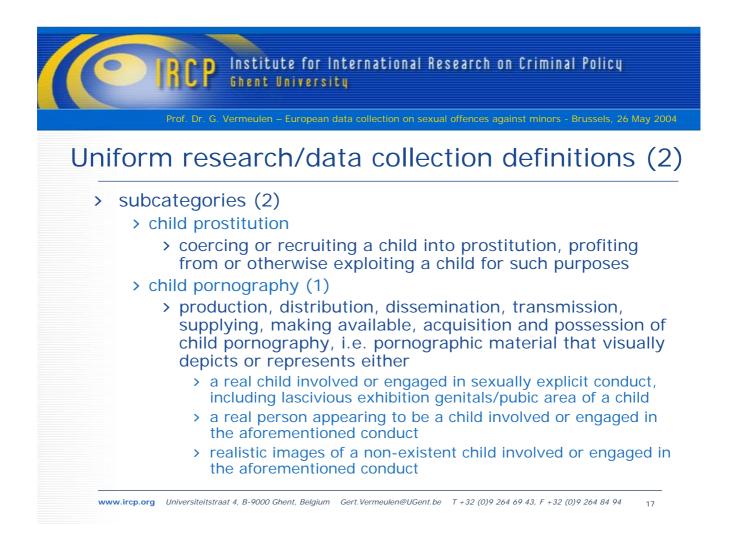






Uniform research/data collection definitions (1)

- > 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 faminly authority: incest





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)

Institute for International Research on Criminal Policy Uniform research/data collection definitions (4) 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 www.ircp.org Universiteitstraat 4, B-9000 Ghent, Belgium Gert. Vermeulen@UGent.be T + 32 (0)9 264 69 43, F + 32 (0)9 264 84 94



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National organisation data collection

- 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?

Institute for International Research on Criminal Policy Ghent University 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

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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





Reference database

- > 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?

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Checksum & Analysis/intelligence database

- > 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

Institute for International Research on Criminal Policy Summary (1) > 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 www.ircp.org Universiteitstraat 4, B-9000 Ghent, Belgium Gert.Vermeulen@UGent.be T + 32 (0)9 264 69 43, F + 32 (0)9 264 84 94



> no storage and/or transmission child porn material





IRCP-Europol draft Council decision

- > 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
- > responsibilites 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





Approach

- > 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)



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Questions and discussion