

BRIEFING FOR MEPs FROM THE NSPCC¹

On the Angelilli report “with a proposal for a European Parliament recommendation to the Council on combating the sexual exploitation of children and child pornography”
(2008/2144(INI)), February 2009

The NSPCC welcomes the Angelilli report as adopted by the LIBE Committee, and urges all MEPs to support its adoption in the plenary vote on 3rd February.

From our work in the UK, the NSPCC recognises that some aspects of child sexual abuse and exploitation have European or international dimensions, and can no longer only be effectively tackled by individual governments acting alone. For a number of years the NSPCC has highlighted the need for improved EU cooperation to protect children from sexual abuse and exploitation to complement and add value to national actions. In particular, this work has focused on the risks to children resulting from greater movement of people across borders, as well as in the rapidly changing online world and the threats that that poses to children.

We consider the draft Angelilli report to be a strong message from MEPs that more ambitious EU action is needed to combat cross-border aspects of child sexual abuse and sexual exploitation. It is expected that the European Commission will present a proposal in forthcoming months for revision of the 2003 framework decision “on combating the sexual exploitation of children and child pornography”². The NSPCC will urge the Commission and Member States to take on board our recommendations during deliberations on this issue, and we call on the European Parliament to continue to scrutinise the proposals as negotiations progress. It is important that sufficient time is taken to allow thorough reflection and discussion involving all relevant stakeholders.

¹ National Society for the Prevention of Cruelty to Children, UK, www.nspcc.org.uk. NSPCC is the UK’s leading NGO specialising in child protection. We are a member of the European Children’s Network (EURONET) and the European NGO Alliance on Child Safety Online (eNACSO).

² Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography

The NSPCC supports many of the proposed recommendations in the Angelilli report, and draws your attention to a number of these we consider to be of particular importance in relation to revision of the framework decision:

1. Ensuring that all Member States sign, ratify and implement the Council of Europe (CoE) Convention on child sexual abuse and sexual exploitation (2007). This is also a key reference point for EU legislation on relevant areas.
2. Revision of the 2003 framework decision “on combating the sexual exploitation of children and child pornography”. The current framework decision provides a useful basis for improved cross-border cooperation around protecting children from sexual abuse and exploitation. However it contains a number of gaps and also needs to catch up with developments, in particular in the online environment, such as the increased use of the internet by children which poses certain risks as well as opportunities. In addition, its approach is focused on the punishment of crimes against children, and this needs to be broadened to include measures related to the prevention of sexual crimes against children.
3. Strengthening of the human rights-based approach. The UN Convention on the Rights of the Child (UNCRC) establishes a set of rights for every child to which all EU member states are signatory. It is therefore essential that EU actions are founded in, and coherent with, children’s rights as expressed in the UNCRC and its optional protocols. More generally, it must be emphasised that child protection and children’s rights should be the primary consideration for Member States in determining the content and approach of legislation, rather than criminal justice concerns. This is in line with the European Commission’s commitment ‘to mainstream children’s rights when drafting EC legislative and non-legislative actions that may affect them’³. We support clear provisions to protect and support children who have suffered abuse as well as the inclusion of a range of measures relating to prevention. A revised framework decision must make reference to the UNCRC including the best interests of the child principle.

Protecting children from known sex offenders

4. Creation of systems in all EU Member States to manage known sex offenders with a view to protecting children from the risk of further offences. The NSPCC considers that an effective approach to minimising the risk that known sex offenders pose to children should combine imprisonment and surveillance for the small minority of high risk offenders, with more widespread strategies focused on the rehabilitation and reintegration of all offenders and perpetrators, including therapeutic support. Recording and storing (conviction) information about sex offenders, with proper data protection safeguards in place, is essential as a means of minimising any risks to children in

³ COM (2006) 367 final, Communication from the Commission ‘Towards an EU Strategy on the Rights of the Child’, 4.7.2006

future. Risk assessment of offenders is key in order to ensure that appropriate mechanisms are put in place to reduce risk to children. Currently the majority of states do not have a standardised process for assessing the risk posed by individual sex offenders.

5. Revision of article 5(3) of the framework decision. This addresses in only a minimal way the question of preventing known sex offenders from gaining access to children through employment or voluntary activities. An NSPCC report discusses this issue in detail, 'Protecting children from sexual abuse in Europe: Safer recruitment of workers in a border-free Europe' (2007)⁴. As a basis for cross-border cooperation on vetting and barring it is important that all Member States should have a system for using criminal records information to ensure convicted sex offenders are not able to gain employment with children. This is an issue which falls squarely within the field of child protection. In addition, improved sharing of criminal records information between Member States is crucial for use in vetting and barring, in a context of freedom of movement within the EU. This is dealt with in other EU instruments however it is still not clear that Member States will have an obligation to share information for use in vetting and barring; this issue must be addressed.

Internet-related child sexual abuse offences

6. Criminalisation of online grooming – solicitation of children for sexual purposes. It is important to criminalise in all Member States the process of arranging an inappropriate meeting with a child with the intention of carrying out sexual or illegal sexual activity, so that police can intervene to prevent a meeting which is known to be imminent, rather than waiting until contact sexual abuse of a child has actually been attempted in order to arrest the abuser. The NSPCC recommends basing wording on Article 23 of the CoE Convention. In addition, the NSPCC welcomes the proposed recommendation to 'criminalise knowingly attending pornographic performances involving children' and 'intentionally causing children to witness sexual abuse or activities'. Other offences which should be covered include online sexual abuse without physical contact, such as coercing a child to perform sexual acts over webcam.
7. Combating child abuse images (child pornography) and identifying children who are abused in the production of images. The NSPCC supports recommendations to ensure sites containing child abuse images are removed, including through strengthened international co-operation. The speed at which these sites are taken down must be improved as these are often currently too slow. A revised framework decision should oblige internet service providers to block access to websites known to contain child abuse images. Furthermore, it is important that the production of pornography representing realistic images of a non-existing child engaged in sexual conduct should be criminalised, as this kind of material forms part of a subculture of sexual abuse material.

⁴ 'Protecting children from sexual abuse in Europe: Safer recruitment of workers in a border-free Europe', NSPCC (2007) www.nspcc.org.uk/europe

The NSPCC supports the proposed recommendation for a Community action programme for children abused in the production of child abuse images, and notes that it is crucial that law enforcement agencies dedicate greater time and resources to identifying these children in order to be able to protect and support them. In addition, we highlight that Member States must ensure that all child victims of sexual abuse and sexual exploitation are provided with protection and support, whether or not the abuse was linked to production of images.

Support and protection for children

8. The NSPCC welcomes recommendations related to support and protection for children who have been abused. Investigation of abuse cases and legal proceedings must be child-centred, taking into account the best interests of the child.
9. In addition we highlight that children who sexually harm other children should not be treated in the same way as adult offenders. Member States should ensure that children are offered an appropriate response which includes treatment to address both their offending behaviour and their developmental needs and engages the different agencies responsible for children's welfare. Where a penal sanction is used it is essential that there is treatment provision for children, and that children are detained '*only as a last resort and for the shortest appropriate period of time*' (Article 37 UNCRC).
10. Member States must ensure that children are educated about their rights to protection from abuse, how to protect themselves, and what to do if they are being abused. This is central to preventing and combating child abuse and exploitation, and includes teaching children about risks related to the use of internet and mobile phone technologies, and how to protect themselves in these environments.

Accompanying action

The NSPCC also recommends that EU legislative action should be accompanied by exchange of best practice on the implementation of some of its provisions, and where appropriate non-binding common guidelines or minimum standards which can assist Member States in developing their national systems in a way which best protects children. A Council Recommendation would also be a useful tool in this regard.

Additional recommendations and further information:

The NSPCC is able to provide further detailed proposals, background information, and comments on recommendations contained in the Angelilli report. Please contact Kathleen Spencer Chapman, NSPCC European Adviser on +44 20 7825 2758, kspencer@nspcc.org.uk