

Briefing for MEPs from the NSPCC¹
Plenary session 31 May 2006

On the SONIK report² on a proposal for a Council framework decision on the recognition and enforcement in the European Union of prohibitions arising from convictions for sexual offences committed against children

Introduction and summary

This briefing provides information about the background to this initiative, in the run-up to the plenary vote. It outlines the NSPCC's views on the original proposal and on the Sonik report, based on the NSPCC's expertise in this area.

The NSPCC supports the aim of this proposed framework decision, which seeks to improve cooperation between Member States on the protection of children from sexual abuse. Under the decision, Member States would recognise and enforce bans on working with children imposed on individuals by other Member States, where these bans result from criminal convictions for sexual offences committed against children.

The NSPCC believes that the initiative should be backed as it is an important first step towards better protection for children within a borderless Europe. The Sonik report, adopted by the LIBE Committee in March, puts forward a number of amendments to the original proposal which the NSPCC believes will help strengthen the framework decision.

However, as an organisation set up to protect children from all forms of abuse we wish to see a system in the EU that recognises all serious offences against children, not only sexual offences. The NSPCC believes that this framework decision is a very useful start but that it must serve as a basis to subsequently extend EU action to protect children across the EU. We strongly support further action to build on this instrument, including to ensure that disqualifications resulting from violent and drug-related offences against children are also recognised.

Why is this framework decision important?

There have been a number of recent cases in which closer EU co-operation could have made a real difference to our ability to protect children from the activities of sex offenders. In 2004, the

1 National Society for the Prevention of Cruelty to Children, UK

2 A6-0068/2006, Legislative Observatory link <http://www.europarl.europa.eu/oel/file.jsp?id=5219892>

case of Michel Fourniret in Belgium highlighted a serious failure between neighbouring Member States to share information, which resulted in a convicted sex offender from France gaining employment in a school in Belgium.

In the UK, the June 2004 report of the Bichard Inquiry, which was prompted by the conviction of Ian Huntley for the murder of two children in Soham, referred specifically to the difficulty of checking the background of overseas workers and concluded that, '*this is clearly an area of potential weakness in the protection of young people*'.

The NSPCC's work in Northern Ireland (NI) in particular has made us aware of the difficulties posed by the existence of different systems across Member State borders. The lack of disqualification arrangements in the Republic of Ireland has created serious problems as offenders barred from working with children in NI can easily cross the border to work in the Republic of Ireland. There is some suggestion from NSPCC NI that a number of sex offenders are using gaps in the different legislation and policy between Northern Ireland and the Republic of Ireland to manipulate assessment and risk management arrangements. In recent years the NSPCC NI has worked closely with the Irish Society for the Prevention of Cruelty to Children (ISPCC) to highlight the problems and loopholes, to the Irish government in particular.

The NSPCC believes it is appropriate that prohibitions arising from sexual offences against children are recognised and enforced across the EU. The free movement of goods, services and people brings many benefits for EU citizens, but has also made it easier for child sex offenders to move between Member States in search of employment. In this context safeguards need to be put in place to effectively protect children. Recognising other Member States' prohibitions from working with children is one such safeguard.

It should be noted that this framework decision is proposed as a useful supplement to previous decisions including that on combating the sexual exploitation of children and child pornography (2003). This established a minimum common EU approach to these offences, in particular as regards the type of penalty and prohibition that should be provided for by national legislation.

Further action will be necessary

While supporting the proposal, the NSPCC has a number of concerns, in particular:

- ***The proposal applies only to prohibitions arising from convictions for sexual offences.*** However many states, including the UK, have procedures for prohibiting other offenders, and people who may pose a risk, from working with children. For example, the disqualification order in England and Wales also applies to some offenders convicted of violent and drug offences against children. While we recognise the complexities involved in extending the offences beyond those defined in the Council framework decision on

combating sexual exploitation of children and pornography to include other forms of abuse and drug related offences, we would like to see a continuing dialogue with the EU member states to examine how this could be achieved.

- ***The proposal stipulates that recognition will only be of ‘prohibitions arising from convictions’*** (Article 2 d). However in the UK there are also administrative systems (i.e. not court-ordered convictions) intended to bar individuals who are considered to be unsuitable to work with children. The UK vetting and barring system is currently undergoing a huge reform to further tighten the system, including creating a new independent panel of experts whose role it will be to make decisions about prohibitions. This kind of administrative disqualification is not recognised in this proposal. We support the UK government’s suggestion to examine the potential of extending this framework decision to include non court-ordered prohibitions.
- ***The proposal does not address the problem of discrepancies between penalties.*** We are concerned that sex offenders may seek to reduce the time of a court-ordered prohibition by moving between Member States seeking out more lenient penalties (Article 7 (a) on reasons for non-recognition or non-enforcement of penalties).

The UK vetting system, though not perfect, is considered to be one of the most rigorous in the EU. The picture varies considerably with not every Member State holding a list or a mechanism to track and monitor those who have been disqualified from working with children. We believe that any weakness in this framework decision could potentially be exploited by sex offenders.

The Sonik report is a good basis for the European Parliament’s contribution

We recognise the complexities involved in addressing our concerns in this proposal, and these will require further attention at a later stage. Nevertheless, the Sonik report puts forward a number of amendments which serve to improve the original proposal. It suggests extending mutual recognition to prohibitions on carrying out activities which do not necessarily involve direct supervision of children, but which take place within an institution which supervises or works with children. The report also recommends useful changes to strengthen arrangements for the recording and sharing of information.

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The purpose of the NSPCC is to end cruelty to children. Our vision is of a society where all children are loved, valued and able to fulfil their potential. We seek to achieve cultural, social and political change - influencing legislation, policy, practice, attitudes and behaviours and delivering services for the benefit of children and young people.