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LIMITE

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NOTE

From:	Presidency
To:	Delegations
Subject:	Case studies to illustrate the implementation of the Regulation (EU) 2021/1232 – Additional contributions from Member States

To illustrate the effectiveness of Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse (“the Interim Regulation”), document 5397/24 was issued on 17 January 2024. At the meeting of the Law Enforcement Working Party-Police on 19 January 2024, the Presidency invited delegations to provide further relevant case examples.

Delegations will find in the ANNEX the compilation of additional contributions from Member States received through EMPACT or following the Presidency’s call to provide further case examples.

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A. CASES COLLECTED VIA EMPACT

DENMARK

CASE 1

Using a number independent service, a Danish suspect send an image of a naked boy to his boyfriend. NCMEC reported the incident to HSI, and the cybertip ended in Denmark.

The picture was already known in ICSE, and the boy had been identified several years ago, but possession and sending the picture was illegal according to the Danish Penal Code art. 235.

A house search was conducted at the home of the suspect, and several digital devices were seized.

During forensic examination of the seized devices, we found the picture mentioned in the cypertip, but more importantly, we also found several videos and images showing the suspect and his boyfriend raping an 11-year-old boy.

It was also revealed that the suspect was a volunteer worker at a children's organization and that he was an adult mentor to the boy.

Both suspects were sentenced to 3 years of imprisonment.

Without the NCMEC cybertip the sexual abuse would never have been discovered.

CASE 2

Using a number-independent service, a Danish suspect sent a picture of a naked 10-year-old girl to a friend. NCMEC reported the incident to HSI and the cybertip ended in Denmark.

The image was already known in the ICSE database, and the girl identified several years ago, but it is a violation of Section 235 of the Danish Penal Code to possess and send the image to others.

The suspect's home was searched, and various digital devices were seized.

During the technical examination of the seized devices, several videos were found showing a woman abusing two girls who were 6 and 7 years old at the time of the abuse.

We managed to identify the woman and her two daughters on the basis of some tattoos on the woman's arm, and she was subsequently arrested.

It turned out that the woman and the male suspect in the case had a sexual relationship, which had involved the two minor girls several times.

Both suspects were sentenced to 4 years in prison.

Without the NCMEC cybertip, the sexual abuse would never have been discovered.

CASE 3

Using a number-independent service, a Danish suspect sent a picture of a naked 10-year-old girl to a friend. NCMEC reported the incident to HSI, and the cybertip ended in Denmark.

The image was already known in the ICSE database, and the girl identified several years ago, but it was a violation of Section 235 of the Penal Code to possess and send the image to others.

The suspect's home was searched, and various digital devices were seized.

It turned out that the suspect was a driver for mentally disabled children and young people. During the forensic examination, several images and videos recorded in a bus were found, in which the suspect sexually abused several of the children and young people for whom he was the driver.

Several videos were also found where the suspect had bought access to online abuse of children in the Philippines.

Suspect was sentenced to 8 years in prison.

Without the NCMEC cybertip the sexual abuse would never have been discovered.

CASE 4

Using a number-independent service, a Danish suspect sent a known picture of two 6–8-year-old girls giving a man a blow job. NCMEC reported the incident to HSI, and the cybertip ended in Denmark.

The suspect's home was searched, and various digital devices were seized.

During forensic examination we found the picture in question, but more importantly we also found evidence, that the suspect had ordered and paid live stream abuse of minors from the Philippines.

Among other things, we found a lot of communication like the following:

“Can u do a mom and girl show?”

“Can she suck d***?”

“U have any h***** pics?”

“Lick her make her lick you ex”

“She have too make u c** baby”

“Send some videos off you and your girl baby then i gonna tip you”

Suspect was sentenced to two years in prison for complicity to rape.

Without the NCMEC cybertips the long-distance child abuse in the Philippines would never have been discovered.

FINLAND

CRIMINAL INVESTIGATION

Finland's NBI received a report from NCMEC submitted by Instagram regarding distribution of CSAM in private messages.

The user of the Instagram account was identified as a 14-years old boy, suspect A. The material on his devices revealed that he had abused an unidentified 9-10-year-old boy a couple years prior to the investigation, when suspect A was 12-13 years old.

On suspect A's devices was also found a video, where he was sexually abused by his 15-years old relative, suspect B. Suspect A was 13-years old at the time.

The investigation is still ongoing.

B. CASES RECIEVED THROUGH PRESIDENCY INVITATION

FRANCE

CASE 1

SUSPECT

31 hommes dont un ancien enseignant français, un pédiatre hongrois, un animateur radio et des touristes ayant voyagé en Thaïlande.

FAITS

- Sur la base d'un signalement du NCMEC, les enquêteurs d'un service de police judiciaire ont interpellé au début de l'année 2023 un trentenaire pour des faits de détention de matériel à caractère pédocriminel.

ENQUÊTE CRIMINELLE

- L'exploration des supports numériques du mis en cause a permis d'identifier sept groupes de discussion, huit administrateurs et trois espaces de stockage sécurisés.
- Ainsi, grâce au visionnage d'images particulièrement dures, environ 700 individus de 73 nationalités différentes sont identifiés, avec le concours d'Europol et d'Interpol.
- 31 hommes, soupçonnés d'avoir administré et utilisé des contenus pédopornographiques via la messagerie cryptée Signal, ont été arrêtés à la mi-novembre 2023, lors d'un vaste coup de filet en France et en Europe : 10 personnes ont été arrêtées en Espagne, 5 en Hongrie, 4 en Belgique et 2 en Bulgarie, soit 21 arrestations au sein de l'Union européenne et 10 en France. D'autres interpellations sont à venir prochainement dans d'autres États-membres et États-tiers.
- Au total, plus de 200 000 fichiers ont été découverts, 40 groupes pédocriminels ont été infiltrés et 49 équipements numériques ont été saisis au cours de l'enquête.

DECISION JUDICIAIRE

Plusieurs mis en cause ont été placés en détention provisoire pour des faits de détention de matériel à caractère pédocriminel, certains sont également poursuivis pour viol sur mineur de 15 ans et corruption de mineurs.

CASE 2

SUSPECT

Homme de nationalité française, né en 1982, domicilié à PARIS, ancien champion de France et champion du monde de sport, **encadrant sportif dans un club pour enfants et adolescent**. Il était inconnu des services de police.

FAITS

- En décembre 2018, le service d'investigation était destinataire d'un signalement émanant de la société META (Facebook) via la fondation NCMEC. Ce signalement fait suite à la **détection volontaire d'échanges sexualisés entre un adulte et une mineure sur la messagerie de Facebook**.
- Il apparaissait des conversations à caractère sexuel entre un profil Facebook d'un adulte âgé de 36 ans et un profil Facebook d'une mineure de 14 ans, par le biais de la messagerie « MESSENGER » de ce réseau social. À la lecture des conversations, il ressortait que ces deux personnes avaient eu des rapports sexuels à la suite desquels **il semblait nécessaire pour la** jeune fille de 14 ans d'effectuer des analyses médicales susceptibles de révéler d'une part une éventuelle grossesse et d'autre part une maladie sexuellement transmissible.

Ce signalement permettait l'ouverture d'une enquête de police sous le contrôle d'un magistrat du parquet, afin d'identifier la victime présumée et l'adulte auteur présumé.

ENQUÊTE CRIMINELLE

- L'identification des données techniques (adresses IP) utilisées par ces deux personnes pour se connecter au réseau social Facebook et les recherches des services permettaient de confirmer leurs identités et la minorité de la victime :
- L'auteur était interpellé et placé en garde à vue en janvier 2019 par la police française pour des faits de viols et d'agressions sexuelles sur un mineur de moins de 15 ans. Une perquisition de son appartement était effectuée permettant de découvrir deux téléphones mobiles, une tablette numérique, deux clés USB, un disque dur externe, un appareil photo, un ordinateur portable et un disque dur issu de son unité centrale d'ordinateur. Une fouille de son véhicule personnel permettait de découvrir de nombreux préservatifs, Il était constaté que ce véhicule était aménagé avec un matelas, des oreillers et une couette. L'ensemble était saisi pour exploitations scientifiques.
- Entendue, la victime expliquait avoir entamé une relation avec l'auteur en juillet 2018, alors qu'elle était âgée de 14 ans et que ce dernier était encadrant dans le club de sport qu'elle fréquentait. Pendant les vacances d'été, elle conversait avec lui par messagerie instantanée puis par mail, pour plus de sécurité, consciente du caractère interdit de leur relation. Elle expliquait que leur première relation sexuelle avait eu lieu en cachette dans la salle des coaches du club sportif où l'auteur exerçait comme encadrant. L'auteur l'avait alors pénétrée sans préservatif. Elle estimait par la suite à une dizaine le nombre de relations sexuelles avec son coach sportif. La victime confirmait avoir contracté une maladie sexuellement transmissible au cours de ses rapports avec son coach de 36 ans. Les parents de la jeune adolescente déposaient plainte contre l'auteur.

- Lors de ses auditions, l’auteur minimisait les faits qui lui étaient reprochés, se réfugiant derrière une mémoire défaillante. Il reconnaissait le caractère interdit de leur relation et prétendait avoir des sentiments sincères pour la victime. Il confirmait avoir fourni à sa victime une « pilule du lendemain » afin d’éviter une grossesse après un rapport non protégé. Il expliquait avoir également demandé à sa victime de lui adresser des photographies de son sexe durant l’été 2018, Il reconnaissait avoir photographié l’écran de son téléphone lorsque étaient apparus ces clichés, évitant ainsi que Snapchat notifie à l’adolescente que ces images avaient été enregistrées. Il affirmait néanmoins ne jamais avoir diffusé les photographies qu’il détenait de sa jeune victime.

DECISION JUDICIAIRE

Le suspect a été mis en examen pour viols et agressions sexuelles sur mineur de 15 ans par personne ayant autorité et détention de l’image d’un mineur présentant un caractère pornographique. Il a été reconnu coupable et condamné à de la prison ferme, ainsi qu’à des obligations de soins avec inscription au fichier des délinquants sexuels. Il est désormais interdit d’exercer une profession au contact de mineurs.

Sans le signalement de Facebook les faits n’auraient pas été révélés et la victime n’aurait pas été protégée.

GERMANY

CASE 1

In late October 2022, the service provider Twitter (now X) reported to NCMEC an account which clearly belonged to a user in Germany. The user had previously posted several tweets or messages in English, boasting that he had sexually abused his daughter. The Federal Criminal Police Office (BKA) followed-up on this report as part of its daily review and found that the account had indeed published pictures and videos showing the serious sexual abuse of an approximately eight-year-old girl.

The BKA immediately established that the case came under the local jurisdiction of the Rhineland-Palatinate Criminal Police Office and transferred the matter to that authority on the same day.

Since the subscriber was a US soldier on active duty, the US Office of Special Investigations (OSI) took over the matter in agreement with the responsible public prosecutor's office. A search warrant was issued and enforced on the same day. It turned out that the child shown in the videos was indeed the user's/subscriber's daughter, who was seven years old at the time of the abuse.

CASE 2

In November 2023, the service provider Google reported four image files which were previously unknown. They showed the buttocks and clothed genital area of an unknown girl. Investigations revealed that the files had been produced by a man aged 33 at the time of the crime, who had been taken in by a foster family as a juvenile and was still living together with that family. The victim was his nine-year-old foster sister.

CASE 3

In October 2021, the service provider Kik reported an individual who had disseminated child sexual abuse material via the Kik messaging service.

A subsequent search led to the seizure of terminal devices owned by the suspect. The ensuing analyses found 33 pornographic nude photos, produced by the suspect, of his daughter (born in 2017) and text messages showing evidence of his sexual interest in young girls.

CASE 4

In February 2021, the service provider Microsoft reported a case to NCMEC which involved the dissemination of child sexual abuse material via Skype.

Investigations revealed that the suspect had been abusing his four-year-old twin daughters. His wife had also sent to her husband (i.e. the suspect), and others, images showing the abuse of her own daughters. The husband is currently in custody.

CASE 5

An NCMEC tip-off from 2020 suggested that a former head teacher of an elementary school in eastern Hesse might be involved in child sexual abuse. The man had held responsible positions in several non-profit children's organisations and in a children's choir. For many years (at least in the period from 1998 to 2021), often during school events (school trips, physical education classes, etc.), he engaged in sexual activities with children in his charge, sometimes filming them.

The police believed that he committed 37 sexual offences against children and young people and identified the names of 18 victims. Since then, the offender has been sentenced to seven years' imprisonment for 93 offences against 32 victims, most of them male.

SPAIN

CASE 1

SUSPECTS/ARRESTED

Two adults of 21 and 22 years old.

REASON FOR OPENING

A 13-year-old minor reported having been targeted on social networks by a fake profile created by an adult man who deceived her to have sexual encounters with the other suspect.

INVESTIGATIONS

CHILD GROOMING- OPERATION “OFIARA”

Origin of the Operation:

Report of social services. Own police investigation or information.

Purpose:

The suspects deceived the minor to have sexual encounters, share audiovisual material and take part in orgies.

Domains:

Technological/grooming/youth gang/illegal detention

Crimes investigated:

Child Grooming, sexual aggression

Judicial Bodies:

Court of First Instance; Provincial Prosecutor's Office

Summary:

An operation was carried out by Guardia Civil regional investigation unit with entries and searches in homes related to two perpetrators involved in the crimes committed using the modus of CHILD GROOMING (contact with a minor through the internet for physical meeting, where the main perpetrator through a fake Instagram profile obtained information from the victim to deceive and entice her until the commission of the continuous crime of Sexual Assault as well as the crime of illegal detention on the same day, these last two acts carried out by two authors.

Entries/Searches:

2

Devices seized:

cell phones

Description of the investigation:

The first report was sent to Guardia Civil regional investigation unit by social service. After that, the minor reported the details of the contact made using INSTAGRAM. A male user contacted with her pretending to be a girl of the institute of the victim. These events led to the minor and the suspect to maintain sexual encounters, and, after that, a second male adult took part on these encounters. The minor reported that she was forced and even some of these encounters were recorded using smartphone.

CASE 2**SUSPECTS/ARRESTED**

1 adult.

REASON FOR OPENING

Reports of two 13- and 15-year-old minors. An adult known by the victims contacted using INSTAGRAM to maintain sexual relations and threaten them.

INVESTIGATIONS

- CHILD GROOMING– OPERATION “DASTA”

Origin of the Operation:

Reports of the victims.

Purpose:

Contact to maintain sexual encounters.

Domains:

Technological/grooming

Crimes investigated:

Child Grooming, sexual aggression

Judicial Bodies:

Court of First Instance.

Summary:

Operation carried out by Guardia Civil regional investigation unit with entries and searches. Suspect contacted the victims to obtain audiovisual material and threatened the victims to maintain sexual relations.

Entries/Searches:

1

Devices seized:

cell phones

Description of the investigation:

The suspect contacted through social networks and threatened the victim. The adult had already police records where he had already tried in the past to threaten a woman to maintain sexual relations using WHATSAPP, and another record using INSTAGRAM.

The investigation led to detention.

CASE 3

SUSPECT

2 adults “X” and “Y”.

X – DOB: 03/05/1970. Living in Guadalajara, Spain.

Y – DOB: 20/12/1980. Living in Alcorcón, Spain.

FACTS

- Sexual assault of a minor.
- Production of child pornography.
- Dissemination of child pornography
- Possession of child pornography.

In Guadalajara and Alcorcón in 2023.

CRIMINAL INVESTIGATION

The case starts with the notice given from a citizen, who was added to a WhatsApp group without his consent in which CSA material was shared. This citizen gave the Police access to the group mentioned. With this information, the investigators of the Brigade for Minor Protection developed an operation to survey the activity of the WhatsApp group. They were able to prove the participation of a Spanish user, and saw that the material was indeed CSAM, some of it consisted in very hard pictures.

It was possible to locate the above-mentioned person in Sigüenza (Guadalajara) and request the judicial authority access to his devices. During the investigation it was discovered that he had sent CSAM to other people through Facebook and WhatsApp. In fact, during the surveyance X ceased to have access to his WhatsApp account, due to Meta finding out he was sharing CSAM and banning him.

After locating his address, a house search was conducted and his mobile phone was seized, along with large quantities of CSAM. By that time, he had shared large quantities of CSAM and started several conversations via Facebook with minors, mostly South American girls.

Among these images were four that, due to their characteristics, seemed to have been made in Spain, showing a girl of about 6 years old, asleep, whose underwear was pulled aside by an adult to photograph her genitals. These suspicions were confirmed by the detainee, who put the investigators on the track of who had sent them, being someone who allegedly posed as a woman and lived in Fuenlabrada. Some of the photos had the date and time stamped on them, which was minutes before sending them, making it highly unlikely that he had acquired them elsewhere.

Given the risk that a child was in imminent danger, the experts of the Cybercrime Unit accelerated the investigations and, in a few days, managed to identify the perpetrator whose location was unknown. He did not reside at his known addresses and did not go to the places he used to. Therefore, the investigators conducted a detailed study of his activity on social networks and were able to determine the streets where he moved from the analysis of the background seen in those photos. Thus, they finally managed to find out his residence in Alcorcón and, at the same time, find the girl victim, who resided with him, being the daughter of his partner.

Given that the aggressions could continue to occur, the agents urgently requested an house search warrant from the court of Alcorcón, which was granted and executed in the early hours of December 1. The victim and her mother were taken to a safe place by members of the Central Unit of Attention to the Family and Women (UFAM), while the experts of the Central Unit of Cybercrime (UCC) executed the agreed diligence.

During the course of the investigation, evidence was found that unequivocally linked the person identified with the facts, such as the telephone number used, calls between the two investigated on the dates on which they occurred, the clothes that the girl was wearing in the photos and conversations with third parties in which he pretended to be a woman with daughters interested in having sex with them.

CONVICTION/SENTENCING

For these facts he was arrested and, given the seriousness of the facts, the Court ordered his provisional imprisonment, without bail, as well as a restraining order against his victim.

CASE 4

SUSPECT

2 adults “X” and “Y”, partners.

X – DOB: 12/08/1998. Living in Madrid, Spain.

Y – DOB: 28/03/2000. Living in Madrid, Spain.

FACTS

- Sexual assault and raping of a baby (own daughter).
- Production of child pornography.
- Dissemination of child pornography.
- Possession of child pornography.

In Pinto, Madrid, since 2021.

CRIMINAL INVESTIGATION

The Central Cybercrime Unit of the National Police maintains international contacts with other police forces and with service providers who, whenever they find child pornography on their servers, forward the data for investigation in Spain. All this information, several thousands of reports per year, is studied, screened, and analysed by the specialists of the Child Protection Section in order to detect and prioritize the most serious cases.

As part of this effort, the PRM1 group isolated information about someone calling himself “social_puddin”. He was using Discord - a social network and instant messaging system geared primarily towards gaming - to make available to third parties very harsh images of sexual exploitation of infants.

With that information, the agents researched the other complaints received to see if there was anyone else whose behaviour was similar and discovered that someone posting similar photographs had a very similar way of speaking and acting online to the previous one, so they concluded -and it was later confirmed- that it was the same individual, named “X”.

This person already had a record for child pornography in 2021, when he used the services of Instagram, Google and, again X (formerly Twitter). He was released and was awaiting trial for these facts.

Upon further investigation of his environment in light of the new facts that became known through Discord, the agents discovered that he had just had a daughter with his partner (born in May 2022), which immediately alarmed them. They requested an entry and search which the court granted to take place on 20/12/2022. During the course of the search, evidence was found (images of child pornography of babies) that the investigated not only downloaded, but also sent to third parties such content, which led to his arrest by this investigation group.

The apartment was in precarious sanitary conditions, with a lot of dirt among which crawled the little girl, who had wounds due to lack of care. In addition, the detainee expressed his sexual desire for his own daughter. The police officers reported to the social services of the Community of Madrid, who withdrew the parents' custody as a precautionary measure a few weeks later.

Given the importance of the case, the UCC experts gave priority to the analysis of the material involved. The examination of this kind of device is resource-intensive and time-consuming, as the data has to be extracted securely, using machines and software from the forensic laboratory. The fragmentary data must then be pieced together, linking photographs and videos with the comments and applications in which they were used. Given the seriousness of the facts, this analysis had to be carried out with the utmost care and completeness.

As a result, videos appeared that the detainee had recorded in which he sexually assaulted, with penetration, his own daughter. There were also multiple conversations in which he offered the baby to third parties to have sex with her or they asked him to rape her and send the videos, although it does not appear that he went to these extremes, partly because he stated that the mother (and his partner) was opposed to them.

The aforementioned partner was not only aware of the detainee's sexual orientation -since she had been present during his previous arrests-, but dozens of child pornography files that they sent to each other were found in her Telegram account.

In the meantime, both had been forced to move to another house, due to conflicts with the other tenants with whom they shared an apartment, because of the continuous arguments, lack of hygiene and drug use.

On September 8, 2023, a new search was carried out in the town of Pinto, where they both lived. It was found that, indeed, from her Telegram account illegal images were being sent to him. Although she explained that she had not been using the device for some time and that it was he who used it for both of them -something confirmed by the sexual aggressor-, she was at least aware, although she did not seem to have been aware of the sexual aggressions suffered by her daughter before her custody was withdrawn.

Again, conversations were found in which the father offered his daughter to have sex with third parties, although they rejected her because she was too young. In a fit of rage, on August 21, he allegedly destroyed his phone with blows, so that since then he has sporadically used his partner's phone or an old one, in which this evidence was found.

CONVICTION/SENTENCING

Both were arrested. The mother was released with charges, while the perpetrator of the sexual assault was sent to prison without bail by the Court of Pinto.