

Elena Mujoska, M.Sc.¹

NEW FORMS OF VIRTUAL SEXUAL VIOLENCE: PROGRESSION, PREDICTIONS AND PREVENTION

Abstract

Republic of Macedonia has developed legislation regarding traditional media, but there is one question that remains unanswered: is there an adequate legal protection for limitation of the access to certain pornographic electronic media on the Internet? The virtual sexual violence against children, especially child pornography and prostitution and all other forms of child sexual abuse, are destructive for the child's health and psychosocial development. We believe that enhanced protection is needed, as well as the establishment of an authority which will perform a supervision of the programs, and content with pornographic content on the Internet, and provide prohibition on children's access to such programs. In case of any irregularity or violation of the rules on placing such material on the Internet, the person in charge of the supervision will be criminally liable, and prohibition on access to concrete Internet providers, block of their web-pages and suspension of further transfer of data and information will be provided. The Macedonian penal system does not lag behind the rest of the countries and closely monitors all global trends in its legislation. On the other hand, there is no legal protection which will limit the access of the children to pornographic electronic media, especially on the Internet.

Key words: virtual violence, sexual violence, technology, technology facilitated sexual violence and Harassment (TFSV), criminality in cyberspace

¹ Research Assistant, Center for strategic research, Macedonian Academy of Sciences and Arts and PhD candidate at the Department of Criminal Law and Criminology, Faculty of Law "Iustinianus Primus", University "Ss. Cyril and Methodius", Skopje. *Contact:* emujoska@manu.edu.com.

Introduction

Macedonian national legislation explicitly prohibits all forms of sexual exploitation and sexual abuse. Child pornography is only one type of criminal behaviour from a wide range of child sexual abuse. Its production, offering, distribution and possession, child prostitution and activities enabling child prostitution including trafficking in children and sale of children for that purpose, the connection between child pornography and the Internet, the emergence of new types of sexual exploitation of children as a result of the development of the information technology, early marriage as a type of violation of minors' sexual freedom etc. are only one part of the possible violations of the fundamental rights and freedoms of the child². For example, in Turkey one general survey in which mostly post-pubertal girls were interviewed because boys were difficult to reach due to strong social sanctions against homosexual behaviour, revealed shocking facts: children living on the streets, including those fleeing violence or forced marriages, are thought to be most at risk of sexual exploitation, which takes place within a wider context of violence against children. Sexual abuse within the family is another hidden problem and is ignored by the media. Social norms may result in victims being penalized or even killed ('honour killings') in order to avoid bringing shame on the family. The exploitation of children in prostitution is a new issue in the media and editors may choose not to highlight cases as readers find the topic distasteful. There has been little regard for the privacy of victims. Early marriage is also a form of sexual exploitation of children. It is a way for poor families to collect a 'bride price' and hence there is an element of economic exploitation.³ Although, every form of violation of the sexual freedom of the young person seems like the previous one, they still have certain characteristics specific for certain types of child sexual abuse.

The use of new technologies for the facilitation of sexual violence and harassment is a growing phenomenon and there is a large body of literature on various forms of criminality in

² See: Мујоска, Елена (2011) Кривичноправни аспекти на прозиводство и дистрибуција на детска порнографија (одбранет магистерски труд, необјавен), Правен факултет „Јустинијан Први“ – Скопје, стр.73. Mujoska, Elena (2011) Criminal aspects on production and distribution of child pornography (M.Sc. thesis, unpublished), University of “Ss. Cyril and Methodius”, Law Faculty “Iustinianus Primus” - Skopje, p.73.

³ More information about this phenomenon: Yucel, H., Karatay, A. and Ogel, K.: Situational analysis of commercial sexual exploitation of children in Turkey: Istanbul and Divarbakir, Bangkok, ECPAT – International, 2006.

cyberspace such as: cyberbullying, cyber-deception, cyber-pornography and cyber-violence (including hate speech, cyber-stalking and inciting physical violence), comparatively little attention has been paid to what we call “*technology facilitated sexual violence and harassment*” (TFSV). This term is used to describe collectively the range of criminal, civil and otherwise harmful sexually aggressive behaviors perpetrated against women with the aid or use of new technologies.⁴ This new, developed term can also be used to describe these criminal activities against children.

The new forms of virtual sexual violence including cyberbullying, cyber-deception, cyber-pornography, cyber-violence, cyber-stalking etc., simultaneously complement and intertwine each other, however, every criminal act is an independent act for which appropriate punishment must be provided and different types of protection and prevention must be offered.

The virtual sexual violence against children, especially child pornography and prostitution, and all new forms of child sexual abuse, are destructive for the child's health and psychosocial development. It has been subject of diverse debates since 1990s. The relatively small number of reported cases of child sexual abuse is due to the fear that he/she can become a victim again, the shame for the survived experience and ultimately, due to not knowing the rights belonging to children who were victims of some type of sexual abuse. Furthermore, the aforementioned applies to the new forms of sexual violence. The best proof that this troubling issue is beginning to take enormous proportions is case which took place in mid-2006, when a group of teenage boys in the Australian town of Werribee filmed the sexual assault of a teenage girl. The “Werribee DVD,” as it became known in the media, was initially sold in suburban Melbourne schools for \$5 and later on Internet sites for up to \$60 under the name “*C***: The Movie*,” with excerpts made freely available on YouTube. It shows the boys urinating on the girl, setting her hair on fire, throwing her clothes into a river and forcing her to participate in sex acts. The DVD also shows the boys harassing a homeless man, throwing eggs at taxi drivers, participating in fights at local parties, as well as media footage of incidents they claim to have been involved in. Eight of the youths were charged with assault, manufacturing child pornography and procuring sexual penetration by intimidation in the Melbourne Children’s Court in 2007. At the trial and sentencing of the young men responsible, the victim said she was terrified she would be recognized in public after the

⁴ See: Henry, Powell, Embodied harms: gender, shame and technology facilitated sexual violence in cyberspace, p.3 (on web, accessed: November, 2014).

distribution of the DVD and that her life had been changed forever⁵. This example vividly illustrates the unprecedented power of new technologies in achieving new forms of social shaming – beyond geographic borders, at vast speeds, to diverse audiences, and often with unparalleled impunity.⁶

Progression of virtual sexual violence

The sexual exploitation and abuse of children and minors is one of the most dangerous forms of criminality. The global expansion of this type of criminality is primarily due to the development of the information technology and the possibility of continuous transfer of information and materials with illegal content. The advantage of the everyday use of the Internet for such purposes can be seen in the fact that the user remains anonymous and the production, distribution, dissemination, transfer and publication of pornographic contents with children and minor and his/her active participation in paedophilic networks which remains undiscovered. In order to prevent the further activities of such kind, the countries criminalise the illegal actions and implement the international standards for suppression of this problem in their criminal law legislation.⁷ Also, in the last few years, significant tightening of the criminal sanctions for criminal acts by which the children or minors are sexually harassed or abused can be seen in most of the countries.

The globalisation of the new information technologies, computers, availability of all kinds of information on the Internet and other innovations of the new information era is a benefit used by the perpetrator, individually or as a part of an organised criminal network, to perform more easily the traditional penal acts, extending them by new forms of deviant behaviour. The requirement for enhanced affirmation shall be set for the highest international legal acts which are obligatory, but also for the rules, regulations and the guidelines which do not have immediate binding action, but aim at defining certain minimum standards influencing the criminal policy of

⁵ See: Henry, Powell, Embodied harms: gender, shame and technology facilitated sexual violence in cyberspace, p.3 cited by Medew, 2007.

⁶ Ibid.

⁷ See: Mujoska Elena, Prevention of Child Trafficking – Constant Challenge of the Republic of Macedonia, p.10.

the state and the selection of the most adequate penal law solutions closest to the objectives proclaimed in them⁸.

The child pornography, its production for the purposes of further distribution, transfer, offering, purchasing and possessing child pornography are penal acts for which most severe punishments are provided. These activities representing material or real images which visually show obvious sexual acts with a minor or a person looking as a minor shall be punishable. However, the determination of such provision causes numerous dilemmas and inconsistencies in the interpretation and the application of the competent authorities and institutions⁹. The perpetrators still give statement in their defence that they did not know or could not have known that the person was a minor. It is a fact that every minor differs from the rest according to his/her own character features, however this does not mean that the perpetrators' main target should be persons who are minor and did not turn 18 years of age, and seem like adults according to the outer appearance and body constitution.¹⁰ The competent authorities still adopt decision only on the basis of their outer appearance which is in complete contradiction to the commitment and the concrete provision in the documents of the international authorities for the irrelevance of the appearance of the minor person. Remarks have also been made to the fact that some forms of child sexual abuse have not been provided for as criminal acts such as child sex-tourism or early marriage,¹¹ so it is necessary to develop effective control mechanisms and legal procedures for abandoning this forgotten traditional practice.

The children are definitely the most vulnerable category when it comes to the virtual sex crimes. Every parent, teacher or institution dealing with children should know which actions belong to the unallowed and illegal sexual activities in order to provide complete protection of their children. Besides the often mentioned acts of oral sex, vaginal and anal intercourse, sexual

⁸ For additional details see: Мјјоска, Елена (2011) Кривичноправни аспекти на прозиводство и дистрибуција на детска порнографија (одбранет магистерски труд, необјавен), Правен факултет „Јустинијан Први“ – Скопје, стр.83-117. Мјјоска, Елена (2011) Criminal aspects on production and distribution of child pornography (M.Sc. thesis, unpublished), University of “Ss. Cyril and Methodius”, Law Faculty “Iustinianus Primus” - Skopje, p.83-117.

⁹ See: Clough, Now You See it, Now You Don't: Digital Images and the Meaning of „Possession“, p.2 and following.

¹⁰ See also: Clough, Principles of Cybercrime, p.258.

¹¹ ECPAT International, Global monitoring, Report on the status of action against commercial sexual exploitation of children: Russia 2006 (on web, accessed: November, 2014). Compare with: The Angel Coalition, on web, available at: <http://www.angelcoalition.org/trafficking.html>.

touching of the child and the adult, the indecent striping, exposure to sexual activities or photos before the children and encouraging them to join “chat rooms” belong to this category as well¹². The perpetrators skilfully abuse the trust of the parents and children or use their power and authority on them.¹³ They often target vulnerable children and primarily try to gain their trust.

Gregory M. Weber fully explains the process of grooming children for sexual molestation:

*“A predator will identify and engage his victim. He'll gain the child's trust, break down his defenses, and manipulate him into performing or permitting the desired sex act. If necessary, the predator will gain access to the child by employing the same techniques with the child's parent or adult caretaker. The process is called grooming. It increases the predator's access to his victim and decreases the likelihood of discovery. The forging of an emotional bond through grooming leads to physical contact. Predators use the grooming process to break down a child's defenses and increase the child's acceptance of touch. The first physical contact between predator and victim is often nonsexual touching designed to identify limits: an "accidental" touch, an arm around the shoulder, a brushing of hair. Nonsexual touching desensitizes the child. It breaks down inhibitions and leads to more overt sexual touching—the predator's ultimate goal. All of this leads to unnatural “friendly relation” which sooner or later grows into sexual intercourse whereupon the perpetrators convince or force children to cooperate.*¹⁴

The perpetrators often use threats that something terrible will happen to them in order to prevent the child of saying something. Every parent should pay special attention to his/her children especially if they are in the “critical age” of 12 to 16 years to teach his/her child how to be safe against sexual abuse and to explain to him/her that no one has right to touch them at certain places in a manner which scares them or makes them feel uncomfortable.

¹² For more information see: Information for Parents by UNICEF, Protect Your Child against Sexual Activities.

¹³ A predator will usually introduce secrecy at some point during the grooming process. Initially, secrecy binds the victim to the predator: "Here's some candy. But don't tell your friends because they'll be jealous, and don't tell your mother because she won't like you eating between meals." Later on, secrecy joins hands with threats: "If you tell your mother what happened, she'll hate you. It'll kill her. Or I'll kill her. Or I'll kill you.", Weber M. Gregory: Grooming Children for Sexual Molestation (on web, accessed November, 2014).

¹⁴ See: Weber M. Gregory: Grooming Children for Sexual Molestation (on web, accessed November, 2014).

**The situation in the Republic of Macedonia - Is the Macedonian legislator a step ahead
of the new forms of virtual sexual violence?**

The legal provisions principally regulating the child sexual abuse are well defined. Thus, the Macedonian legislation guarantees protection of children and their sexual freedom by implementing provisions in the Criminal Code, the Law on Protection of Children, the Law on Minor Justice in the area of protection of minor victims of criminal acts, etc. However, certain shortcomings have been established which represent significant gap in the legal system. Such is the lack of adequate regulations: instructions, rulebooks and manuals whose primary goal shall be regulation of the procedure when child-victim is involved. There are no clear definitions of the role and responsibility of every institution, their standards, procedures and protocols. The lack of concrete data related to the issue of sexual abuse especially child pornography represents another gap in the system. The relevant data on this issue are collected from different sources by using different methodologies and definitions, and the official state statistics is being kept only according to the perpetrators of criminal acts and does not contain concrete information on child-victims¹⁵ which is additional problem in the determination of the exact number of the victims of this negative phenomenon.

On the other hand, the efforts of the competent state authorities are recognised for the establishment of the age below which a child is being considered as not mature enough to consent to enter into sexual activities, as well as defining of the illegal and unallowed activities which actively involve children. Namely, according to the Criminal Code of the Republic of Macedonia victim of a criminal act shall mean each person who suffered any damage, including physical or psychological injury, emotional suffering, material loss or other violation or threat of his/her fundamental rights and freedoms as a result of performed criminal act, whereas a child - victim of criminal act shall mean minor person up to 18 years of age (Article 122, paragraph 20).¹⁶ However,

¹⁵ Акционен план за превенција и справување со сексуална злоупотреба на деца и педофилија (2009 – 2012 година), Министерството за труд и социјална политика / Action plan to prevent and deal with sexual abuse of children and pedophilia (2009-2012), Ministry of labor and social policy (on web, accessed November, 2014).

¹⁶ Кривичен законик на Република Македонија („Службен весник на Република Македонија“ бр. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011;

the existing legal provision referring to the child sexual abuse should be amended in order to overcome the inconsistency in making a distinction between the children under and over the age of 14 which simultaneously facilitates the collection and monitoring of the data on committed such criminal acts.¹⁷

The use of the computers, Internet and other media has large influence on the children. In order to protect the children against the harmful influences that such media would have on the mental and moral development on them, legal frameworks for child protection need to be adopted. Although our legislation regulates the production and the distribution of child pornography, there are no legal solutions that would refer to directions and procedures for monitoring and protection of the child against information and materials harmful for his/her wellbeing. For this purpose the Law on Broadcasting Activity¹⁸ needs to be revised i.e. Article 70 stating: *“the programs of the broadcasters must not contain pornography, excessive violence or other programs which can seriously jeopardise the physical, psychological and moral development of children and youth... the public communication networks can broadcast the program services with pornographic contents only in coded form...”*

*The Rulebook on the Protection of the Minor Audience against Programs which Can Have Harmful Influence on Its Physical, Psychological and Moral Development*¹⁹, adopted by the Broadcasting Council of the Republic of Macedonia, in Article 2 provides for radio and television programs which can have harmful influence on the physical, psychological and moral development of the minor audience and classifies the audio-visual and/or audio ensembles or their components including descriptions, scenes and/or images of violence, erotica, sexual behaviour prohibited by law, inappropriate (vulgar) speech, suggestible forms of behaviour easy for imitation and dangerous for the health and safety, behaviour offensive to human dignity etc.

185/2011; 142/2012; 166/2012; 55/2013, 82/2013, 14/2014; 27/2014 и 28/2014) / Criminal Code of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013, 82/2013, 14/2014; 27/2014 and 28/2014).

¹⁷ See: Запоставени и жигосани, Анализа на состојбата: сексуална злоупотреба на деца, Канцеларија на УНИЦЕФ, Скопје, декември 2010 / Neglected and Marked, Situation Analysis: Child Sexual Abuse, 2010, UNICEF, Skopje, 2010 (on web, accessed November, 2014).

¹⁸ See: Закон за радиодифузна дејност („Службен весник на Република Македонија“ бр. 100/2005, 19/2007, 103/2008, 152/2008, 06/10, 145/10, 97/11, 13/12 и 72/13) / Law on Broadcasting Activity (Official Gazette of the Republic of Macedonia No. 100/2005, 19/2007, 103/2008, 152/2008, 6/10, 145/10, 97/11, 13/12 and 72/13).

¹⁹ Available at: www.srd.org.mk (Accessed: November, 2014).

The programs must not broadcast pornography in accordance with the Law on Broadcasting Activity.²⁰ Audio-visual ensembles and/or their components are classified as pornographic, which are primarily produced to cause sexual excitement and are mediated as explicit descriptions, scenes and/or images of coitus, other types of sexual intercourse, sexual exhibitionism and/or sexual masturbation.²¹

The broadcasters shall be obliged to plan the featured, entertainment, documentary and documentary-entertainment programs containing erotic descriptions, scenes and/or images in the allowed periods of the program schedule, as well as to classify them adequately to the provided warning signalisation. The appearance of the naked human body should not be misused against the person whose body is shown. The programs should satisfy the needs and the expectations of the broad public, which also means tolerance in the broadcasting programs containing erotica. The level of tolerance graduates due to the potential presence of minor and emotionally vulnerable public and calls for ethical awareness and responsibility of the editor of the program schedule.²²

New adequate legal measures have been introduced in the permanent penal legislation to prevent encouragement, coercion, mediation and other traditional forms of providing sexual acts with women and children, and recently amendments have been adopted to the legal provisions preventing any kind of abuse of the new “modern” forms of sexual exploitation. New incriminations have been predicted as appropriate solution for the newly aroused issue, which successfully continuous the harmonisation of the national legislation with the provisions of the relevant international documents. This refers primarily to the United Nations Convention on the Rights of the Child²³, the Facultative Protocols to the Convention²⁴, the Council of Europe Convention on Cybercrime²⁵ and other documents. Their implementation in the domestic legislation is only a beginning of the fight for complete eradication of the illegal actions violating the fundamental rights of the child.

²⁰ Article 70 par 1.

²¹ See: Коментар на Правилникот за заштита на малолетната публика од програми што можат штетно да влијаат врз нејзиниот физички, психички и морален развој / Comment to the Rulebook on the protection of minors from programs that could adversely affect their physical, mental and moral development (on web, accessed, November, 2014).

²² Ibid.

²³ A/RES/44/25: The United Nations Convention on the Rights of the Child.

²⁴ A/RES/54/263: Optional Protocol to the Convention on the Rights of the Child on the Sale of children, Child Prostitution and Child Pornography.

²⁵ ETS No.185: Convention on Cybercrime (Budapest 23 November 2001).

In 2012, *Regional guidelines* – a manual for identification of trafficked persons²⁶ was published. Trafficking of human beings especially children is not a new form of criminal act but it is similar and related to other forms of sexual harassment. The identification of trafficked persons is vital for securing their human rights and necessary assistance and protection. In order to protect and assist trafficking victims it is of great importance to identify them promptly and correctly. The overall purpose is that these Guidelines will form a comprehensive basis for the elaboration of national standards on the identification of trafficked persons. For this purpose a *Regional Guidelines* have been drafted in line with the provisions of the following documents:

- The “*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*”, Palermo (2000);
- The Council of Europe “*Convention on Action against Trafficking in Human Beings*”, Warsaw (2005);
- “*Recommended Principles and Guidelines on Human Rights and Human Trafficking*”, United Nations Economic and Social Council (2002);
- “*National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons- A Practical Handbook*”, OSCE/ODIHR, Warsaw (2004);
- “*Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South-Eastern Europe*”, ICMPD, Vienna (2009);
- “*Trafficking in Human Beings: Identification of Potential and Presumed Victims. A Community Policing Approach*”, OSCE, Vienna (2011);
- “*Quality Standards for Risks Assessment and Safe Return and Reintegration of Trafficked Persons*”, NGO LEFÖ, Vienna (2011);
- “*Identification of Trafficked Persons in Moldova-Guidelines for Specialized NGOs Acting in the Republic of Moldova*”, International Center “La Strada”, Chisinau (2006);
- Other international, European and national standards and policy developments.²⁷

²⁶ Fomina, Vogiatzi, *Regional guidelines on the identification of trafficked persons, a manual for South-eastern and Eastern Europe* (2012).

²⁷ This manual also includes recommendations on the main aspects of the organisation of the system of identification of trafficked persons and concern:

- a) the conceptualization of the notion of “identification of trafficked persons” (goal, objectives, approaches and principles);
- b) the link of identification with the definition of trafficking in human beings;

The problem of the paedophilia²⁸ and other types of legally prohibited sexual behaviour can be media topic which, besides in the news and the information programs, can be dealt with, through the different types of documentary and educational program. It is of utmost importance for the credibility, reliability and ethics to be based on the competence of the source of the information when dealing with these topics. The treatment of these very sensitive issues must not ever include any suggestion for encouraging socially undesirable attitude. The descriptions, scenes and/or images of rape and rape consequences can cause especially harmful repercussions on the minor, emotionally vulnerable and psychologically less stable public audience. Extremely careful categorisation of the programs with descriptions, scenes and/or images is necessary with forms of legally prohibited sexual behaviour. The media dealing with topics relating to the sexual abuse of minors can be justified only due to the right of the public to be informed or due to their wider problematization. The unpredictability of the possible individual and collective consequences caused by the media treatment of such topics calls for their ethical awareness and the responsibility of the editor of the program.²⁹

The Macedonian penal system does not lag behind the rest of the countries and closely monitors all global trends in its legislation. On the other hand, there is no legal protection which will limit the access of the children to pornographic electronic media especially on the Internet. The statistical data show that the percentage of persons who are familiar with the content of the pornographic materials given on the Internet is devastating.³⁰ It is a well-known fact that today children use their computers for all sorts of activities and appear as the most numerous visitors of illegal and prohibited pornographic sites for them which are not appropriately protected and can cause permanent repercussions on the children and their development. Unfortunately, parents,

-
- c) the identification process, its stages and the methods employed;
 - d) the competent professionals and organisations to carry out victim identification and their particular tasks;
 - e) indicators for the identification of presumed victims of trafficking and victims of trafficking (preliminary and final/formal identification);
 - f) practical aspects of holding an interview with trafficked persons;
 - g) information exchange and data protection;
 - h) other related issues.

For additional details see: Fomina, Vogiatzi, Regional guidelines on the identification of trafficked persons, a manual for South-eastern and Eastern Europe, p. 7-8.

²⁸ Compare with: Стоп за педофилијата / Stop the pedophilia, (on web, accessed, November 2014).

²⁹ Comment to the Rulebook on the protection of minors from programs that could adversely affect their physical, mental and moral development (on web, accessed, November, 2014)

³⁰ For additional details see: <http://internet-filter-review.toptenreviews.com/porn-stats-around-world.html>.

teachers and other persons taking care of them do not have constant control over their actions. They are not aware of what kind of activities the children are involved in and how they use the Internet, e-mail, videos, CDs, DVDs, possibilities for direct communication via “chat rooms” etc. An evaluation should be made to the possibilities for introducing a legal framework which will prevent the harmful influences of the Internet and the remaining means, including the mobile audio-visual communication among the youth, thus providing adequate protection of children. We believe that the international standards for stopping the harmful influence of the pornographic media on the development of the children, especially *Recommendation 1882 (2009) on the promotion of Internet and Online Media Services Appropriate for Minors*³¹, should be adopted as soon as possible. This will initiate raising the public awareness about the large expansion of the existing sources of illegal pornographic content which are easily accessible to the children and which have negative influence on them. By adopting the aforementioned Recommendation and the already ratified Council of Europe Convention on Cybercrime and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Republic of Macedonia will strengthen its decision on serious fight against further child abuse, especially via the computer system.

Unfortunately, children-victims are not the only ones who are not well informed on this issue that is rapidly increasing in the Republic of Macedonia. Neither the competent authorities (judges, public prosecutors and police) nor the competent institutions (social work centres, schools, governmental and nongovernmental organisations) have conducted and promoted adequate strategy for information and education on the different types of child sexual abuse and protection against it. There is no systematic and organised spreading of information on child sexual abuse in the country. There are no efforts for their inclusion in the system of regular formal education at any level. There is also no expert staff which will work with victims and their families for their immediate and successful reintegration in the society. There is no serious involvement of certain organisations and, of course, the academic community in the legal amendments and the adoption of the action plans, programmes and other documents. Hence, we believe that there is a need of certain level of preparation of the programme for protection of the victims of different forms of

³¹ Rec no.1882 (2009) of the Parliamentary Assembly on the promotion of Internet and online media services appropriate for minors, Text adopted by the Assembly on 28 September 2009 (28th Sitting).

child sexual abuse which will conduct efficient prevention, recovery and rehabilitation of the victims. These includes opening of shelters, services and day centres to work with the sexual abuse victims.

Conclusion

Republic of Macedonia should continue the adoption of emergency measures to combat the emergence of sexual exploitation, pornography and paedophilia and for the purposes of complete criminalisation and adequate punishments of the perpetrators at its territory, as well as outside of it. This issue overcame the national border a long time ago and becomes problem of today of larger proportions whose solution cannot be imagined without mutual assistance among the countries. Therefore all the necessary steps should be undertaken for strengthening of the international cooperation by exchanging information, giving advices, organising international meetings and conferences all for one purpose – to put an end of the sexual harassment and to provide prevention against further abuse of the most vulnerable category of the society. By adopting the aforementioned international standards and the other resolutions, recommendations, decisions etc. the basic principles of the guaranteed child protection are set which often appear as a category which is abused to worryingly proportions.

The global expansion of this type of criminality is primarily due to the development of the information technology and the possibility of continuous transfer of information and materials with illegal content. The use of new technologies for the facilitation of sexual violence and harassment is a growing phenomenon and there is a large body of literature on various forms of criminality in cyberspace such as: cyberbullying, cyber-deception, cyber-pornography and cyber-violence, virtual hate speech, cyber-stalking, *“technology facilitated sexual violence and harassment”* (TFSV), etc. The advantage of the everyday use of the Internet for such purposes can be seen in the fact that the user remains anonymous and the production, distribution, dissemination, transfer and publication of pornographic contents with children and minor and his/her active participation in paedophilic networks which remains undiscovered. In order to prevent the further activities of such kind, the countries criminalise the illegal actions and implement the international standards for suppression of this problem in their criminal law legislation.

Given the recent reform changes of the existing provisions of the Criminal Code implemented in terms of the provision of efficient penal law protection of the fundamental rights and freedoms of children and the implementation of new legal solutions, we believe that it is necessary to amend only part of the old provisions, which will mean further harmonisation of the national legislation with the European standards and conventions. On the other hand, their acceptance means production of many dilemmas about their practical application and interpretation in future. At the same time, preparation of directions, guidelines and rulebooks is necessary, which will regulate the procedure related to children – victims of sexual exploitation and which will contain clear definitions of the role and competence of every institution that will be included in the prevention of and protection against child sexual abuse.

Bibliography of consulted and quoted literature:

Clough Jonathan (2008) Now You See it, Now You Don't: Digital Images and the Meaning of „Possession“, Criminal Law Forum, Vol. 19, No. 2, 2008.

Clough Jonathan (2010) Principles of Cybercrime, Cambridge University Press.

Fomina Tatiana, **Vogiatzi** Maria (2012) Regional guidelines on the identification of trafficked persons, a manual for South-eastern and Eastern Europe, Ariadne Network.

Henry Nicola, **Powell** Anastasia (2014) Embodied harms: gender, shame and technology facilitated sexual violence in cyberspace (available at: https://www.academia.edu/7992398/Embodied_Harms_Gender_Shame_and_Technology_Facilitated_Sexual_Violence_in_Cyberspace_forthcoming_, accessed: November, 2014).

Камбовски Владо (2011), Казнено право – општ дел, Четврто изменето и дополнето издание, Универзитет „Св. Кирил и Методиј“, Скопје;

Камбовски Владо, Тупанчески Никола (2011) „Казнено право – посебен дел, Петто изменето и дополнето издание“. Правен факултет „Јустинијан Први“, Скопје.

Мујоска, Елена (2011) Кривичноправни аспекти на прозиводство и дистрибуција на детска порнографија (одбранет магистерски труд, необјавен), Правен факултет „Јустинијан Први“– Скопје. / *Mujoska, Elena (2011) Criminal aspects on production and distribution of child pornography (M.Sc. Thesis, unpublished), University of “Ss. Cyril and Methodius”, Law Faculty “Iustinianus Primus” – Skopje.*

Mujoska, Elena (2014) Prevention of Child Trafficking – Constant Challenge of the Republic of Macedonia, *Iustinianus Primus Law Review*, No. 9, Volume V.

Taylor Max, Quayle Ethel (2002) Paedophiles, Pornography and the Internet: Assessment Issues, *British Journal of Social Work* 32.

Тупанчески, Никола (2014) „Кривичен законик: интегрален текст: предговор, кратки објаснувања и регистар на поими“. Печатница 2-ри Август С, Штип.

Wells Melissa, Finkelhor David, Wolak Janis, Mitchell J. Kimberly (2005) Child-Pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study.

Yucel, H., Karatay, A. and Ogel, K. (2006) Situational analysis of commercial sexual exploitation of children in Turkey: Istanbul and Divarbakir, Bangkok, ECPAT – International.

Акционен план за превенција и справување со сексуална злоупотреба на деца и педофилија (2009 – 2012 година), Министерството за труд и социјална политика / *Action plan to prevent and deal with sexual abuse of children and pedophilia (2009-2012)*, Ministry of labor and social policy (Available at: <http://www.mtsp.gov.mk/dokumenti.nsp>, accessed: November, 2014).

ECPAT International, *Global monitoring, Report on the status of action against commercial sexual exploitation of children: Russia 2006* (Available at: http://www.ecpat.net/sites/default/files/Global_Monitoring_Report-RUSSIA.pdf, accessed: November, 2014).

Заповеставени и жигосани, Анализа на состојбата: сексуална злоупотреба на деца, Канцеларија на УНИЦЕФ, Скопје, декември 2010 / *Neglected and Marked, Situation Analysis: Child Sexual Abuse, 2010, UNICEF, Skopje, 2010* (Available at: http://www.unicef.org/tfymacedonia/UNICEF_Sexual_Abuse_Study_MK_za_WEB%281%29.pdf, accessed: November, 2014).

Информација за родителите од UNICEF: Заштитете го вашето дете од сексуални активности / *Information for Parents by UNICEF, Protect Your Child against Sexual Activities* (Available at: http://www.unicef.org/tfymacedonia/macedonian/zastitete_go_vaseto_dete.pdf, accessed: November, 2014).

Кривичен законик на Република Македонија („Службен весник на Република Македонија“ бр. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013, 82/2013, 14/2014; 27/2014 и 28/2014) / *Criminal Code of the Republic of Macedonia* (“Official Gazette of the Republic of Macedonia” No. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013, 82/2013, 14/2014; 27/2014 and 28/2014).

Коментар на Правилникот за заштита на малолетната публика од програми што можат штетно да влијаат врз нејзиниот физички, психички и морален развој / *Comment to the*

Rulebook on the protection of minors from programs that could adversely affect their physical, mental and moral development (Available at:

https://www.google.com/url?sa=t&rc=jq=&esrc=s&source=web&cd=7&cad=rja&uact=8&ved=0CEsQFjAG&url=https%3A%2F%2Fener.gov.mk%2Ffiles%255Cpropisi_files%255Cadditional%255C8_262409985%25D0%2590%25D0%25BD%25D0%25B0%25D0%25BB%25D0%25B8%25D0%25B7%25D0%25B0%2520%25D0%25BD%25D0%25B0%2520%25D0%25A6%25D0%25B5%25D0%25BD%25D1%2582%25D0%25B0%25D1%2580%2520%25D0%25B7%25D0%25B0%2520%25D1%2580%25D0%25B0%25D0%25B7%25D0%25B2%25D0%25BE%25D1%2598%2520%25D0%25BD%25D0%25B0%2520%25D0%25BC%25D0%25B5%25D0%25B4%25D0%25B8%25D1%2583%25D0%25BC%25D0%25B8.doc&ei=b-xyVnK5N8KpygP714LABg&usq=AFQjCNFWrIFCuC5y3bL0Z6P-2nffIvDbl4g&sig2=D7VZunUlp8cUWWj6s6AoVg&bvm=bv.80185997,d.bGQ, accessed: November, 2014).

Progress for Children: A report Card on Child Protection, UNICEF, No.8, 2009.

Rec. No. R (91) 11 Concerning sexual exploitation, pornography and prostitution of, and trafficking in children and young adults (Adopted by the Committee of Ministers on 9 September 1991 at the 461st meeting of the Ministers Deputies).

Rec no.1882 (2009) of the Parliamentary Assembly on the promotion of Internet and online media services appropriate for minors, Text adopted by the Assembly on 28 September 2009 (28th Sitting).

Resolution 1099 (1996) on Sexual exploitation of children, Assembly debate on 25 September 1996, Text adopted by the Assembly on 25 September 1996 (28th Sitting).

Resolution 1307 (2002) on Sexual exploitation of children: zero tolerance, Text adopted by the Assembly on 27 September 2002 (32nd Sitting).

Стоп за педофилијата / *Stop the pedophilia*, (Available at: <http://www.stop-pedofilija.org.mk/> accessed: November, 2014).