

THE ROLE OF INTERPOL AND EUROPOL IN THE FIGHT AGAINST CYBERCRIME, WITH PARTICULAR REFERENCE TO THE SEXUAL EXPLOITATION OF CHILDREN ONLINE AND CHILD PORNOGRAPHY

by

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Cybercrime is the new frontier of transnational crime. It is one of the most insidious and evanescent forms of crime since its essence is not trackable in the territory of a single State and sometimes not definable in a single lapse of time.

Every individual has the potential to infect in less than a second the whole cyberspace with worldwide consequences caused by his/her own criminal conducts just by sitting at his/her own home in any country. It is evident that police forces of a single state have a very limited chance to prevent this from happening just by operating at a domestic level. The only effective way to operate in order to prevent, to combat and/or to investigate the various forms of cybercrime is through an intense cooperation at the international level.

Child pornography in particular has lately experienced a viral spread worldwide since the availability of Internet. In this article we will examine the response of two of the most notable entities of international police cooperation, Europol and INTERPOL, against child pornography.

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1. INTRODUCTION

1.1 THE IMPORTANCE OF A COMMON DEFINITION OF CHILD PORNOGRAPHY

One of the major requirements needed in order to activate an effective co-operation between police forces of two or more States in a certain crime area, is the presence of a solid common legal framework. The more international agreements and conventions are detailed, the more police forces of different nationalities obtain possibilities to cooperate with synergy and effectiveness on a wider range of action at transnational level. However, the lack of a common legal framework could ultimately cause dangerous impasses on the developing of a strong and coordinated response.

Unfortunately the crime of child pornography, although universally condemned at social level, still represents one of the most controversial crime area from the legal perspective. This is because domestic legislations differ on various substantial matters from state to state. Even the various conventions and regulations at international level most of the time fail to create a real solid common legal framework.

For this reason, while police forces around the world struggle in the attempt of solving problems arising from the legal differences in order to start to cooperate on the matter, criminal activities flourish by abusing the voids of the law¹.

1.2 MAIN DIFFERENCES IN THE VARIOUS REGULATIONS DEALING WITH CHILD PORNOGRAPHY

In order to have a clear overview of the differences concerning the various domestic and international regulations on child pornography, it is possible to consider three different parameters:

1. The criminal relevance of the various forms of fictitious child pornography (pseudo or virtual).
2. Who should be considered to be a child.
3. The different types of liability of the final user of child pornography, in particular the criminal relevance of possessing child

¹ Some countries, due to the lack of appropriate laws on the matter of sexual exploitation of children, are called by part of the doctrine "safe-havens" for the abusers of children and the producers of child pornography material. KHAN, *Child Pornography on the Internet in The Police Journal*, vol. 7, 2000, p.12.

pornography and the criminal relevance of the act of watching child pornography.

Some countries consider the creation, the diffusion and the possession of pseudo-child pornography and virtual child pornography as a crime.² Other countries instead do not criminalize any of the previous behaviors.

Most of the domestic legislations consider an individual under the age of 18 years as a child. However, in few States such limit is 16 years. To better understand the relevance of this parameter we can take into consideration the "Convention on the Rights of the Child (resolution 44/25 adopted in 1989 by the General Assembly of the U.N.)", the "Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (adopted by the General Assembly of the U.N. in 2000)" and the "Convention on Cybercrime 2001 of the Council of Europe". Although these conventions are considered to be somehow the pillars of international regulations in the matter of child pornography, there is in all of them a substantial lack of a common definition of what is a child. The child is in fact defined both in the Convention on the Rights of the Child and in the Convention on Cybercrime 2001 as an individual under 18 years old, but it is left to the domestic regulations the possibility to rule the age as 16. This factor clearly shows the difficulty to reach a consensus on this topic at the international level.

The last parameter entails the criminal liability of the so called "final user". In particular most of the domestic legislations criminalize not only the possession, but also the act of watching child pornography material. Other legislations limit the liability only to the possession of the material. This problem was underlined in the "Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography"³ of 2004. In particular Mr. Petit noted on paragraph 55 that according to the Swedish regulation "possession of child pornography is

² For more information about the classification pseudo-child pornography and virtual child pornography it is possible to view the articles: Friel, Samantha L., *Porn by Any Other Name - A Constitutional Alternative to Regulating Victimless Computer-Generated Child Pornography* in *HeinOnline -- Valparaiso University Law Review* 32 Val. U. L. Rev. (1997-1998), p 212, note 30. It is also possible to view the article: Pobořilová: *Virtual child pornography* in *Masaryk University Journal of Law and Technology*, vol. 5:2, 2011 p. 242. and Gillespie, *Defining Child Pornography: Challenges for the Law in Child and Family Law Quarterly*, vol. 22, No. 2, 2010, pp. 200-222. Available at SSRN: <http://ssrn.com/abstract=1939870>

³ The Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography, 23 December 2004, E/CN.4/2005/78, is available at: <http://www.unhcr.org/refworld/docid/42d66e480.html>.

forbidden but it is not forbidden to "watch".[...] Watching child pornography on the Internet by saving the link under "favourites" or under the so-called "cyber hard drives" is not considered illegal according to Swedish law. This means that subscribing to web sites containing tens of thousands of child pornography files and having unlimited access to child pornography 24 hours a day, 7 days a week, without downloading anything, is legal".

2. THE ROLE OF INTERPOL IN THE FIGHT AGAINST CHILD PORNOGRAPHY

2.1 ORIGIN AND AIMS OF INTERPOL

INTERPOL is one of the oldest and largest forms of international police co-operation worldwide. It has 190 member countries⁴ that actively cooperate on various crime areas. It is important to point out that from the legal perspective INTERPOL is an international organization although it was not created through an international treaty⁵.

The aims of INTERPOL are specified in the article 2 of its own Constitution and are "To ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the "Universal Declaration of Human Rights"" and "To establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes".⁶

The origin of INTERPOL goes back to 1923⁷ to a time where the kind of cybercrime afflicting today's society was impossible to imagine. In order to fight efficiently against the new vicious, unpredictable and evanescent forms of cybercrime INTERPOL had to find a way of combining the old *modus operandi* with the implementations of new different approaches. Not only INTERPOL had to adapt itself to the arise of these new forms of

⁴ <http://www.interpol.int/About-INTERPOL/Overview>

⁵ It is possible to read more about the evolution of the legal status of INTERPOL on the article SHEPTYCKI, The Accountability of Transnational Policing Institutions: The Strange Case of INTERPOL, in *Canadian Journal of Law and Society*, vol. 19, 2004, p. 120. For additional information it is possible to read: WUI LING, Mapping Interpol's evolution: Functional Expansion and the Move to Legalization, in *policing.oxfordjournals.org*, 2010.

⁶ <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/Constitution-and-General-Regulations>

⁷ At the time INTERPOL was known as International Criminal Police Commission (ICPC) and it had a different structure from nowadays. 1 DEFLEM, *International Police Cooperation — History of*, in *The Encyclopedia of Criminology*, New York, 2005 pp. 795-798.

crime, but it had also to find methods of action within the limits of the laws existing in the different countries. It is obvious that the contradiction between different legislations in the field of child pornography is an obstacle to the activities of INTERPOL.

2.2 OLD AND NEW MODI OPERANDI OF INTERPOL IN OPERATIONS DEALING WITH CRIMES OF CHILD PORNOGRAPHY

In the traditional INTERPOL *modus operandi* one of the most efficient tools is the so called "system of the notices" invented by Jean Népote in 1946. This system has surprisingly survived until today, although in a different shape and ruled through a different legal framework.⁸

The system of notices is now regulated by the "INTERPOL's Rules on the Processing of Data" (RPD).⁹ Instead until the 1st of July 2012 the system of notices was ruled by a complex legal framework constituted mainly by the "Rules on the Processing of Information for the purposes of international police cooperation" (RPI), and the "Implementing Rules for the Rules on the processing of Information" (IRRPI).¹⁰

The system of notices is a way for INTERPOL's Members and the General Secretariat of exchanging or requesting information through INTERPOL's channels. The main characteristic of the notices is the use of different colours in order to quickly identify the type of information requested or diffused. In the RPD regulations the notices are defined as "any request for international cooperation or any international alert published by the Organization at the request of a National Central Bureau or an international entity,

⁸ Before the implementation of the system of notices the *modus operandi* of INTERPOL was rougher and less evolved. The ICPC had a procedure called "system of wanted notices". The old system was very similar to the one used several years ago in the western side of the United States of America, when portraits or photographs of wanted men were attached everywhere in the territory. Under the image of the wanted man usually appeared the name and the offence of the man sought after. At that time it was not unusual to see next to the image of the wanted man also the amount of money to be given as a reward for the capture. FOONER, *Interpol: issues in world crime and international criminal justice*, New York, 1989, p. 153.

⁹ It is possible to view the current legal framework on the following website: <http://www.interpol.int/content/download/13042/90082/version/13/file/RPD.pdf>

¹⁰ <http://www.interpol.int/About-INTERPOL/Legal-materials/Fundamental-texts> It is possible to view the Rules on the Processing of Information for the purposes of international police cooperation on the following website: <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/Rules-on-the-Processing-of-Information-for-the-Purposes-of-International-Police-Cooperation-RPI> It is possible to view the Implementing Rules for the Rules on the processing of Information on the following website: <http://www.interpol.int/Media/Files/Legal-material/Reference-Documents/Implementing-Rules-on-the-Processing-of-Information-for-the-Purposes-of-International-Police-Cooperation-IRRPI>

or at the initiative of the General Secretariat, and sent to all the Organization's Members".

Every Member State has its own National Central Bureau (NCB). NCBs are the connection points between INTERPOL and every Member State. Through its own NCB a State can ask the General Secretariat of INTERPOL to publish a notice that, if accepted, will be circulated through INTERPOL's System of Information.¹¹ Consequently, all other NCBs will be able to know the content of the notice.

The main notices used in INTERPOL's operations dealing with crimes related to child pornography are the blue notice and the red notice. The blue notice is used for requesting information about a person of interest in a criminal investigation¹². It can be used, for example, to seek information about a potential abuser appearing in child pornography material. The red notice is used "to seek the location of a wanted person and his/her detention, arrest or restriction of movement for the purpose of extradition, surrender, or similar lawful action".¹³ The red notice is used in the last stage of an operation and, as specified in article 83 b (v) of INTERPOL's RPD, when the offender is object of "a valid arrest warrant or judicial decision having the same effect". The legal effect of a red notice is said to be the one of an international arrest warrant.

A large part of the work of police forces in the fight against child pornography is related to "victim identification".

To focus the investigation process on the identification of the victim(s) has at least three vital advantages, one direct and two indirect.

1. To identify the child/children in order protect him/her/them from additional abuse or sexual exploitation.
2. To get important clues for future investigations on who is the abuser when
 - a. he/she/they is/are unrecognizable in pictures due to artificial modifications of the images
 - b. he/she/they does/do not appear at all in the material

¹¹ The System of Information is called I 24/7, and it works continuously 24 hours a day, every day of the week. WUI LING, Mapping Interpol's evolution: Functional Expansion and the Move to Legalization, in *policing.oxfordjournals.org*, 2010, p.32.

¹² See article 88 of INTERPOL's RPD.

¹³ See article 82 of INTERPOL's RPD.

3. To get important clues for future investigations on potential organizations that could create connections between victims and abusers and produce child pornography material

In order to properly understand the importance of the process of the victim identification with particular reference to the second and the third parameter, it is important to clarify two key aspects. First of all, child pornography does not always show an abuser, but sometimes consists of a mere image of a child or children. Furthermore, the abuser or the organization facilitating the realization of the crime are often strictly connected to the victim(s).¹⁴ Therefore, managing to understand who is the victim will eventually increase the possibility of identifying the abuser.

INTERPOL has developed through the years several tools to help police forces around the globe to succeed in the process of the victim identification. Since 2001 the "INTERPOL Child Abuse Image Database" (ICAID)¹⁵ has been in use through the Information System I 24/7. Afterwards ICAID has been modified and further developed and since 2009 INTERPOL has been using the "International Child Sexual Exploitation image database" (ICSE DB). The ICSE database has allowed INTERPOL to reach new standards of efficiency and effectiveness in the victim identification process. It is possible to make a comparison of results between the old and the new database. In 2006 of the 20000 children victims of sexual abuses who had been recorded in the old database, only 500 were actually identified using the ICAID.¹⁶ Instead, according to INTERPOL's website 2500 victims and 1500 offenders have already been identified with the new ICSE DB¹⁷. The last information also points out a strict connection of the victim identification process and the discovery of abusers.

The ICSE DB is so efficient since it connects various police databases, and moreover it is not a mere collector of images but it facilitates police forces in the investigation process too. Such help is given by the possibility of the database to analyze various images and identify places and victims

¹⁴ [http://www.interpol.int/â"~â"en/Crime-areas/Crimes-against-children/Victim-identification](http://www.interpol.int/â)

¹⁵ MARTHA, *The Legal Foundations of Interpol*, Oxford, 2010, p. 110.

¹⁶ See AKDENIZ, *Internet Child Pornography and the Law National and International Responses*, Istanbul, 2008, p.279.

¹⁷ [http://www.interpol.int/â"~â"en/Crime-areas/Crimes-against-children/Victim-identification](http://www.interpol.int/â)

by making comparisons through advanced software¹⁸. It also informs criminal analysts if a picture has already been under the investigation of other officers in the world.

2.3 THE CLASH BETWEEN EFFICIENCY AND LEGALITY: OPERATION VICO

Operation VICO¹⁹ is definitely one of the most remarkable operations in the field of child pornography carried out through INTERPOL. INTERPOL uses this operation as an exemplum of the ability of the organization to catch criminals also in the field of child pornography. All in all, VICO operation is an important part of the history of policing for several reasons. First of all, VICO has been one of the largest "man-hunt" of the history of mankind. Every member State of INTERPOL, almost 190 at the time, were restlessly searching for a single man around the globe. Secondly, during this operation a red notice was issued against a man that had not been condemned, and was not even an object of a criminal proceeding.

For several years INTERPOL possessed a certain number of images of child pornography in which an abuser appeared with altered facial features. Soon it became evident, that although with such alterations the abuser was unrecognizable, all the pictures portrayed the same individual. Finally in 2007 the National Central Bureau of Germany published a blue notice in order to seek information from police officers of different States about this particular abuser. The Bundeskriminalamt (BKA) managed to overcome the alterations and see clearly the face of the man.

The NCBs of other States, or the General Secretariat of INTERPOL were not able to identify the individual and thus give the information requested in the notice²⁰. At that point the General Secretariat of INTERPOL decided to proceed in an unusual way. The face of the suspect was shown in the INTERPOL's website, and made public in televisions and newspapers worldwide. Shortly after the individual was identified and a red notice was issued against him. This soon led to his arrest.

¹⁸ To know more about the functionality of the database it is possible to view this section of INTERPOL's website: [http://www.interpol.int/â"~â"en/News-and-media/News-media-releases/2010/PR104](http://www.interpol.int/â)

¹⁹ A really clear documentary about the operation is shown on the INTERPOL's youtube channel at the following address: <http://www.youtube.com/watch?v=hAb8z--TGfQ>

²⁰ There were various problematic situations during the investigation. A clear overview of the difficulties can be found on the Speech of the INTERPOL Secretary General Ronald K. Noble during the First Plenary Session, G8 Justice and Interior Ministers Meeting

Some final considerations are required.

The operation was clearly a success if it is considered from the "policing perspective". A person that was abusing children and producing child pornography for several years was arrested, brought to justice, and prevented from further abusing other children.

Yet, if we analyze Operation VICO²¹ from the legal perspective, the issue presents some gray areas for mainly two reasons:

1. First of all, a man can not be exposed worldwide if he is only a suspect of a police organization but at the same time not an object of a judicial proceeding. For example, if some mistakes were made in the identification process, the man would be exposed without justified reasons to the risk of retaliations made by civilians. The crimes of sexual exploitation of children and child pornography are among the most hated and despised offences in mostly all cultures around the globe, and the risk of reckless acts of aggression perpetuated by random vigilantes is particularly high.

2. Secondly, the act of issuing a red notice was unlawful at the time according to article 37 of the "Implementing Rules for the Rules on the Processing of Information for the Purposes of International Police Cooperation", since no red notice can be circulated without judicial documents issued by a regular court in one of the INTERPOL's member State. Furthermore, the act could be unlawful also according to a restrictive interpretation of the Universal Declaration of Human Rights, articles 10 and 11.²²

Obviously INTERPOL shall not be blamed for Operation VICO from an ethical point of view, but from a pure legal perspective some doubts remain about the appropriateness of this *modus operandi*.

Since its creation INTERPOL has been forced to operate balancing both effectiveness and legality, and in order to maintain its full efficiency the organization sometimes has to make difficult choices. Since INTERPOL has become such a major force in International Police Cooperation and has contributed in making the world a safer environment, law makers should try to

²¹ The name comes from the contraction of the words Vietnam and Cambodia, the States in which INTERPOL suspected the abuses took place.

²² INTERPOL specifies on its own Constitution on article 2: "Article 2

Its aims are: (1) To ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the "Universal Declaration of Human Rights"[...]

remove, whenever possible, obstacles to its activities. In the specific matter of the fight against cybercrime, several initiatives could be envisaged; for example the creation of an International Criminal Court ad hoc for cyber-crime offences able to produce judicial documents could avoid the commission of potential wrongful acts by INTERPOL.

3 THE ROLE OF EUROPOL IN THE FIGHT AGAINST CHILD PORNOGRAPHY

3.1 THE DEVELOPMENT OF GOOD INTERNATIONAL POLICING IN RELATION TO A SOLID COMMON LEGAL FRAMEWORK.

The legal basis of Europol is the COUNCIL DECISION of 6 April 2009 establishing the European Police Office (Europol) although it has been officially created in Bruxelles in 1995 with the Europol Convention.²³

Europol differs greatly from INTERPOL also as for its legal status in the international scene, since it is a "European law enforcement agency."²⁴ This means that the functionality of Europol is proceeding at the same pace as the legal evolution of the European Union. The more European Union regulates certain crime areas or aspects of the criminal judicial procedure, the more it will be granted for the police forces of member States the possibility to operate in synergy through Europol. The aim of the agency is to support mutual cooperation between two or more Member States in the fight or prevention of serious forms of crime.

It is of extreme interest to analyze the efforts made by the European Union to create a common legal framework on the matter of child pornography. The interest is justified both from the legal perspective and from the policing perspective. It is only with the Directive 2011/92/EU²⁵ that the European Union has finally gained a common and complete regulation that harmonizes the various legislations of the EU member States, even according to all the parameters we have examined in the paragraph 1.2.

The point (a) of Article 2 of the Directive answers the question of what is a child: "'child' means any person below the age of 18 years;."

²³ The will of creating a unique European police was present in Europe since at least 1991, when in Luxemburg the Chancellor of Germany Helmut Josef Michael Kohl addressed the necessity of creating such a organ.

²⁴ The definition comes from the Europol website
<https://www.europol.europa.eu/content/page/about-europol-17>

The point (c) of Article 2 answers the question whether fictitious child pornography should be included in child pornography or not: "child pornography' means: (i) any material that visually depicts a child engaged in real or simulated sexually explicit conduct; (ii) any depiction of the sexual organs of a child for primarily sexual purposes; (iii) any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the sexual organs of any person appearing to be a child, for primarily sexual purposes; or (iv) realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, for primarily sexual purposes; [...]."

Article 5 points 2 and 3 finally clarify the liability of the final user: "2. Acquisition or possession of child pornography shall be punishable by a maximum term of imprisonment of at least 1 year. 3. Knowingly obtaining access, by means of information and communication technology, to child pornography shall be punishable by a maximum term of imprisonment of at least 1 year.[...]."

It is evident that Europol has a great potential in coordinating operations between Member States if the crime is committed inside EU borders. But there is more. Article 17 says: "Member States shall take the necessary measures to establish their jurisdiction over the offences referred to in Articles 3 to 7 where: (a) the offence is committed in whole or in part within their territory; or (b) the offender is one of their nationals".

Europol is in this way authorized to investigate in certain cases also outside EU borders, for example on pedopornographic material produced in Thailand with Thai children, if the offender, the abuser, the film maker or the photographer is a citizen of the European Union. This Article has the scope to prevent the aforementioned risk of EU abusers moving to produce

²⁵ The Directive 2011/92/EU is anyway just the tip of the iceberg. The history of the legal documents adopted at European level for the purpose of creating a solid common legal framework on the topic of child pornography is long. It is worth to be mentioned the Council Framework Decision of 2002 called: "2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States". The Council Framework Decision had the scope of creating a European Arrest Warrant on the basis of the principle of mutual recognition. With the European Arrest Warrant it was possible to obtain immediate legal effect to judicial decisions of any Member State dealing with the arrest and/or the surrender of a requested person in all the European Union. Article 2(2) of the Framework Decision showed a list of offences for which the court of the executing State should adopt automatically the principle of mutual recognition without checking the presence of the double criminality, even if the crime object of the criminal proceeding did not have an approximation or a common definition in the European Union. (On the list of Article 2 (2) there were also the crimes of sexual exploitation of children and child pornography). See: FICHERA, *The European Arrest Warrant and the Sovereign State: A Marriage of Convenience?* in *European Law Journal*, 2009 Vol. 15, p. 72.

child pornography in countries where laws are not properly enforced by the national police officers, or do not even exist in the field of protection of children from abuses.

In relation to these problems Europol has developed the Project HAVEN.²⁶ This Project is aimed to search and investigate abuse of children both inside Europe and, even more important, also outside Europe if committed by European Citizens. The Project has already been a success. A lot of passengers arriving in airports from countries outside Europe where it is common for abusers to commit sexual acts with children were interviewed and checked. Some suspects were found and arrested.²⁷

3.2 MODI OPERANDI OF EUROPOL IN OPERATIONS DEALING WITH CRIMES OF CHILD PORNOGRAPHY

It is possible to divide the *modus operandi* of Europol in the field of child pornography into two categories:

- 1) Activities directed specifically towards the combat of cybercrime and child pornography.²⁸
- 2) The classical *modus operandi* of Europol, used for allowing cooperation in every crime area that Europol is in charge of.

In regard to the first category it is worth being mentioning that Europol is active in the international scene and participates on various initiatives to fight sexual exploitation of children online. For example it is part of the alliance Virtual Global Taskforce (VGT) together with INTERPOL.²⁹ Europol has also coordinated various operations through COSPOL Internet Related Child Abuse Material Project (CIRCAMP),³⁰ with the purpose to seek websites containing child pornographic material in order to block them.³¹

²⁶ HAVEN stands for Halting Europeans Abusing Victims in Every Nation.

²⁷ See <https://www.europol.europa.eu/content/press/international-police-operation-against-travelling-sex-offenders-463>

²⁸ It is possible to view on the following website a general overview of Europol activities in the fight against child sexual exploitation
<https://www.europol.europa.eu/content/page/child-sexual-exploitation-1957>

²⁹ VGT is essentially a contact point between various police forces, police agencies and private sector entities involved in the fight against child pornography in the internet
<http://www.virtualglobaltaskforce.com/who-we-are/>

³⁰ COSPOL is Comprehensive Operational Strategic Planning for the Police. CIRCAMP is a project supported by the European Commission that includes various police agencies such as Europol and INTERPOL. See: ENEMAN, *Internet service provider (ISP) filtering of child-abusive material: A critical reflection of its effectiveness in Journal of Sexual Aggression: An international, interdisciplinary forum for research, theory and practice*, 2010, vol. 16, no. 2, p. 224.

Europol has organized courses labeled “Combating the Sexual Exploitation of Children on the Internet” for the police forces of its Member States, INTERPOL and other national police forces outside EU.³² The courses provide training and exchanging of know-how. Additionally they facilitate sharing of experiences in the field, familiarize police officers with brand new technology and encourage personal relationships between police forces of the Member States thus promoting potential collaboration in future investigations.

Finally, the European Cybercrime Centre (EC3)³³ has been created. This Centre is operational since the beginning of January 2013. Mr Jussi Hyysalo of the Keskusrikospoliisi³⁴ said that with EC3 there will be more capacity to help member States. This will be possible since all the entities and organizations that are already working for Europol on child exploitation prevention are going to be transmoved to the EC3. Hyysalo also pointed out that Europol is with EC3 trying to combine all the resources in one tool in order to use them more efficiently.

Coming to the classical *modus operandi*, one of the most used tools of Europol to allow cooperation between Member States is the so called Analysis Work File (AWF)³⁵. The AWF is essentially an operational database³⁶ that allows the collection of data on a certain crime area, to be used to conduct investigations by police forces and authorized analysts. With specific reference to the fight on the sexual exploitation and abuse of children the AWF Twins has been created in 2001. After more than ten years, due to its high functional value, the AWF Twins is still operational, although it has

³¹ See Mc INTYRE, *Blocking child pornography on the Internet: European Union developments in International Review of Law, Computers & Technology*, vol. 24, no.3, p.212.

³² <https://www.europol.europa.eu/content/news/12th-europol-training-course-combatting-sexual-exploitation-children-internet-1175>

³³ <https://www.europol.europa.eu/ec3>

³⁴ He was interviewed on the 7th of november 2012 in the Keskusrikospoliisi headquarter (the Finnish “National Bureau of Investigation”). The interview was about the role of Europol in the fight against child pornography.

³⁵ The Analysis Work File is part of the “Europol computerised system of collected informations”. It is a system that contains three different parts: the “information system”, the “analysis system” and the “index system”. The first system is used for collecting and exchanging various data useful for the activities of Europol, the second one is used for operational purposes mostly during investigations and contains more restrictions than the first one, and the last one is a sort of an index to the second one. See: <https://www.europol.europa.eu/content/faq/computerised-system-collected-information-87>

³⁶ The definition operational database as a reference to the Analysis Work File was used by Dr. Nicholas Ridley. See: <http://www.publications.parliament.uk/pa/ld200708/ldselect/lddeucom/183/18307.htm#note49>

changed its name to FP Twins.³⁷ As pointed out before, FP Twins, together with all the other resources belonging to the area of the sexual exploitation of children, will be from now on managed through the EC3.

The work of Europol in the area of child pornography in the Internet has brought many good results. Analysts of Europol are considered among the most efficient and successful worldwide. As an example of Europol's outstanding achievements it is possible to mention operation "Rescue." The object of this operation was to conduct an international investigation on an on-line forum called "boylover.net". On the surface the forum seemed legal, yet it was used as a medium of exchanging pedopornographic material between the users. Analysts of Europol managed to reveal the identities of some users, and from that point on the entire organization was dismantled and the suspects arrested³⁸.

4. CONCLUSION

As we have previously seen, child pornography has spread throughout the world wide web. Due to the lack of a clear definition in international conventions of what is child pornography, and due to the lack of appropriate domestic laws on the matter things do not seem to get much better. Some States indirectly facilitate the production of such material, while creating at the same time impediments for the investigation of police forces that operate at international level. Against all the odds INTERPOL and Europol have had a key role in the fight against child pornography and the sexual exploitation of children online. Both of them have used their own resources and strategies with the addition of new *modi operandi* created ad hoc to support the combat against this hideous form of crime. Europol, due to a solid EU legal basis, appears to have an easier task when operating inside EU borders or investigating EU citizens, than INTERPOL's one in searching abusers worldwide.

Unfortunately INTERPOL and Europol have not yet managed to cooperate in a substantial way in this crime area. Due to crucial legal differences about the right of access to Europol's AWF and to INTERPOL's system of notices, the creation of a unique database on child pornography would be nowadays almost impossible to carry out for the two entities. Obviously a

³⁷ FP is the new name for a AWF. FP stands for Focal Point. See https://www.europol.europa.eu/sites/default/files/publications/2csefactsheet2012_0.pdf

³⁸ <https://www.europol.europa.eu/sites/default/files/publications/europolreview2011.pdf>

real strong collaboration has to start from an open and continuous exchange of data and information.

There has been anyway some other attempts of cooperation. Six years ago a liaison office of INTERPOL was created at the Europol headquarters,³⁹ along with an exchange program for both entities police officers. There is more. INTERPOL is in the EC3 Programme Board⁴⁰. This means that INTERPOL will contribute to guide, through the assisting and advising functions of the board, the EC3 and as a consequence will be indirectly involved in Europol activities in the specific field of child exploitation prevention.

Few steps in the right direction have been made, yet they are not enough to achieve the goal of the best use of the tools of the two entities to oppose child pornography online.

It would be optimal for INTERPOL and Europol to increase their interaction by managing the differences arising from their diverse legal frameworks in order to act more efficiently and with less waste of resources and information.

³⁹ <http://www.interpol.int/News-and-media/News-media-releases/2007/N20070827b>

⁴⁰ <https://www.europol.europa.eu/ec3>