

GERMANY

Policy Target No. 1

Enhancing efforts to identify victims and ensuring that they receive the necessary assistance, support and protection.

Operational Goal: Increase the number of identified victims in the International Child Sexual Exploitation images database (ICSE database) managed by INTERPOL by at least 10% yearly.

A) Please report on implementation of any measures announced in your country's 2013 report

The Federal Criminal Police Office (BKA) has made intensive use of the ICSE database in processing cases of child sexual abuse, and in parallel has actively lent its support to the "ICSE v3" project of the General Secretariat of the ICPO Interpol (IPSG) promoted by the European Union. Thus, in addition to a series of ongoing bilateral consultations taking place at irregular intervals in writing or by telephone between the IPSG and the Federal Criminal Police Office (BKA), two officers of the corresponding BKA specialist department attended a three-day workshop organised by the IPSG in late 2013 on processing and testing what are termed the "baseline criteria" for the ICSE database.

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

In 2013, the Federal Criminal Police Office uploaded image files concerning 24 identified offenders and 45 identified victims of sexual abuse to the ICSE database. This corresponds to an increase, as concerns number of offenders and victims (from Germany) already shown in the ICSE database, of 15.4%, respectively 18.5%. The figures already available for 2014 are in line with this trend.

In terms of the number of images concerning identified offenders and identified victims of the sexual abuse of children that Germany has uploaded to the ICSE database, it takes fourth place in the global ranking of nations (behind the US, CAN and SE).

Both the strategic and the operational goal were achieved.

C) Please indicate specific actions that your country will undertake as a follow-up

The Federal Criminal Police Office will continue to actively use the ICSE database and to give high priority to assisting with its further development.

It is planned to support at least two workshops scheduled to take place at the IPSG in this context, at the beginning of June and in mid-June 2014, by having one participant, respectively one speaker, from the Federal Criminal Police Office attend.

Policy Target No. 2

Enhancing efforts to investigate cases of child sexual abuse online and to identify and prosecute offenders.

Operational Goal: Establish the necessary framework for the criminalization of child sexual abuse online and the effective prosecution of offenders, with the objective of enhancing efforts to investigate and prosecute offenders.

A) Please report on implementation of any measures announced in your country's 2013 report

- It is planned to expand the German laws governing the determination of penalties, based on a Draft Amendment that has already been prepared by the Federal Ministry of Justice and Consumer Protection, to include (sexual) offences committed abroad in particular by German citizens, independently of the laws governing at the place of the offence. Pursuant to Article 17 paragraph 1 letter b in conjunction with paragraph 4 of Directive 2011/93/EU, the Member States are to establish their “jurisdiction” for offences pursuant to article 3 paragraphs 4 to 6, article 4 paragraphs 2, 3, 5 to 7, and article 5 paragraph 6 of Directive 2011/93/EU, that were committed by one of their citizens abroad also in those cases in which the offence is not punishable under the laws governing at the place of offence. The same applies, pursuant to article 25 paragraph 1 letter d in conjunction with paragraph 4 of the Lanzarote Convention, to offences pursuant to articles 18, 19, 20 paragraph 1 letter a and article 21 paragraph 1 letter a and b.

Accordingly, it is planned to extend the application of German criminal law in section 5 number 8 of the German Criminal Code (*Strafgesetzbuch*, StGB) to offences addressed by section 174 subsections 1, 2, and 4 (sexual abuse of position of trust) as well as by sections 177 to 179 of the Criminal Code (sexual abuse of persons who are incapable of resistance). In future, the sole pre-requisite that is to apply, moreover, is that the offender was a German citizen at the time the offence was committed. The full and complete transposition of Directive 2011/93/EU into German law (cf. its article 3 paragraph 6) will require that the inducement of sexual acts with third persons governed by section 177 subsection 1 of the Criminal Code is included.

While it would not be necessary, in implementing the legal instruments identified above, to extend section 5 number 8 of the Criminal Code also to section 179 subsection 2 of the Criminal Code, which stipulates that whosoever induces a person incapable of resistance to engage in sexual activity with a third person shall likewise be punishable under law. However, in light of the comparability of these stipulations in terms of the tortious content and culpability addressed, the intention is to provide for the applicability of German criminal law to offences committed abroad in this regard as well. As has been

the case thus far for sexual child abuse (sections 176 to 176b of the Criminal Code), the intention is to refer to the qualifications and stipulations governing the measure of a sentence that are set out in section 5 number 8 of the Criminal Code also where sexual coercion, rape, and the sexual abuse of persons incapable of resistance are concerned (sections 177 to 179 of the Criminal Code) in order to ensure uniformity in this regard and to avoid any potential misunderstandings.

- Moreover, that same Draft Amendment prepared by the Federal Ministry of Justice and Consumer Protection provides, by way of transposing Directive 2011/93/EU into national law, for the introduction of a new offence (section 184e subsection 2 of the Draft Amendment of the Criminal Code), according to which anyone will be liable to punishment under law who attends live performances of child and youth pornography. In order to avoid gross contradictions in terms of the valuation made, the Draft Amendment also includes a supplemental rule according to which those persons will also be liable to punishment under law who organise such performances of child and youth pornography (section 184e subsection 1 of the Draft Amendment of the Criminal Code), since it seems unacceptable to have the audience of pornographic performances of children or youth be liable to punishment, but not the parties organising them.

In a number of areas, said Draft Amendment is to create additional or express statutory provisions, or is to clear up existing ones, which new or clarifying stipulations correspond to the constant adjudication handed down by the Federal Court of Justice (*Bundesgerichtshof*, BGH).

- On 1 November 2013, the Act on Intensifying the Use of Videoconferencing Technology in Court Proceedings and Investigations by the Public Prosecutor's Office (*Gesetz zur Intensivierung des Einsatzes von Videokonferenztechnik in gerichtlichen and staatsanwaltlichen Verfahren*) has entered into force (Federal Law Gazette (*Bundesgesetzblatt*, BGBl.) I 2013, p. 935). The new section 58b of the Code of Criminal Procedure (StPO, *Strafprozessordnung*) introduced by this law expands the available possibilities of interviewing witnesses using video technology such that in criminal investigation proceedings as well, it is possible to interview a witness without requiring the witness to be present in the interview room, by way of simultaneous transmission of image and sound. This represents a notable improvement in terms of obtaining and conserving evidence, in particular as far as victim-witnesses are concerned, which will also benefit criminal prosecution efforts in the field of the sexual abuse of children.

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

- When seen on its merits, the operational goal, and the overarching objective applying in this regard, has been achieved for the most part. Inasmuch, we would first refer once again to the relevant statements made in the last German report submitted in 2013, specifically the section "Actions ALREADY UNDERTAKEN," in which Policy Target No. 2 is addressed, as well as to the implementation measures described

hereinabove. In particular, the above-referenced Draft Amendment prepared by the Federal Ministry of Justice and Consumer Protection is intended to fully and completely transpose into national German law the entirety of all requirements made by the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (ETS 201 – “Lanzarote Convention”) and by Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335 of 17 December 2011, p. 1; L 18 of 21 January 2012, p. 7), which German law presently fulfils for the most part.

- By way of supplementing the above remarks, the following should be noted: The Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93 of 7 April 2009, p. 23) and the Council Decision 2009/316/JHA of 6 April 2009 served to agree, at the EU level, on the establishment of the “European Criminal Records Information System (ECRIS),” which was launched on 27 April 2012. ECRIS facilitates and accelerates the exchange of information contained in criminal records databases between EU Member States, allowing such information to be taken into account in criminal proceedings. It enables the judicial authorities of the EU Member States to obtain information, easily and quickly, from the criminal records database kept by another EU Member State using computer technology. What is more, the convictions of an offender are stored centrally in that person’s country of origin, even if they were handed down in different Member States. In this way, the offending history of a person is easier to retrieve, in particular where that person has opted for a lifestyle of moving from one country to the next and has repeatedly committed offenses. Subsequent to the completion of the first phase of establishing the database, the rate of information exchange throughout the European Union has soared from approximately 24,000 notices of information from judicial records per month (May 2012) to more than 100,000 of such notices per month (April 2014).

C) *Please indicate specific actions that your country will undertake as a follow-up*

Review of further need for action by the legislator.

Operational Goal: Improve the joint efforts of law enforcement authorities across Global Alliance countries to investigate and prosecute child sexual abuse online.

A) *Please report on implementation of any measures announced in your country’s 2013 report*

- The hardware and software solution prepared by a joint federal and state

government working group (*Bund-Länder-Arbeitsgruppe*) serving the centralised, nationwide collection of hash values and their provision online, which hash values are used to identify the files relevant in this area of offences (such as, for example, child pornography that is already known), was taken into operation in early June 2014 (initially in the form of a pilot application). The hash values are made available exclusively to the criminal prosecution authorities.

- In addition to the forms of cooperation listed in the 2013 report, all of which continue in existence, the Federal Criminal Police Office in March 2014 filed an application for acceptance as a full member in the international initiative “Virtual Global Taskforce (VGT),” a strategic union of at present thirteen police authorities, respectively police organisations, that are dedicated to combating child sexual abuse and child pornography on the internet. The VGT is chaired, for the term of the current fiscal year, by the US.
- The centre for the protection of children on the internet “I-KiZ – Zentrum für Kinderschutz im Internet” has submitted its first annual report, for 2013, in the Fall of 2013. The report focuses, *inter alia*, on measures serving to further improve the collaboration among the authorities involved nationally and internationally in combating portrayals of abuse.

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

When seen on its merits, the operational goal, and the overarching objective applying in this regard, has been achieved. Inasmuch, we would first refer once again to the relevant statements made in the last German report submitted in 2013 in the section “Actions ALREADY UNDERTAKEN,” in which Policy Target No. 2 is addressed, as well as to the implementation measures described in part A) hereof.

Supplementing the above remarks, the following should be noted: In line with the work done to combat depictions of child sexual abuse, the expert commission “Measures, Networking, International Cooperation” (*Massnahmen, Vernetzung, Internationale Zusammenarbeit*) established by I-KiZ has prepared suggestions on how the depiction of poses that are prohibited under German law, and that represent the environment for and preliminary stages of portrayals of abuse, could be combated more effectively both nationally and internationally. This includes prohibitions stipulated in the terms of use of the parties making such portrayals available, as well as initiatives for banning such content on an international basis.

C) Please indicate specific actions that your country will undertake as a follow-up

- Continued networking with major strategic and operational partners at the national and international level.

Completion of the preparation for the final version of the Hash DB PS database and launch of its operations.

Completion of the membership accession process and active collaboration in VGT.

- Together with the internet complaints offices and the providers, it is intended to create a network on the internet – under the auspices of the centre for the protection of children on the internet “*I-KiZ – Zentrum für Kinderschutz im Internet*” – in which information provided by users on depictions originating in the environment or preliminary stages of portrayals of abuse is processed and the competence to combat such matters is pooled, also in an international cooperative association, in order to eliminate, both nationally and internationally, the basis on which this market can operate. It is also conceivable to coordinate joint procedures in the context of the Global Alliance serving to increase awareness among platform providers and to support them such that impermissible content can be deleted faster than has been the case thus far. A first report is set to be published by the network at the beginning of 2015 and is to serve as the continued basis for international dialogue.

Policy Target No. 3

Enhancing efforts to increase public awareness of the risks posed by children's activities online, including grooming and self-production of images that results in the production of new child pornography that may be distributed online.

Operational Goal: Develop, improve, or support appropriate public awareness campaigns or other measures which educate parents, children, and others responsible for children regarding the risks that children's online conduct poses and the steps they can take to minimize those risks.

A) Please report on implementation of any measures announced in your country's 2013 report

- The initiatives and forms of cooperation set out in said report have continued to be successfully implemented.
- The measures taken to inform children, youth, parents, and expert staff and to increase all parties' awareness, in the context of the efforts of I-KiZ, the "klicksafe" initiative funded by the European Union, the initiative "LOOK! – at what your child is doing with the media" (*SCHAU HIN! – Was Dein Kind mit Medien macht*) and "Surfing without Risk" (*Surfen ohne Risiko*) are being continued and expanded on an ongoing basis.
- The efforts at putting in place a system for the provision of advice and help, designed to address young people, have continued in the last year with the involvement of counselling institutions, complaints offices, and enterprises. They are to culminate at the end of 2014 in a "point of contact" that will provide, as a first step, information on assistance and self-help where problematic situations are encountered on the internet, and that will facilitate access to counselling structures (*implementation of a measure announced in the 2013 report under Policy Target No. 4, "Actions that WILL BE UNDERTAKEN," to develop a visible, customised reporting system suited to the needs of children and youth. Upon the further definition of this system's orientation, this measure would seem more appropriately allocated to Policy Target No. 3, first operational goal.*)

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

Working jointly with the federal *Länder* of Germany, efforts will be intensified at establishing a reliable and qualified nation-wide network of providers of information and counselling services on the risks in the media in order to enhance the media literacy of children and youth while also improving the competence of parents to provide media guidance. This work will focus in particular on offers of peer counselling, which youth turn to specifically, the intention being that the centre for the protection of children on the internet “*I-KiZ – Zentrum für Kinderschutz im Internet*” will pool the corresponding offers and provide easy access to them.

C) Please indicate specific actions that your country will undertake as a follow-up

By way of expanding the national initiatives for prevention and awareness-raising and the results of the network combating portrayals of posing, it is suggested that an international initiative be formed for purposes of raising awareness in this field.

Operational Goal: Share best practices among Global Alliance countries for effective strategies to inform the public about the risks posed by online, self-exploitative conduct in order to reduce the production of new child pornography.

A) Please report on implementation of any measures announced in your country’s 2013 report

As announced, the Federal Criminal Police Office has continually intensified its international collaboration with major strategic partners in the field of combating the child sexual abuse and child pornography. To cite but one example, the specialist department of the Federal Criminal Police Office has been chairing the INTERPOL sub-working group “Identification of Offenders and Victims” since October of 2013.

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

When seen on its merits, the operational goal, and the overarching objective applying in this regard, has been achieved. Inasmuch, we would first refer once again to the relevant statements made in the last German report submitted in 2013, specifically the section “Actions ALREADY UNDERTAKEN,” in which Policy Target No. 3 is addressed, as well as to the implementation measures described hereinabove under A).

C) Please indicate specific actions that your country will undertake as a follow-up

Continuation of the said initiatives and forms of cooperation.

Assumption of the chair and active and substantial contribution to the INTERPOL sub-working group “Identification of Offenders and Victims” until at least 2017.

Policy Target No. 4

Reducing as much as possible the availability of child pornography online and reducing as much as possible the re-victimization of children whose sexual abuse is depicted.

Operational Goal: Encourage participation by the private sector in identifying and removing known child pornography material located in the relevant State, including increasing as much as possible the volume of system data examined for child pornography images.

Operational Goal: Increase the speed of notice and takedown procedures as much as possible without jeopardizing criminal investigation.

A) Please report on implementation of any measures announced in your country's 2013 report

- The efforts at deletion in the form of the “notice and takedown” procedure have been further optimised and evaluated. The collaboration with the national complaints offices of the INHOPE network concerning both partial aspects of this process continues to be very close. In the course of reporting year 2013, the Federal Criminal Police Office processed and forwarded notices regarding 4,317 websites containing child pornography. Of the contents hosted in Germany, 80% were deleted after two days. After a week, 99% had been deleted, and after two weeks at the latest, 100% of the child pornographic content could no longer be retrieved.

- As concerns the improved collaboration of the stakeholders from both the public and the private sphere that had been set out in the 2013 report, in combating portrayals of abuse, we refer to the statements made in part B) as concerns the second operational goal under Policy Target No. 2.

B) Please assess progress made in your country to pursue this shared policy target and to reach this operational goal of the Global Alliance

The overarching strategic objective and the two operational goals have been achieved.

C) Please indicate specific actions that will be undertaken as a follow-up

Continue the efforts at deletion, and ensure an increasingly effective process, doing so in cooperation with national and international partners.