

Protecting children from unwanted information

(Martina Cirbusová)

Ladies and gentleman,

First of all let me thank the organizers for the opportunity to give my presentation at this conference. My name is Martina Cirbusová and I work for the Office for the International Legal protection of Children.

Let me briefly introduce the function of the Office. The Office is the central authority acting upon many international treaties and EU regulations. Its field of activities includes assistance with situations like recovery of maintenance abroad or in the domestic jurisdiction, dealing with so-called international child abduction cases, securing the access rights and international adoptions.

The Office deals with cases which are publicized in media on regular basis. Most of them are cases of children taken from their families as a result of the act of protection against maltreatment, inadequate family conditions, or life-threatening. These cases concern mostly the Czech families who live abroad and do not agree with intervention of the authorities in the country of their habitual residence and wish some support from the country of their nationality. Another category of cases is the abduction of children in situations, when parents, in an attempt to gain custody of their children, are capable of exceeding the boundaries of humanity such as misusing the power of media which is not a rare method they use to achieve their goal. Thanks to the exerted pressure, hasty decisions are often made. 99% of the cases becomes a sensation for mass media which begin to play for the time – time in which they strive to find as much smashing information as they can and as quickly as they can. Instead of paying attention to what could be done about the current situation and try to find a quick solution in the best interest of the child, the case turns to hunt on culprit. And definitely, the media will not give up until such information is found. Simply saying, the work on such a case becomes very difficult and the solutions which would normally be available turn out as unattainable. The lawyer, who acts for the case, must pay an extreme amount of time and energy drafting various comments to the media rather than work on the case itself. But this is only one aspect of the problem called the media coverage of cases. The second, so far no one has spoken about, is the impact of media coverage of the case on the child condition at present. Furthermore we must take into account, what happens once he/she finds out about himself/herself in press or online sources later on.

Such cases feed mass media like internet, newspapers or television, with very sensitive data about children's health, their pictures in different situations and expert opinions to which the child could have never responded. If the case is linked to sexual abuse, the media also come up with detailed description of how, when and where this happened – even though such statements may appear as pure allegation. Such information is difficult to be processed by adults but primarily by the child itself.

What's more, if the information addresses his peers, may the child become an object of ridicule and bullying.

Definition of CAN syndrome was a response to calls from the public and professional after identification of the fundamental forms of child endangerment. Child abuse and neglect. Nowadays, however, children are exposed to new threats, which creators of syndrome have never dreamed about. As an example we can mention, for instance, cyberbullying. It can be understood as intentional aggressive behavior, which is done either by an individual or group through electronic media against a man, who at the moment cannot protect himself against the attacks¹. It is important to emphasize here that cyberbullying can be the result of deliberate action, as well as the result of a bad joke. Do we effectively protect the child against information that they can retrospectively find about themselves on the Internet? Modern digital age is so dangerous for children not only of external threats that lurk on them but also because their own parents expose them to unpleasant situations by publicizing such information. It is necessary to think about what measures we should implement in this specific area of child protection, so as at conferences a couple of years later we wouldn't have to present cyberbullying of children by parents as the main topic of the modern era of information technology.

To be more specific let me introduce little Simon, four years old boy. His parents met a few years ago in Austria. His mum is Czech (Lena) and his father is an Austrian (Frank). A few months after they had met, they rented a flat together in Vienna, where they began to live. The next year Simon was born. Three years later, Lena met a new man, a Czech Philip, with whom she began dating. When Frank found out about it, he was very angry and had terrible quarrel with Lena. That evening, when they argued, Lena packed her things and took Simon to the Czech to meet her parents. She didn't say anything to Frank, just left him the message that it would be better not to see each other till the air is clear. Next day, Frank called Lena and agreed that she could stay with her parents for a few weeks, apologized for the argument and claimed he would do anything in order to get both of them back.

Nevertheless, a month had past but Lena with Simon didn't return. He sat in the car and drove to the Czech to find out what was wrong. At her parents' home, he found only her parents who told him that Lena hadn't lived at home any more, and should he approach Lena and Simon again they would call the cops. Frank didn't understand what had happened, didn't know where Lena and Simon were. Apparently Lena had changed her phone number, as he couldn't reach her. He had no choice but to return back home in Vienna. His friend (lawyer) advised him to contact some authorities, because this was no longer all right. As soon as he did so, he discovered that Lena filed criminal complaints against him of sexual abuse of Simon.

After a lengthy investigation, however, no abuse was proved. Lena therefore turned her attention to the media. She hoped if she would publicize her case in Czech, authorities would support her as a Czech citizen and help her. She gave reportage in a commercial television, where she vividly

¹ <http://cyberbullying.org/>

described all the abuses of little Simon. All this information was published on television with warning statement that "the story is not suitable for children". Newspapers, magazines, radio, internet began to deal with the case the very next day. The father couldn't prevent or stop the flow of news about his son. Photos of small Simon with highlighted headlines "My father abused me", "Trauma for life", etc. appeared throughout many news sources. This whole media storm took about four months. Simon didn't understand what was happening at that time. At his age, he couldn't read, didn't understand why his mom appeared on television so often, why the images of him were commercialized.

To conclude, within four months, the largest pressure of media faded away. However, since the information about Simon had been revealed, it now will be accessible anytime and anywhere. Let's ask a fundamental question! What happens if Simon finds out about it all in a few years' time? Or worse! Once, this information is exploited by his classmates in high school. How is he going to handle the situation resulted from the events he had zero chance to influence?

By and large, there are high numbers of children like Simon worldwide. Children who become victims of their parents fight. Children who couldn't defend themselves against information leaks, concerning their health, privacy, family, integrity, etc. Children who must live with the fact that somewhere may be yet unreleased information about their life, which could definitely change their lives.

Let briefly draft the possible consequences of the case I have just been presenting. If in this case Simon was "only" the victim of calumny between his parents, and they exploited him "only" as an intermediary in their mutual struggles, it may affect his relationships with his loved ones. Very easily he can become a victim of ridicule at school or among his peers. He may be an easy target of cyberbullying, which may arise as a prank when a few classmates will share photos or articles related to Simon. On the other hand, if all the proofs of the cases correspond with the fact published in media, and then rediscovery of such information could pull the trigger of information leakage. When the bad times seem to be gone the whole situation reverts. Mostly this is because of the so-called triggers. "Trigger can indicate the situation or, generally speaking, an initiative that can cause intense memory of the traumatic event, and thus arouse feelings and physical states that the victim had experienced at the time when it happened. A typical example of the trigger is the anniversary of critical events, media reports of similar cases, random encounter with a person who is similar to the perpetrator, etc."² If, in a few years' time, such a child finds out online texts describing some traumatic events of his life, it might mean for him secondary victimization. In such cases the traumas are much more intense because there are no teams of experts ready to intervene, secure and act for the child as well as handle the situation so that the fire cannot cause additional problems. Neighbors are often unaware that a child handles some problems inside. This can lead to the fact that the child tends to solve the problem itself. Should we blame the ineffectiveness of the system whose prime role at the very first stage of the child abuse was to prevent information leakage in mass media? And this way to prevent the trigger effect to happen?

² ČÍRTKOVÁ, Ludmila. Sexuálně zneužitá dítě v rodině. Právo a rodina. č. 12/2008, roč. 10. s. 6

The support for the protection of children in such cases is expressed in the Convention on the Rights of the Child. Article 16 of the Convention on the Rights of the Child states that “*no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honor and reputation*”³. Furthermore, article 17 states that the “*States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. And to this end, States Parties shall encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.*”⁴

In practice this article is often interpreted that children are protected from watching inappropriate TV programs after a certain hour p.m., or that the children wouldn't browse webs with pornography on the internet, or that in the magazines are certain sorts of information blotted out of details. But these principles of protection of the child should in the future also focus on protecting the child from leakage of information concerning their private life, health, family or integrity. Definitely this doesn't correspond with the best interest of child. In the commentary of the UN Committee on the Rights of the Child to the best interests of the child states that among the aspects of evaluation should be regarded the vulnerability of the child.

In light of the foregoing, practice of protecting the rights of children should soon focus on developing binding guidelines for disclosure of sensitive information about children in the media and the general public disclosure of such cases. At least, the Member States of the Convention on the Rights of the Child should respect the obligations arising from several provisions of the Convention and take into account the specific protection of children against arbitrariness of their own parents with detailed guidance of possible publicizing the child's story in the media. If we cannot essentially affect the private media, at least we should the public ones, which are paid from public funds and should inform sensitively and objectively, should collect information from various sources and be heading towards higher "level of education" (awareness) of the population in the areas of law, especially protection of children's rights.

³ <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

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