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## A child in the net – threats in the internet

The Internet which is also called "a network" has no owner. People using it or providing services constitute a part of it.<sup>1</sup>

According to the New Popular PWN Encyclopedia, the Internet it is "a worldwide computer network which connects millions of computers in different countries. Each computer network consists of computers separated from each other and peripheral units connected by lines of data transfer."<sup>2</sup>

According to official documents (Request for Comments 1462) the Internet covers three elements: interconnected network based on the TCP/IP protocol, people using and developing this network and all data in it.<sup>3</sup>

The Internet offers different ways of communication (text, audio, video, e-mail<sup>4</sup>, IRC, Internet Relay Chat<sup>5</sup>, transmission of sound, movies and browsing www websites<sup>6</sup>). It is understood that very soon the Internet will be assuring the same functions as post, newspapers, media, telephone.<sup>7</sup>

Therefore the Internet may be described as " a global, social and cultural village, a virtual forum where you may experiment with authority, identity and gender".<sup>8</sup> There is a opinion, that *"... a digital era caused social changes so deep they may be compared to that caused by the discovery of fire (quoted after Hudson 1997, p.7). Heat and light came with fire; and the Internet arouse curiosity and willingness to get to know the world. And as a destructive force of the fire requires a caution while using it, also the internet may cause several threats to*

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<sup>1</sup> K. J. Jakubski, "Spreading of pornography in the Internet, Prokuratura i Prawo", Issue 7-8,1997, p.44

<sup>2</sup> New Popular PWN Encyclopedia, Volum 3, I-Ł, The computer network is based on a standard communication protocol TCP/IP which is a common name of over 100 different protocols. In addition to the TCP and IP , SMTP( Simple Mail Transfer Protocol), FTP (File Transfer Protocol) ,TELNET are the most important.

<sup>3</sup> [http://www.dzieckowsieci.pl/rodzice/czym\\_jest\\_internet.html](http://www.dzieckowsieci.pl/rodzice/czym_jest_internet.html)

<sup>4</sup> It is a mail sent to other users through a computer

<sup>5</sup> It enables to users of computers connected to the network to held a written correspondence in the real time

<sup>6</sup> A "virtual site" of a subject presenting itself or any information in the internet

<sup>7</sup> A. Stosio, "Agreements concluded via the Internet", Dom Wydawniczy ABC 2002, p.17

<sup>8</sup> R. Berson "Cyber-victims: social consequences of children abuse through the Internet", published on the website:[http://dzieckowsieci.pl/materialy/index.php?option=com\\_docman&Itemid=198&task=view\\_category&catid=13&order=dmdate\\_published&ascdesc=DESC](http://dzieckowsieci.pl/materialy/index.php?option=com_docman&Itemid=198&task=view_category&catid=13&order=dmdate_published&ascdesc=DESC)

*children. Potential good sides of the Internet may cover its bad sides - hidden dangers waiting behind a glittering facade.*"<sup>9</sup>

The Internet is a network not only in the IT meaning but also a social and cultural phenomenon creating a new reality, a virtual reality called cyberspace.<sup>10</sup>

The Internet is difficult to control as it is huge and non-territorial. An information once placed in the Internet can be received by all people in the world. Everybody may be a consumer and an author of an information. It is not easy to control who and when reads an information. There is a special software to filter the information in the net but it is used very seldom.

The Internet has large possibilities. Its supporters outnumber its opponents.

Children are fans of the Internet. The Internet is for them not only a source of information, a possibility to exchange views but also a method to spend time which enable them to get to know new interesting people.

It is well known that the children introduce the Internet to their houses, they arrange a configuration of computers, they are experts in the internet, they teach their parents how to use it.<sup>11</sup> The children surf the Internet very often and they find different information in it.<sup>12</sup>

### **Threats to children in the internet**

Threats are the following:

- contact with inappropriate texts,
- contact with criminals,
- risk of a danger in the real world,
- different forms of harassment,
- addiction

#### **Inappropriate texts**

One must be aware that an irresponsible use of the Internet may be harmful. An unaware child may have a contact with a pornography, with materials promoting violence, aggression and hatred, promoting unlawful acts and shocking pictures (a page with pictures of murder victims and autopsy was very popular at a time).

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<sup>9</sup> R. Berson, "Cyber-victims: social consequences of children abuse through the Internet", published on the website:[http://dzieckowsieci.pl/materialy/index.php?option=com\\_docman&Itemid=198&task=view\\_category&catid=13&order=dmdate\\_published&ascdesc=DESC](http://dzieckowsieci.pl/materialy/index.php?option=com_docman&Itemid=198&task=view_category&catid=13&order=dmdate_published&ascdesc=DESC)

<sup>10</sup> A. Stosio, "Agreements concluded via the Internet", Dom Wydawniczy ABC 2002, p.19

<sup>11</sup> T. Kasprzak, "A safe network - prevention of threats to children in the internet", published on a website:[http://www.dzieckowsieci.pl/index.php?option=com\\_docman&tast=view=category&Itemid=198order=dmdate\\_published&ascdesc=DESC&subcat=0&catid=13&limit=5&limitstart=5Dziecko w sieci](http://www.dzieckowsieci.pl/index.php?option=com_docman&tast=view=category&Itemid=198order=dmdate_published&ascdesc=DESC&subcat=0&catid=13&limit=5&limitstart=5Dziecko w sieci)

<sup>12</sup> During the last 38 years there was 10 million of phone users registered in the US, 10 million video players registered within 8 years and 10 million of the Internet users registered within the last 3 years.

Dangerous information may be promoted through a date service, publications, chat and GaduGadu system. Web pages and blogs arranged by children constitute also a good way to get new followers (the Internet is very often used by different sects promoting their ideas<sup>13</sup>).

#### Contact with criminals

Pedophiles in the internet constitute the biggest threat. They feel unpunished and anonymous; they search similar people to exchange views, experience, contacts and materials.

An analysis of enquiries introduced to the internet browsers by Polish internet users shows that pedophiles' enquiries constitute a 4,1 %<sup>14</sup>

The largest opinion poll concerning children pornography and pedophiles activities has been organized in the U.S. in the 1999 - 2000 on a sample of 1501 children 10 - 17 years old which used the Internet. The poll covered three elements:

- sexual proposals, offering sex or discussion on sex made by an adult person to a child in the internet, aggressive sexual proposals made on-line with a continuation in the real life made by post and phone contacts to arrange for a meeting with the child, unwanted presentation of pornographic materials found while surfing in the internet or via e-mails. It occurred that during one year 20% of children received a sexual proposal from an adult person, 3% of children received an aggressive sexual proposal, 25% of children were presented with unwanted pornography and 25% of children suffered a stress caused by these activities.<sup>15</sup>

#### Different forms of harassment

Children can be also victims of criminal acts such as swindle, fraud, transfer of personal data (83,6 % of the respondents transferred via the internet their e-mail address, 52,6% their phone number, 45,6% their picture and 23,7% their home address<sup>16</sup>) and sex on-line<sup>17</sup>.

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<sup>13</sup> Children safety in the Internet:

[http://dzieckowsieci.pl/materialy/index.php?option=com\\_docman&Itemid=198&task=view\\_category&catid=13&order=dmdate\\_published&ascdesc=DESC](http://dzieckowsieci.pl/materialy/index.php?option=com_docman&Itemid=198&task=view_category&catid=13&order=dmdate_published&ascdesc=DESC)

<sup>14</sup> <http://www.egospodarka.pl>

<sup>15</sup> Poll's results published in the article Ł. Wojtasik, "Pedophiles and children's pornography in the internet", on a website:

[http://dzieckowsieci.pl/materialy/index.php?option=com\\_docman&Itemid=198&task=view\\_category&catid=13&order=dmdate\\_published&ascdesc=DESC](http://dzieckowsieci.pl/materialy/index.php?option=com_docman&Itemid=198&task=view_category&catid=13&order=dmdate_published&ascdesc=DESC). The website includes also: Polls organized for the Council of Europe indicate a danger that very young children may see in the internet unwanted pornographic materials (24%). The poll shows also that 86% of children which were talking on chat have received eventually a proposal to meet the other person in the real life.

<sup>16</sup> Child and the internet, <http://www.egospodarka.pl>

<sup>17</sup> There is no real meeting and sexual harassment, only talks about sex and description of sex.

## Addiction

It has been found that the internet "devours your time". Browsing websites and contacting people is sometime an addiction. Your virtual contacts make you to loose your time and a virtual life predominates a real life.

Clubs of Anonymous Net Addicts are organized because internet addiction is cured in the same way as an addiction to drugs and alcohol.

## **Problems related to fight threats**

There are two types of problems related to a fight with threats in the internet: social and legal problems.

### **Social problems:**

Parents do not have enough knowledge of the internet and computers. Very often they show no interest in their child activities. They think the browsing and surfing in the internet are simply a fun and they are unaware of dangers to their children.

The parents are not concerned with the dangers because they don't know what their children are doing in the internet. The parents don't know that when a child is copying illegal programs, movies or music it commits an illegal act.

### **Legal problems:**

A protection of children in the internet faces the following problems:

1. unwillingness to report a crime,
2. low level of knowledge of prosecutors and judges, higher level in the police forces,
3. disregard of threats by prosecutors, judges and legislature,
4. no adequate legislation to fight children pornography and pedophiles in the internet.

**On the international level** there is a Convention on Children's Rights<sup>18</sup>. It has been ratified in the 1990, its art. 34 requires the countries to protect the children against: encouraging children to sexual activities, children prostitution or other illegal sexual activities, participation of children in pornographic shows and materials.

The Convention does not cover an abuse of children in the internet because at the time of its drafting the internet was not a legal problem.

A problem of children's pornography has been described in details in the Optional Protocol to the Convention on Children's Rights of May 25, 2000. It says in the preamble that availability of

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<sup>18</sup> O.J. 2000 No 2, item 11

pornography in the internet has been taken into consideration and the signatory states are obliged to penalize production, distribution and sale of the children pornography.<sup>19</sup>

The problems of the children's pornography are also covered by the International Convention of the Council of Europe of November 2001 on the Crime On-line which results from regulations of the UN. The signatory states are obliged to recognize as a crime in their internal regulations such acts as<sup>20</sup>:

- production of children's pornography for its publication in the internet,
- offering or making available children's pornography in the internet,
- promulgation or transferring children's pornography in the internet,
- obtaining from the internet children's pornography for own needs or for another person,
- possession of children's pornography in a computer system or on storage devices.

Decisions of the Convention form a basis for international standards and for internal regulations related to the abuse of children in the internet.

**In the internal legislation** of several countries, regulations concerning protection of children against abuses in the internet result from the ratification of international laws.<sup>21</sup>

In the Polish legislation socially harmful acts effected through the internet are penalized as specific internet offences.

The offences form two groups<sup>22</sup>;

- offences covered by the penal code,
- offences covered by separate laws essential for the internet activities<sup>23</sup>

The offences in the penal code cover two categories of socially dangerous acts:

1. when the internet is a tool of an illegal activity, for ex. promulgation of pornography
2. when internet techniques are used<sup>24</sup>

The Article 202 of the Penal Code<sup>25</sup> protects adults and minors under 15 years of age

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<sup>19</sup> An international convention on fighting trade of pornographic materials has been signed on 12.09.1923. It was a basis for anti-pornography legislation. It has been adopted by the League of Nation by the Protocol of 12.11.1947 (in) K. J. Jakubski, "Promulgation of pornography in the internet", Prokuratura i Prawo, no. 7-8, p.45

<sup>20</sup> A. Adamski, Crime on-line, Toruń 2001, p.50

<sup>21</sup> Legislations of France and Japan state that the problem of children's pornography should be covered in legislation but a possession of pornographic materials is not forbidden (in) Ł. Wojtasik, "Pedophiles and children pornography in the internet", published on the website:

[http://dzieckowsieci.pl/materialy/index.php?option=com\\_docman&Itemid=198task=view\\_category&catid=13&order=dmdate\\_published&ascdesc=DESC](http://dzieckowsieci.pl/materialy/index.php?option=com_docman&Itemid=198task=view_category&catid=13&order=dmdate_published&ascdesc=DESC)

<sup>22</sup> R. Golat, " Legal aspects of the internet", Difin 2003,p.105

<sup>23</sup> Law on the electronic signature, electronic servicing, copyrights laws and similar

<sup>24</sup> Offences against property: computer fraud art.287 PC, art.293 PC, offences against protection of information: illegal obtaining of information - hacking and computer sabotage art 267 PC, art 269 PC

<sup>25</sup> art 202 of the Penal Code of June 6 1997 ((OJ no. 128 item 840 with changes) C.H.Beck, Edition 20, November 2005:

par.1 a person who presents in public pornographic material in a way that imposes its reception to an unwilling person shall be punished by fine, or arrest or imprisonment up to one year.

in a different way, it includes three types of the offences with different way of protection of the subject protected.<sup>26</sup>

The art. 202 par. 1 of the Penal Code protects the sexual liberty as a right to live without a sexual shame<sup>27</sup> and accepts a right to get to know the pornography.<sup>28</sup> Only a public presentation of pornographic materials is forbidden when it is imposed on persons who don't want it. It is an approach which is not related to a presentation of pornographic materials to a minor under 15 years of age nor to their recording with a participation of such person (art. 202 par.2 and 4).<sup>29</sup>

The art. 202 par. 2 of the PC covers a sexual liberty of a child. Making available pornographic materials to a minor under 15 years is penalized. A presentation or making available such materials even if not made in public is penalized.<sup>30</sup> A higher penalty is foreseen for a presentation to a child of pornographic materials<sup>31</sup> or any other pornographic items.

There is a difference between a presentation and making something available; in the second case the child may use the material. The child may use the pornographic material<sup>32</sup> and it may obtain an obscene object or a tape<sup>33</sup>. In that case a perpetrator does not acquaint a child with pornographic materials personally, as it is a case in the presentation of such materials.

A promulgation, described in the art.202 par. 2, is recognized as an offence if made in a way which enables a minor to get acquainted with a material without any special means or procedures (a punishment concerns a person introducing pornographic materials to the internet in an un-coded way when the child has an access to it by simple means)<sup>34</sup>

According to a verdict of the Supreme Court<sup>35</sup> " A promulgation (.....) of a subject of a pornographic character, law art 173 par 1 PC (now art 202 par.1 PC), it is an act by which the subject

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par. 2 presentation of pornographic materials or promulgation of such materials to minors is punished by a fine or arrest or imprisonment up to 2 years

par. 3 recording, storage or possession or promulgation or public presentation of pornographic materials with a minor, related to a violence or use of an animal is punished by an imprisonment from 6 months to 8 years

par. 4 recording of pornography with a minor under 15 years is punished by an imprisonment from 1 year to 10 years.

par. 4a storage or possession of pornographic materials with participation of a minor under 15 years is punished by an imprisonment from 3 months to 5 years

<sup>26</sup> P. Kozłowska, M. Kucharska, „Legal aspects of pornography”, Prokuratura i Prawo, no. 4, 1999, p.30

<sup>27</sup> A person provoking a fear to another person disturbs a liberty of that person, independently of a way of doing this. The law protects a right to live in peace. M. Filar, “Contemporary criminal tendencies in limitation of pornography”, Państwo i Prawo no.1, 1979, p. 107-108.

<sup>28</sup> Penal Code, Volume I, A. Wąska, C.H.Beck, 2004, p.897

<sup>29</sup> A. Marek, “Legal study - Penal Code”, Ed. 6, C.H.Beck 2005, p.501

<sup>30</sup> Possessing pornographic magazines and video cassettes is not same as making them available if a person did not want a child to have a contact with them. A. Marek, “Legal study - Penal Code”, Ed.6, C.H.Beck 2005, p.502

<sup>31</sup> Pornographic materials related to a sexual sphere of life from a technical point of view, with an aim to provoke a sexual excitement, V. Konarska - Wrzosek, “Protection of child in the Polish penal law”, TNOiK 1999, p.72

<sup>32</sup> J. Wojciechowski, “Penal Code, Comments”, Jurisdition, Warsaw 1997, p.358

<sup>33</sup> Penal Code, Comments, O. Górniok, LexisNexis, Warsaw 2005, s.

<sup>34</sup> ditto

<sup>35</sup> The verdict of the SC of February 16,1987, WR 28/87, OSNKW 1987, no. 9-10, item 85 (in) Penal Code, Comments, O. Górniok, LexisNexis, Warsaw 2005

is made available to an undefined range of persons by the way of its distribution, lending and copying .  
A presentation of a movie to a limited number of persons does not constitute the promulgation."

A possession and a promulgation of pornographic materials suggesting a participation of a child, made in a computer with a participation of actors made up as children are not penalized by the penal law. According to the Polish law recording (producing pictures and movies) of pornographic materials with virtual (unreal) actors posing as minors under 15 years is legal.<sup>36</sup>

Art.202 par 3 of the Penal Code forbids to produce, record, promulgate or present in public a so-called hard pornography.<sup>37</sup>

A change to the PC of July 27,2005 (OJ no.163, item 1363) introduced a penalization of a possession and a storage of the so-called hard pornography.<sup>38</sup>

But according to the art 202 par.1 of the Penal Code, the introduction to the internet of a so-called "soft pornography " is not penalized because an access to it requires a conscious activity of a person using the internet, therefore the access is made according to a wish of that person. Such an introduction may be seen as an offence iaw the art 202 par.2 (as a receiver of this material may a minor under 15 years of age).<sup>39</sup>

Independently of a form of the children's pornography, a soft or a hard one, one have to agree with Jaroslaw Warylewski opinion that the children's pornography is socially harmful because:

= it may be used to sexually abuse the children. It suggests that a contact with a pedophile is a normal and a common act,

= in case of a production of the pornography with a participation of a minor there is a sexual abuse of the child, independently of its acceptance by the child or its parents,

= children's pornography promulgates and accepts a behavior which is illegal.<sup>40</sup>

## Summary

If we want to protect children and resist to dangers existing in the internet, we should not limit our activity to a discussion on implementing new regulations to the Polish law nor to an increase of the police effectiveness.

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<sup>36</sup> P. Waglewski, "Law in the net. Regulation of the internet", VaGla.pl. Law&Internet, Onepress Lex, Wydawnictwo Helion 2005, p.216

<sup>37</sup> It is a pornography presenting sex with a violence , with a participation of an animal or a minor(under 18 years). Penal Code revision of March 18 2004 (OJ no.69,item 629 (in) Penal Code with introduction, C.H.Beck, Warsaw 2005, p.XI-XII. In case of a pornography with a use of an animal one may have a negative opinion but there are adults which accept it , so there is a problem whether to protect other people feelings or leave it as an element of a private life of an individual, not to be regulated by law (L. Gardocki, "Pornography. A way of a new regulation", Palestra, no.11, 1993 p.66) or to be regulated by a code.

<sup>38</sup> Decision 2004/68/JHA of December 22 2003, on fighting of the sexual abuse of minors and children's pornography (in) Penal Code, Comments, O. Górniok, LexisNexis, Warsaw 2005

<sup>39</sup> Of course the introduction of pornographic materials to an e-mail address of a person under 15 years is an offence, in case it is made willingly.

□ Penal Code, Vol. I, A. Wąska, C.H.Beck, 2004, p.898

What is important it is the education. The education of parents and the education of the children by the parents and the school.

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- 15) Penal Code, Vol. I, A. Wąska, Duże Komentarze Becka
- 16) Penal Code, comments, O. Górniok, LexisNexis 2006
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3. Convention on the Rights of a Child, of November 20, 1989, OJ of December 23, 1991, no. 120, item 526
4. Optional Protocol to the Convention on the Rights of a Child, May 25, 2000  
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## **A child in the net – threats in the internet**

### **Abstract**

The first part of the article presents threats to children which exist in the internet. The second part contains a presentation of social and legal problems arising during elimination of these threats and an attempt to solve the problems on the base of existing Polish and international regulations.

## **Dziecko w sieci – zagrożenia w internecie**

### **Streszczenie**

W pierwszej części artykułu przedstawiono zagrożenia występujące w Internecie, których ofiarami stają się dzieci. Druga część to prezentacja problemów społecznych i prawnych w walce z tymi zagrożeniami oraz próba ich rozwiązania w oparciu o istniejące regulacje prawa międzynarodowego i polskiego.