# CYBERCRIME AND SEXUAL EXPLOITATION OF CHILDREN

## DG HOME/D4
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***Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union***

**European Commission**
**Home Affairs and Migration**

# EU Cybercrime Legislation

- ***Directive 2013/40/EU:***

  ***- attacks against information systems***

- ***Framework Decision 2001/413/JHA***

  ***- non-cash payment fraud***

- ***Directive 2011/93/EU***

  ***- child sexual exploitation***

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# EU Cybercrime Legislation I

## *Directive 2013/40/EU*

## *Attacks against information systems*

# Directive 2013/40/EU: objectives

***The prevention, investigation and prosecution of attacks against information systems***

- ***Approximation*** *of relevant criminal laws*
- ***Improvement of cooperation*** *between authorities*

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# Directive 2013/40/EU

***Approximation of criminal laws***

- *Definition of information system*
- *Definition of offences*
- *Level of penalties*
- *Extraterritorial jurisdiction*

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# Directive 2013/40/EU

***Improve cooperation between authorities***

- *Exchange of information*
- *24/7 operational contact points*
- *Urgency procedure*
- *Reporting channels*
- *Collection of statistics*

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# EU Cybercrime Legislation II

## *Framework Decision 2001/413/JHA*

## *Combating Fraud and Counterfeiting of Non-Cash Means of Payment*

# Framework Decision 2001/413/JHA

- ***Prosecute*** *perpetrators*
- *Enhance* ***cooperation***
- *Consistent with the Council of Europe* ***Budapest Convention*** *– Title 2*
- ***Legislative*** *and* ***administrative*** *measures*

# Framework Decision 2001/413/JHA

***Prosecution***

- *Definition of offences*
  - ***Offences - payment instruments***
  - ***Offences - computers***
  - ***Offences - devices***
- *Physical payment means (cheques, credit cards....but not cash)*
- *Liability of and sanctions for legal persons*
- *Possibility to extend jurisdiction*
- *Rules on extradition and prosecution*

# Framework Decision 2001/413/JHA

***Enhancing cooperation / info exchange***

- *Provide widest measure of mutual assistance*
- *Consult and coordinate action where more 1 MS involved*
- *Operational points of contact to exchange information*

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# Framework Decision 2001/413/JHA

## *Instrument undergoing evaluation and probable recast*

- Further harmonisation of definitions (means of payment & crimes)
- Minimum rules on penalties
- Cooperation with the private sector
- Revising provisions on jurisdiction
- Operational police cooperation

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# EU Cybercrime Legislation III

## *Directive 2011/93/EU*

## *Sexual exploitation of children and child pornography*

# Directive 2011/93/EU

- ***Prosecute*** *offenders*
- ***Protect*** *child victims*
- ***Prevent*** *child sexual abuse*
- *Consistent with the Council of Europe* ***Lanzarote Convention***
- ***Legislative*** *and* ***administrative*** *measures*

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# Directive 2011/93/EU

***Prosecution***

- *Definition of (20) offences*
- *Level of penalties*
- *Facilitate prosecution: reporting, statute of limitation, investigations*
- *Extraterritorial jurisdiction*

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# Directive 2011/93/EU

***Protection***

- *Assistance and support (including legal)*
- *Avoid secondary victimisation*
- *Privacy / identity / image*
- *Conditions re interviews with victims*

# Directive 2011/93/EU

***Prevention***

- *Disqualification, background checks, exchange of criminal records (ECRIS)*
- *Offenders subject to risk assessment and offered intervention programmes*
- *Awareness raising, training of officials*
- *Removing child pornography from Internet*

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# Other Policy Initiatives: cross-border access to electronic evidence

- New tools to obtain electronic evidence for the investigation and prosecution of crimes, irrespective of the location of service providers' headquarters, their infrastructure or the location of the data:
  - *Proposal for a* ***Regulation on European Production and Preservation Orders for electronic evidence in criminal matters***
  - *Proposal for a Directive laying down harmonised rules on the* ***appointment of legal representatives for the purpose of gathering evidence in criminal proceedings****.*