

Friday, 17 December 1993

20. Pornography

A3-0259/93

Resolution on pornography

The European Parliament,

- having regard to the motions for resolutions by
 - (a) Mrs Pollack and others on pornography (B3-0420/92)
 - (b) Mr Martin on the need for European Community-wide legislation against child pornography (B3-0121/93),
 - (c) Mrs Breyer on pornography (B3-1101/91)
 - (d) Mrs Ceci, Mrs Napoletano and Mr Papayannakis on pornography (B3-0505/90),
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, and especially Article 3 thereof, and the Universal Declaration of Human Rights,
- having regard to the European Social Charter, and especially Articles 16 and 17 thereof,
- having regard to Articles 7a, 8a, 30, 36 and 234 of the EC Treaty,
- having regard to the Convention on the Elimination of All Forms of Discrimination Against Women (1979),
- having regard to the Convention on the Protection of All Persons from Being Subjected to Torture and Other Forms of Inhuman or Degrading Treatment or Punishment (1984),
- having regard to the United Nations Convention on the Rights of the Child of 20 November 1989,
- having regard to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications (Geneva, 1923),
- having regard to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Lake Success, 1947),
- having regard to the Universal Postal Convention which was extended at Lausanne in 1974 and entered into force in this form in 1976,
- having regard to the motion for a resolution of the Parliamentary Assembly of the Council of Europe on pornography tabled by Mr Atkinson and others (Doc. 614),
- having regard to Recommendation No R(89)7 of the Committee of Ministers to member states of the Council of Europe concerning principles on the distribution of videograms having a violent, brutal or pornographic content,
- having regard to Recommendation No 1065 (1987) of the Parliamentary Assembly of the Council of Europe on the traffic in children and other forms of child exploitation and the report by Mr Stoffelen with the same title (Doc. 577),
- having regard to the summary reports of the European Committee on Crime Problems of the Council of Europe and Recommendation No R(91)11 of the Committee of Ministers to member states of the Council of Europe concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults,
- having regard to the work of the Council of Europe on equality between women and men,
- having regard to the Convention on Transfrontier Television approved by the Council of Europe on 5 May 1989,

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- having regard to the judgments of the European Court of Justice in Cases 34/79 ⁽¹⁾ and 121/85 ⁽²⁾,
 - having regard to its resolutions of 8 July 1992 on a European Charter of the Rights of the Child ⁽³⁾ and 9 March 1993 on the abduction of children ⁽⁴⁾,
 - having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Culture, Youth, Education and the Media and the Committee on Women's Rights (A3-0259/93),
- A. whereas the public, including children, are increasingly being unwillingly confronted by pornography in the media (in sex advertisements and television programmes), in the street (on hoardings) and in shops (in books and magazines),
- B. whereas pornography is an affront to human dignity and stimulates certain symptoms of undesirable social behaviour, particularly against women,
- C. convinced of the fundamental importance of respecting the inviolability of the individual and in particular of protecting children and women where pornography is concerned,
- D. whereas, although the prevention and possible suppression of pornography are the Member States' responsibility, forming part of their power to maintain law and order, the Community cannot ignore this problem, especially as it is linked in several ways with the abolition of internal frontiers between Member States,
- E. whereas Community competence is justified by the new framework within which the forces of law and order operate, i.e. an area without frontiers in which persons and goods, services and capital theoretically enjoy freedom of movement,
- F. regretting, in this as in other contexts, that Title VI of the Treaty on European Union, which concerns cooperation in judicial, customs, police and statistical matters, sanctions only intergovernmental activities and neglects the democratic control and dynamism which the European Parliament might bring to bear in this sphere,
- G. whereas consumer protection, education, vocational training and health will henceforth be the Community's responsibility (Article 3 EC) and conclusions can be drawn from this for the formulation of proposals for action,
- H. pleased that Article K.2(1) of the Treaty on European Union explicitly refers to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which stipulates in Article 3 that 'no-one shall be subjected to torture or to inhuman or degrading treatment or punishment',
- I. whereas the sensitive nature of the measures to be taken — in terms of prevention and suppression — requires constant efforts to strike a balance between respect for the freedom of the individual and the struggle against modern forms of exploitation and of invasions of human dignity,
- J. convinced that it is inappropriate to decide on a definition of pornography or its consumers, which is bound to vary, but that protection must be provided for the victims of the manufacture of offensive products (actual victims),

⁽¹⁾ Regina v. Henn and Darby, ECR [1979], p. 3795.

⁽²⁾ Conegate Ltd v. HM Customs & Excise, ECR [1986], p. 1007.

⁽³⁾ OJ No C 241, 21.9.1992, p. 67.

⁽⁴⁾ OJ No C 115, 26.4.1993, p. 33.

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- K. convinced that pornography is a systematic practice of exploitation and subordination based on sex that disproportionately harms women and contributes to inequality between the sexes, existing power imbalances in society, female subordination and male domination,
- L. whereas organized gangs of criminals are active in the field of pornography,
- M. having regard to the work of the Committee on Women's Rights, including the resolution adopted following the committee's public hearing on pornography in April 1991,
1. Calls on the Member States to adopt legislation and regulations consonant with respect for human rights, which implies that the freedom of each individual ends where that of others begins,
 2. Regrets the position constantly taken by the Commission on child pornography, for example, in simply stating that the Community has no competence in this sphere, while appearing to disregard the effects on the question of the removal of internal frontiers between Member States ⁽¹⁾;
 3. Believes that the Member States which have not yet done so must sign the international conventions providing for the protection of the individual and particularly of children;
 4. Calls on the Commission to propose to the Council that the Community should accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms in order to strengthen Community competence in this context;
 5. Calls for preference to be given, in a sphere covered by Title VI of the Treaty on European Union, to a Community approach rather than a convention or a purely intergovernmental approach, because of the democratic guarantees inherent in Parliament's control and vigilance in a sphere affecting civil liberties and freedom of movement;
 6. Calls for the harmonization of European legislation on the prevention and suppression of pornography and the fight against its excesses so that under the freedom of movement now prevailing major differences in legislation do not give rise to the very abuses that are to be prevented, provided however that such harmonization shall not oblige a Member State to permit publication of, access to or circulation of pornographic material where this is currently prohibited;
 7. Calls on those Member States which, regrettably, permit the transmission of pornography to reconsider their policy so as not to cause offence in other States within transmission range;
 8. Calls for action at the Community's external frontiers to prevent the import of pornographic material and for a ban on the advertising of sex tourism, whose main victims are children;
 9. Calls for such measures to be followed by the formulation of more up-to-date legislation, given the developments in communication techniques, than the Geneva Convention for the Suppression of the Circulation of and Traffic in Obscene Publications and of the Universal Postal Convention, at the renegotiation of which the Community should be represented in its own right;
 10. Recommends that the Member States pay particular attention in the conventions currently being drawn up on the opening of the external frontiers to the abuses to which illegal immigration, international adoption networks and international prostitution rings may give rise;
 11. Urges that the principle of equal treatment for men and women, particularly at the workplace, should be respected and that the pinning-up of pornographic illustrations, which are especially offensive to women, should be discouraged in places of work;

⁽¹⁾ See, for example, the Commission's answer to Written Question No 2939/90 (OJ No C 98, 15.4.1991, p. 43).

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12. Feels that, although it may be easier and less controversial to concentrate on the regulation of the supply and sale of pornographic products, such action alone does not render pornography harmless but simply confines its harm to the private sphere; recognizes that the control of the manufacture and use of pornography should be a longer-term objective, but that this does not apply to child pornography, in which case possession, acquisition, lending and exchange must be made punishable offences;

13. Proposes that the protection of the victims of pornography should be achieved not only through accession to the basic international agreements but also through the adoption of a Directive or, at the very least, a framework programme embracing in particular certain recommendations from the Council of Europe and based on the following principles:

- (a) the collection and exchange of information on the disappearance of children, illegal international adoption networks and prostitution networks (Europol can benefit from Interpol's experience in these fields),
- (b) a programme of research on the sex industry and its links with crime with a view to preventing money laundering by the pornography industry,
- (c) the harmonization of penal policies and the perfection of a system specifically designed to protect children; the adoption of sanctions against the production, possession and exchange of and trade in pornographic material in which children are used,
- (d) efforts to increase the awareness of police forces, medical centres, social services and social workers (teachers, pupils, etc.) with both preventive and curative aims (legal protection of children, victim support structures, etc.),
- (e) the establishment of a comprehensive range of refuge, advisory and preventive facilities for victims of sexual violence and support for and the networking of existing facilities,
- (f) the guarantee of protection under industrial law for performers in the pornography industry, with particular reference to health protection, social security and conditions of employment but especially to assist them in obtaining alternative employment;

14. Proposes that the potential victims of pornography should be protected at the same time and by the same means while sparing those who are shocked or offended by the use and/or abuse of a freedom and those for whom pornographic products are not by nature intended. Regulation of supply will lead to the containment of possible demand within given limits:

- (a) encouragement to introduce self-regulation systems relating to films for the cinema or television, videocassettes, message services, articles in the press and advertisements, regardless of the medium in which they appear,
- (b) the establishment of a professional code of conduct⁽¹⁾, particularly in advertising through the media and public displays, since the promotion of pornographic products should be regulated and the use of a degrading image of the human body made more difficult by means of self-regulation accepted by the industry,
- (c) the prohibition of advertising that extols products of a pornographic nature, accompanied by a statutory restriction of their sale by mail order and the establishment of a programme to combat the advertising of sex tourism,
- (d) the introduction of effective classification and coding systems to enable the various pornographic products and their distribution to be monitored (certificates); the regulation of sales other than shops specializing in videocassettes; the requirement of codes for accessing telephone and electronic message services, the adoption of professional rules to deny the use of the networks to those transmitting illegal pornographic messages, and the prohibition of all advertising that uses degrading images of the male and female body, the authorities in charge of the networks being urged to exercise the greatest possible vigilance,

⁽¹⁾ Following the example of the measures adopted by the Spanish television channels.

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- (e) the adoption of an appropriate method of distribution (prior submission, restricted distribution, regulation of sex shops, distribution criteria that take account of the recipients' age — ban on sales to minors — etc.), particular attention having to be paid in this context to the latest distribution channel, cable television,
- (f) the implementation of Article 22 of the 'Television without Frontiers' Directive and the regular publication by the Commission of a statement on its implementation,
- (g) the inclusion by the Commission of Article 7 of the European Convention on Transfrontier Television in the 'Television without Frontiers' Directive,
- (h) regulation of TV broadcasting schedules to ensure the proper protection of children,
- (i) the adoption of fiscal and financial measures which penalize firms producing and marketing such products so that the economic system does not act as an incentive in this sphere,
- (j) the confiscation of profits and of pornographic products in the event of a conviction and an increase in the penalties and of the prescription periods for offences in this sphere,
- (k) the creation of a set of legal instruments that make sexual violence committed against children by citizens of the Community in non-EC countries a punishable offence;

15. Emphasizes the primacy of the responsibility of the individual, particularly within the family, whose action can only be complemented by the action of the authorities;

16. Calls on the Commission

- (a) to devote resources and attention to the prevention of child pornography in an action programme for children and to carry out a comparative study of sexual violence against children and women that takes account of the fact that the victims are increasingly women and girls from Eastern Europe and Third World countries,
- (b) to assist pilot projects in the sphere of prevention and advice for the victims and perpetrators of sexual violence,
- (c) to press for the implementation of the UN Charter of Children's Rights and to draw up a European charter in this sphere;

17. Instructs its President to forward this resolution to the Council and Commission, to the governments and parliaments of the Member States and the countries which have applied for accession.
