

**Mandates of the Working Group on discrimination against women and girls; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Special Rapporteur on trafficking in persons, especially women and children; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE:  
AL OTH 4/2021

25 January 2021

Dear Ms. Sissons,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; Special Rapporteur on trafficking in persons, especially women and children; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 41/6, 43/22, 44/4 and 41/17.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council<sup>1</sup> to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the system of Special Procedures, which has 56 thematic and country mandates on a broad range of human rights issues.

We are sending this letter under the communications procedure of the Special Procedures of the Human Rights Council<sup>2</sup> to seek clarification on information we received regarding **a network of Romanian social media accounts on Instagram platform-owned by Facebook Inc. publishing child sexual abuse material depicting under-aged girls and the lack of adequate monitoring of online sexual exploitation and abuse of children.**

According to the information received:

Since 2 January 2020, child sexual abuse images depicting girls from the city of Craiova in Romania, some of them as young as 12 years old, have been posted online on an Instagram account by anonymous users without the girls' knowledge. It is alleged that among the victims there are Roma girls.

Romania has reportedly one of the highest number of victims of trafficking in Europe. Groups engaged in criminal activities, increasingly use tailored approaches such as targeted advertising, enabled by digital environments and social media platforms, to contact children with heightened risks of

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<sup>1</sup> <https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

<sup>2</sup> Special Procedures can decide to intervene directly with Governments and non- state actors, including private companies, on allegations of abuses of human rights that come within their mandates by means of letters. Which include urgent appeals, allegation letters, and other communications. Further information about the communication procedure is available at: <https://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx>

exploitation for the purpose of forced criminality, sexual exploitation and other forms of sexual exploitation.

The account is one of the several Romanian anonymous Instagram accounts, and shared on group chats named “Porn (RO)Info: Sursa nr. 1 de conținut +18 și informații despre târfe din România!”, with very similar usernames and with the same content, i.e. sexualised photos of girls as young as 12 years old, reportedly leaked by adult members without their knowledge. Content is uploaded daily on this group chat, and members sometimes point out their relationships to the victims, who are often then-partners of the victims. A Romanian journalist reportedly traced back the accounts to a chatroom on messenger applications, where almost 34 000 anonymous members shared pictures of the same content. These pictures were then re-shared on other social media platforms such as Instagram.

It has been reported that 4 out of 5 teenagers in Romania have been subjected to sexual exploitation and abuse online, including online grooming and extortion. The report published in 2019 by the NGO Save the Children Romania indicates that “20% of Romanian children have received messages through social media and messaging platforms which requested a photo or a video of sexual nature”. Girls are disproportionately affected by this type of online abuse.

The number of social media accounts displaying sexual images of girls has become rampant. This is allegedly due to messages sent to the followers of these Instagram accounts, indicating that more pornographic content will be uploaded if these followers share the pictures on other platforms.

This situation has been aggravated by the pandemic, with most teenagers spending longer time online, and uploading more self-generated images on these social media platforms. Allegedly, these social media platforms such as Instagram have not exercised their responsibility in blocking these messages containing images of nudity of young girls or of a sexual character. Furthermore, it appears that there is a gap in adequate and effective mechanisms to monitor and remove child sexual abuse materials online. Girls who tried to report to Instagram about the posting of their nude or sexualized images received a message from the Instagram support team, stating: “We couldn’t review your report. We have fewer people available to review reports because of the Coronavirus (COVID-19) pandemic, so we are only able to review content with the most potential harm (...)”.

On 27 April 2020, a press release was issued on the subject by the Scena9 -an online publication that charts the cultural scene in Romania, denouncing the practice of sharing these pictures on Instagram, alongside quotes from anonymous sources saying that the members of the group chat had been asking for the addresses and phone numbers of the children whose images were posted online. Furthermore, the press release called for the Romanian police to investigate the situation. We have been informed that none of the victims have been contacted by the police.

Without prejudging the accuracy of the information received, we wish to express serious concern at the fact that social media is being used to publish child

sexual abuse images, through peer-to-peer networks and instant messaging platforms such as Instagram. Therefore, children are vulnerable to trafficking and related exploitation. We are concerned that by not reviewing such pictures before accepting those to be posted online, Instagram may be committing human rights abuses with regards to existing international human rights standards protecting the rights of the child against online sexual abuse and exploitation.

In addition, protection of children against violence requires acts of violence against be investigated, punished and compensation provided to the victims, including children victims of trafficking. We are concerned that, in the absence of a strong State response, which includes preventive actions, regulations and sanctions for all those involved, the publications on social media might lead to the global exposure of girls to cyber harassment. This could lead to their sexual exploitation and abuse in the offline context, in violation of their fundamental rights such as the right to liberty and security, privacy, and the right to be free from physical, psychological and mental abuse.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and / or any comment(s) you may have on the above- mentioned allegations.
2. Please provide any information on whether Instagram platform, owned by Facebook Inc has put in place due diligence policies and processes as set out in the United Nations Guiding Principles on Business and Human Rights, to identify, prevent, mitigate and account for adverse human rights impacts throughout your operations, in line with the protection of children against online sexual exploitation and abuse.
3. Please explain what monitoring and evaluation systems your company has in place to ensure the effectiveness of human rights due diligence steps taken to mitigate and prevent online sexual exploitation and abuse, trafficking in persons, and other related human rights violations in your business operations, as well as to provide a remedy to victims of human rights abuse suffered by your company, including through compensation.
4. Please provide details on how the operations of Instagram are in compliance with the national legislation and policies put in place for the protection of the child against online sexual abuse and exploitation.
5. Kindly explain what measures have been taken to ensure that your company's staff are equipped with adequate awareness, knowledge and tools to identify and report human rights abuses, particularly those described in this letter.

6. Please provide information as to whether your company has reported these alleged crimes to the law enforcement authorities in Romania. Furthermore, please explain how your company ensures that reports about, online sexual exploitation and abuse of children, trafficking in persons and other relevant human rights abuses, are shared with the relevant national authorities, including national referral mechanisms, if they exist, to provide assistance to victims or potential of trafficking in persons as well as your business partners and auditors.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your company will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged human rights abuses.

Please be informed that a letter on the same subject has also been sent to the Governments of Romania, the United States, the United Kingdom and the other company involved.

Please accept, Ms. Sissons the assurances of our highest consideration.

Elizabeth Broderick  
Chair-Rapporteur of the Working Group on discrimination against women and girls

Mama Fatima Singhateh  
Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material

Siobhán Mullally  
Special Rapporteur on trafficking in persons, especially women and children

Dubravka Šimonovic  
Special Rapporteur on violence against women, its causes and consequences

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/31), after years of consultations involving governments, civil society and the business community.

The Guiding Principles have been established as the global authoritative norm for all States and companies to prevent and address the negative consequences related to companies on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all companies, wherever they operate. It exists regardless of the ability and/ or willingness of States to meet their own human rights obligations and does not reduce those obligations. It is an additional responsibility to comply with national laws and regulations for the protection of human rights.

“The responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.” (Guiding Principle 13).

“In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.” (Guiding Principle 19).

Appropriate action will vary depending on whether the business actor causes human rights abuses, contributes to human rights abuses; or whether the adverse human rights impact is linked to the operations of the company by a business relationship. Furthermore, the action will depend on the extend of leverage of the business enterprise to adverse the impact.

To fulfill their responsibility to respect human rights, business enterprises should have in place:

- (a) “A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.” (Guiding Principle 15)

In this connection, we recall that Guiding Principle 22 states that: (w)here business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”. The Guiding Principle 20 states that business should track the effectiveness of their response.

Tracking should: a) be based in appropriate qualitative and quantitative indicators; and b) draw on feedback from both internal and external sources, including affected stakeholders.

Furthermore, business enterprises are expected to utilize their leverage to prevent or mitigate the adverse impact. And if the lack leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors” (Commentary to Guiding Principle 19).

The Guiding Principles 25 to 31 provide guidance to business enterprises and States on steps to be taken to ensure that victims of business-related human rights abuse have access to effective remedy.

In the 2018 report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group) to the General Assembly the Working Group noted that “The Guiding Principles clarify that business enterprises have an independent responsibility to respect human rights and that in order to do so they are required to exercise human rights due diligence. Human rights due diligence refers to the processes that all business enterprises should undertake to identify, prevent, mitigate and account for how they address potential and actual impacts on human rights caused by or contributed to through their own activities, or directly linked to their operations, products or services by their business relationships<sup>3</sup>.” Effective due diligence involves identifying and assessing actual or potential adverse human rights impacts that the enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships; (b) Integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact; (c) Tracking the effectiveness of measures and processes to address adverse human rights impacts in order to know if they are working; (d) Communicating on how impacts are being addressed and showing stakeholders- in particular affected stakeholders- that there are adequate policies and processes in place.

Furthermore, we would like to draw your attention to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), which include specific references to prevent and combat trafficking in persons, to ensure assistance to victims, to provide effective remedies and to prosecute those responsible.

In this regard, we would also like to draw your attention to the Recommended Principles and Guidelines on Human Rights and Human Trafficking, issued by the Office of the High Commissioner for Human Rights in July 2002. Principle 13 of the Principles and Guidelines states that "States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or non-State actors".

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<sup>3</sup> United Nations Guiding Principles on Business and Human Rights, Principles 17-19, available at: [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

In addition, we would also like to bring to your attention the work of the Special rapporteur on trafficking in persons, especially women and children and in particular her recommendations to private sector companies to address trafficking in persons and risk of trafficking in persons in their activities and those of their suppliers and contractors, particularly the recommendations made in her report to the Human Rights Council in 2017, A/HRC/35/37, her report to the General Assembly in 2019, A/74/189, and her submission on the draft General Comment on children's rights in relation to the digital environment.