

Strasbourg 13 March 2021

### Background note on Coco's Law (Ireland)

Coco's law is named after **Nicole 'Coco' Fox** who died by suicide in 2018 **after three years of relentless bullying in person but also online**. Coco had been suffering from persistent online abuse since the age of 18, had attempted suicide in 2016 and died by suicide in 2018 at the age of 21. Her mother had the intention of going to the police, but because Nicole was over 18, she would have had to make the complaint herself, which she did not want to do out of fear.

**Bullies set up horrific social media pages specifically to "harass" her**. They posted pictures of people having group sex in which they invented that she was in. On parties, the bullies would knock over her drinks, burn her with cigarettes and pretend it was an accident, or push her to the ground on the dancefloor. In addition, there were physical violence threats, her mother said. **Her mother, Jackie Fox, had the intention of going to the police**, but because Nicole was over 18, she would have had to make the complaint herself, which she didn't want to do out of fear.

**Following her death, her mother** led a **national campaign** for the enactment of a new law against harassment. She organised marches and rallies to draw further attention to the issue. **Jackie** now travels to schools, gives lectures, participates in **anti-bully weeks and projects**, and tries to warn children, teachers, and parents about the dangers of bullying on social media. The campaign was backed by Geraldine Swift and Sarah Mannion Butler, whose children also suffered from online bullying. They called for a social media watchdog with powers to make tech firms act faster on cyberbullying situations and for a Digital Safety Commissioner to have the power to identify and take down illegal content.

**Through her campaigning, Jackie Fox managed to have a new law enacted**. The Harassment, Harmful, Communications and Related Offences Act, which became known as '**Coco's Law**', was passed by both Houses of the Oireachtas (the Irish Parliament) and subsequently signed into law by the Irish President in 2020 and commenced by the Minister for Justice in February 2021.

The law seeks to cover a panoply of online abuse practices, which we can list, not exclusively, as follows:

**Revenge Porn** – the non-consensual sharing of content, which had previously been consensually shared between people who were in an intimate relationship, with the intention of harassing and humiliating the victim.

**Sextortion** – the non-consensual sharing of content for the purposes of extorting a financial benefit from the victim by releasing, or threatening to release, the material online.

**Trolling** – the practice of posting insulting or inflammatory material online about a person, sometimes because of something said or done by that person, but often for no specific or discernible reason.

**Online identity theft**– in one form of online identity theft, a person's social media account is hacked by someone, who then posts content purporting to come from its rightful owner, usually

to embarrass or humiliate them. This is commonly known as ‘fraping’. Another method of misappropriating someone’s identity does not involve the hacking of an existing account, but rather the creation of a new account. This is known as ‘catfishing’.

**“Upskirting”** – the surreptitious taking of photographs of a person’s underwear, most commonly in a public place, with the resultant images often uploaded to the internet.

Opinions are not unanimous on whether the legal landscape covered the various crimes that came to be classified with the introduction of **‘Coco’s Law’**. Many argued that because the non-consensual creation and distribution of private sexual images online was not characterised as a criminal offence, sharing or publishing intimate images without the subject’s consent could not be held criminally liable under Irish law, except under limited child protection legislation. The new law aims to rectify this *lacuna*. Being as it may, **the new law certainly introduces a clarity in this area of law, especially regarding online harassment.**

**Following recommendations** by the **Law Reform Commission Report on Harmful Communications and Digital Safety, Coco’s Law** had the primary purpose of amending existing harassment laws and of creating new offences in relation to harassment and harmful communications, both online and offline. **The Act contains three offences.** The first relates to intentionally or recklessly publishing intimate material without consent. The second is a strict liability offence of recording or distributing intimate material without consent. The third relates to distributing or publishing grossly offensive or threatening material without a requirement for persistence.

**Moving to a broader European outlook**, while most countries subscribe to the cyberbullying frameworks established by the Budapest Convention, being the Istanbul Convention and the Lanzarote Convention also important in this regard, domestic laws have been appearing to tackle this specific problem.

To list some examples, on the 17th of May 2017, the **Italian Parliament** approved a long-awaited legislation addressing cyberbullying. The new law entitled “Regulation for the safeguarding of minors and the prevention and tackling of cyberbullying” was passed after some tragic cases of cyberbullying and violence against women in which victims have also committed suicide.

Furthermore, in February 2022, the **French Parliament** also adopted a new law that criminalizes school and university bullying, including cyberbullying by which offenders can be sanctioned with a fine of up to 150,000 euros and imprisonment for up to 10 years.

In **Germany**, while there is not a specific law targeting cyberbullying, this reality is well dealt with many relevant criminal law provisions expressively including harassment conducts by means of telecommunications.

**With the global trend towards digitalization**, aggravated by the pandemic, it is expected that legal systems will have to provide ever more sophisticated solutions, keeping up with technological developments to provide a satisfactory response to the serious problem of cyberbullying and online harassment.