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IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

on combating child sexual abuse and sexual exploitation and child sexual abuse material, and replacing Council Framework Decision 2004/68/JHA (recast)

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Term or acronym	Meaning or definition
AI	Artificial Intelligence
Child	Any person below the age of 18 years
CSA	Child Sexual Abuse
CSAE	Child Sexual Abuse and Exploitation
CSA content	CSA content refers to any material as defined under the definition of "child pornography" present in Article 2c of Directive 2011/93/EU Directive of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.
CSA Directive	Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography
CSAM	Child Sexual Abuse Material
CSEA	Child Sexual Exploitation and Abuse
DSA	Regulation (EU) 2022/2065 of the European Parliament and of the Council on a Single Market for Digital Services and amending Directive 2000/31/EC
ECRIS	European Criminal Records Information System
Grooming	Offenders building trust and a relationship with a child in an effort to gain access to the minor for sexual exploitation or abuse. Also known as solicitation
Hotline	Child sexual abuse hotlines deal with questions about or reports of child sexual abuse and cooperate with industry in this regard. They can report content to law enforcement, take action for CSAM to be removed from the internet and act as interest groups
LEA	Law Enforcement Authorities
NCMEC	National Centre for Missing and Exploited Children, a US private, non-profit organisation to which online service providers are required to report under US law instances of child sexual abuse that they may find in their networks
The Interim Derogation	Regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual abuse online
(The) Directive	Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography
The Framework Decision	Council framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography.
The Recast of the Directive	The revision of the Directive on combatting child sexual abuse

The Strategy	EU strategy for a more effective fight against child sexual abuse
Member States	Member States bound by the Directive, i.e. all Member States except Denmark

1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

With the expansion of sophisticated technologies used by child sexual offenders[1], and children increasingly using the Internet[2], children are facing more and more risks of being sexually abused throughout their childhood. A global study of childhood experiences in 2021 found that than **one in three** respondents (34%) had been asked to do something sexually explicit online during their childhood, and **more than half** (54%) had experienced a form of child sexual abuse online[3].

The sexual abuse of children can take multiple forms, **both offline** (e.g. engaging in sexual activities with a child or exploiting a child for prostitution purposes) and **online** (e.g. forcing a child to engage in sexual activities via live streaming, or viewing or distributing online child sexual abuse images and videos)[4], with **a known individual** (e.g a child's parent, carer, teacher) or an **unknown individual** (e.g a stranger who grooms a child online).

Children's best interests must be a primary consideration in every action relating to them, considering that they have the fundamental right to protection and care. Therefore, the fight against child sexual abuse (CSA) is a priority for the EU[5] and is being pursued through a series of EU initiatives. The main policy document is the July 2020 EU strategy for a more effective fight against child sexual abuse[6] (hereinafter, "the Strategy"), where the Commission set out eight concrete initiatives aiming to implement and develop the right legal framework, strengthen the law enforcement response and catalyse multi-stakeholder efforts in relation to prevention and investigation of these crimes and assistance to victims and survivors.

The proposal that this impact assessment accompanies aims to complement the existing EU framework by proposing revised and targeted measures to protect children against the sexual abuse and sexual exploitation and to reinforce support and assistance to victims, by taking into account current and expected technological changes, as well as lessons learnt and best practices in relation to coordination among relevant actors, investigations and prevention. It originates in the commitment undertaken in the Strategy to 'identify legislative gaps, best practices and priority actions' and ensure that EU legislation enables an effective response to child sexual abuse, including by amending Directive (EU) 2011/93 on combating child

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1 Europol Organised Crime Threat Assessment 2020

2 ECPAT, Summary Paper on Child Sexual Exploitation, November 2020

3 Economist Impact survey of more than 5,000 18 to 20 year olds in 54 countries, published in the 2021 Global ThreatAssessment, WeProtect Global Alliance, 2021. The forms of child sexual abuse online surveyed (referred as "online harms") include 1) Being sent sexually-explicit content from an adult or someone they did not know before they were 18; 2) Being asked to keep part of their sexually-explicit online relationship with an adult / or someone they did not know before a secret; 3) Having sexually-explicit images of them shared without consent (by a peer, adult, or someone they did not know before); and 4) Being asked to do something sexually-explicit online they were uncomfortable with (by a peer, adult, or someone they did not know before).

4 Protect Children, CSAM Users in the Dark Web: Protecting Children Through Prevention, 2021.

5 EU strategy for a more effective fight against child sexual abuse, COM (2020) 607, 24 July 2020

6 *Ibid*

sexual abuse, sexual exploitation and child pornography[7] (hereafter "the Directive"), if needed.

On 13 December 2011, the Parliament and the Council adopted the Directive to strengthen the EU legal framework in this field and replace Framework Decision 2004/68/JHA[8] (hereafter "the Framework Decision"). The Directive is a comprehensive legal framework which covers investigation of crimes and prosecution of offenders, assistance to and protection of victims, and crime prevention. It approximates the definition of a number of offences, sets minimum level for criminal penalties, and facilitates the reporting, investigation and prosecution of the crimes within its scope. It extends national jurisdiction to cover abuse perpetrated by EU nationals abroad, gives child victims easier access to legal remedies and also includes measures to prevent additional trauma from participation in criminal proceedings.

The Directive also facilitates the circulation of information on convictions and disqualifications among different national law enforcement authorities, and improves the management of criminal records by allowing for more reliable checks and controls. The Directive prohibits advertising the possibility of abuse and organising child sex tourism[9]. It provides for education, awareness raising and training of officials and society at large. Member States bound by the Directive[10] (hereafter "Member States") are obliged to implement and reflect its provisions in their national laws. The deadline for transposition of this Directive was December 13, 2013.

Since 2013, the EU Member States have made significant progress towards full transposition of the Directive, for certain aspects, the Commission opened infringement procedures against 23 Member States in 2019 to ensure conformity. Exchanges between the Commission and Member States are ongoing to ensure that they swiftly address remaining issues. The challenges Member States have faced in the transposition of the Directive concern notably criminal law definitions and offline prevention measures (in particular prevention programmes for offenders and for people who fear that they might offend).

In 2022, the Commission conducted an evaluation to assess the implementation of the Directive, identifying legislative gaps, best practices and priority actions at EU level. The study[11] shows that the legislative framework presents opportunities for improvement,

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7 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011

8 Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography, OJ L 13, 20.1.2004.

9 Recital 29 of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011 Where child sex tourism takes place outside the Union, Member States are encouraged to seek to increase, through the available national and international instruments including bilateral or multilateral treaties on extradition, mutual legalassistance or a transfer of the proceedings, cooperation with third countries and international organisations with a view to combating sex tourism. Member States should foster open dialogue and communication with countries outside the Union in order to be able to prosecute perpetrators, under the relevant national legislation, who travel outside the Union borders for the purposes of child sex tourism.

10 All EU Member States except Denmark.

11 Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment. Finalised on 30 November 2022, The magnitude and the EU dimension of the problem, p.19

considering the significant societal and technological changes during the last 11 years. The study highlights notably ambiguity in certain definitions, and problems concerning investigations and prosecution of offenders[12]. Concerns also stem from the exponential growth of online sharing, increased abilities for perpetrators to hide their identity (and conceal their illegal activities), and facilitation in conspiring between perpetrators to avoid accountability and commit further crimes[13]. The increased use of anonymity tools and encryption has enabled offenders to become increasingly sophisticated in their use of technology and technical capabilities, making it difficult to provide swift assistance to victims due to the challenges to investigations that encryption and anonymity tools create.

In general, the evaluation shows[14] that even with complete transposition of the 2011 Directive, child sexual abuse[15] crimes are not adequately addressed in the EU due to challenges in their investigation, reporting and action by relevant service providers, as well as insufficient prevention and assistance to victims.

Current and future legal framework

The existing legal framework consists of measures in the areas of criminal law, protection of privacy and personal data, and the internal market.

It includes:

- sector-specific legislation, such as the Interim Regulation derogating from the application of certain rights and obligations under the ePrivacy Directive,[16] and the Anti-Trafficking Directive[17];

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[12] Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment (Finalised on 30 November 2022), Chapter 2.4 concerning the causes ('drivers') of the problems, Core problem 1: Investigation and prosecution of CSAE offences are not fully efficient, p. 25.

[13] Europol Organised Crime Threat Assessment 2020

[14] Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment (Finalised on 30 November 2022), Chapter 2.4 concerning the causes ('drivers') of the problems, pp. 26, 41, 55.

[15] This document refers to child sexual abuse for simplicity but it should be understood as covering also child sexual exploitation and child sexual abuse material

[16] Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation
from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse, OJ L 274, 30.7.2021, p. 41–51.

[17] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

- horizontal instruments, such as the General Data Protection Regulation[18] and e-Privacy Directive[19] and its proposed revision[20], and of the single market for digital services such as e-Commerce Directive[21] and the Digital Services Act[22], as well as the Victims Rights Directive[23], and the UN Convention on the Rights of Persons with Disabilities.

Upcoming legislation includes:

- sector-specific legislation, such as the proposed Regulation laying down rules to prevent and combat child sexual abuse[24], the proposed revision of the Anti-Trafficking Directive and the Proposal for a Directive on Combating Violence against Women and Domestic Violence.[25]
- horizontal legislation, such as the revision of the horizontal Victims' Rights Directive that applies to all victims of all crimes, including those covered by sector-specific legislation.

Sector specific legislation

Regulation (EU) 2021/1232[26] *(Interim Derogation from certain provisions of Directive 2002/58/EC)*

- **What it does**: The legislation enables providers of certain number-independent interpersonal communications services ('providers') to process personal and other data

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18 Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive
95/46/EC ('General Data Protection Regulation'), *OJ L* 119, 4.5.2016.

19 Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of
personal data and the protection of privacy in the electronic communications sector ('Directive on privacy and electronic Communications'), *OJ L* 201, 31.7.2002.

20 Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and
the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) COM/2017/010 final - 2017/03 (COD).

21 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), *OJ L* 178, 17.7.2000.

22 Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services
(Digital Services Act) and amending Directive 2000/31/EC of 15 December 2020, COM/2020/825 final.

23 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

24 European Commission (2022) Proposed Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse. COM/2022/209 final.

25 The Commission's proposal for a directive on combating violence against women and domestic violence (COM/2022/105 final).

26 Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation
from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number independent interpersonal communications services for the processing of personal and other data for the purpose of
combating online child sexual abuse.

to the extent strictly necessary to detect online child sexual abuse on their services and report it, and to remove online child sexual abuse material from their services, provided the use of specific technologies by the providers is lawful. The Interim Regulation provides for derogations from Articles 5(1) and 6(1) of Directive 2002/58/EC on privacy and electronic communications (ePrivacy Directive).[27]

- **How CSA-related responsibilities are distributed between EU and Member States**: the Commission is responsible mainly for organisation aspects such as providing lists of relevant stakeholders and providing an evaluation of the functioning of the law after a few years. Member States are in charge of implementing the regulation, notably responsible for enforcing it, and also for providing statistics related to the detection, reporting and follow up of the CSA reports.
- **How the CSA Directive builds on and interacts with the Interim Regulation**: The CSA Directive and the Interim Regulation on voluntary measures to detect, report and remove child sexual abuse have different scope and legal basis. The former is aimed at harmonising the criminal laws of Member States while the latter is aimed at creating an exception from the application of EU legislation with respect to the electronic communication sector.

The Anti-trafficking Directive (Under Revision)

- **What it does:** The Anti-trafficking Directive provides for an overarching framework at the EU level to prevent and combat trafficking in human beings and to protect its victims. It sets binding minimum rules on the definition of criminal offences and the level of sanctions in the area of trafficking in human beings. The Directive also introduces common provisions to strengthen prevention as well the protection of victims. It is currently under revision and will be adopted before Q3 of 2023.
- **How CSA-related responsibilities are distributed between the EU and Member States:** as a sector-specific instrument, the Anti-trafficking Directive and its Revision cover child sexual exploitation as a purpose of the trafficking offence. When the conduct involves a child, it is considered as a trafficking offence even if none of the means set out in the definition of trafficking in human beings has been used. The main function of the Anti-trafficking Directive and its Revision is to combat the trafficking of human beings, which affects both adults and children.
- **How the CSA Directive builds on and interacts with the Anti-trafficking Directive:** The CSA Directive and the Anti-trafficking Directive may both apply to certain offences, as some victims of human trafficking have also been victims of child sexual abuse or sexual exploitation.

<u>Horizontal instruments</u>

The General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED)

- **What it does**: the GDPR sets out rules on the processing of personal data relating to individuals, specifying the fundamental right to protection of personal data. The LED sets out rules with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.

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[27] Directive 2002/58 of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)

- **How CSA-related responsibilities are distributed between EU and Member States**: as a horizontal instrument, the GDPR does not contain CSA-specific provisions, but it applies to all activities of processing personal data, including those related to CSA, except for those carried out by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, which are covered by Directive 2016/680/EU on the Protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.Member States are primarily responsible for enforcement through their data protection and courts authorities, and the European Data Protection Board (EDPB) is tasked with the consistent application of data protection rules.
- **How the legislation builds on and interacts with the GDPR**: The CSA Directive coexists and complies in line with the GDPR and the LED, ensuring safeguards for the protection of the processing of personal data.

The ePrivacy Directive and its proposed revision

- **What it does**: Directive 2002/58/EC on privacy and electronic communications, as amended by Directive 2009/136/EC ('ePrivacy Directive')[28] ensures the confidentiality of users' electronic communications and personal data in the electronic communications sector. In 2017, The European Commission adopted the ePrivacy Regulation proposal,[29] which is currently under trilogue negotiations. The ePrivacy Regulation will enhance the protection of rights for users of all electronic communications services and the protection of their terminal equipment. It will also complete and further harmonise the privacy rules in the European single market and overcome fragmented implementation of the Directive. These rules particularise and complement the GDPR.
- **How CSA-related responsibilities are distributed between EU and Member States**: the ePrivacy Directive and the proposed ePrivacy Regulation do not contain CSA-specific provisions; they lay down the rules for ensuring the right to privacy and confidentiality in the electronic communication sector.
- **How the legislation builds on and interacts with the ePrivacy Directive and its proposed revision**: The CSA Directive could by extension, lead to national investigative authorities' request for telecommunications data which in turn would have to comply with the rights and obligations which are currently in the ePrivacy Directive, notably those on the confidentiality of communications and related data.

The Digital Services Act

- **What it does:** the Digital Services Act (DSA) provides a horizontal framework of due diligence obligations for content moderation by providers of intermediary services. It

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[28] Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, OJ L 337, 18.12.2009, p. 11–36

[29] Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) COM/2017/010 final - 2017/03 (COD)

removes a number of disincentives for providers' voluntary efforts to detect, remove or disable access to illegal content (including child sexual abuse material, CSAM) and creates obligations for them to provide information on their content moderation efforts, including when requested by national authorities.

- **How CSA-related responsibilities are distributed between EU and Member States**: as a horizontal instrument covering all types of illegal content, the DSA does not contain CSA-specific provisions. The DSA creates a framework at EU level for the notification of materials noticed by users to providers, with obligations for providers to respond to orders issued by public authorities in Member States, as well as additional due diligence requirements for very large platforms. For the very large platforms, the Commission is the sole enforcement authority that is to ensure compliance with systemic obligations by providers of very large online platforms and very large online search engines.
- **How the legislation builds on and interacts with the DSA**: the CSA Directive coexists with the DSA and in particular provides legal definitions for offences of online child sexual abuse.

The Victims' Rights Directive (Under Revision)

- **What it does**: the Victims' Rights Directive establishes minimum standards on the rights of, support for and protection of victims of crime and ensures that they are recognised and treated with respect. They must also be granted access to justice.
- **How CSA-related responsibilities are distributed between the EU and Member States**: as a horizontal instrument, the Victims' Rights Directive and its revision, applicable to all victims of crime, does not contain CSA-specific provisions. The EU adopted specific rules for victims of child sexual abuse and sexual exploitation under the Child Sexual Abuse Directive to respond more directly to the specific needs of those victims.
- **How the legislation builds on and interacts with the Victims' Rights Directive:** The CSA Directive and the Victims' Rights Directive and its revision focus on strengthening the prevention of child sexual abuse as well as more effective investigation and prosecution, taking into account the cross-border nature of the phenomenon.

The UN Convention on the Rights of Persons with Disabilities (UNCRPD)

- **What it does:** The UNCRPD is an integral part of the EU legal order. The EU and all its Member States are party and are bound by its obligations to the extent of their respective competences. The UNCRPD's purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
- **How CSA-related responsibilities are distributed between the EU and Member States**: as a horizontal instrument, the UNCRPD does not contain CSA-specific provisions.
- **How the legislation builds on and interacts with UNCRPD:** Both legislations aim to ensure and protect children with disabilities, with the UNCRPD focusing on the protection of children with disabilities in Articles 7, 13 and 16, while the CSA Directive focuses mainly on protecting children from sexual violence, and investigating and prosecuting all cases of child abuse.

Proposed and upcoming legislation

Proposed Regulation of the European Parliament and of the Council on preventing and combating the sexual abuse and sexual exploitation of children

- **What it does:** it sets out harmonised obligations for certain online service providers to prevent, detect, report, block and remove child sexual abuse online in order to tackle child sexual abuse online more effectively and provide for more legal certainty in the internal market. The proposed legislation does not merely focus on online child sexual abuse material and grooming-as if adopted, the Proposal would establish an EU Centre to prevent and counter child sexual abuse to facilitate compliance with those obligations, and to act as a facilitator to prevent and combat online and offline child sexual abuse. The Proposal is an internal market instrument and therefore does not contain rules of criminal law in relation to CSA-related crimes.
- **How CSA-related responsibilities are distributed between the EU and Member States:** If established, the EU Centre's primary task is to facilitate the application of the obligations imposed on service providers under the proposed Regulation, including by assisting the competent authorities of the Member States. In addition, given its central role, the EU Centre would serve as an expertise hub and facilitate the exchange of best practices and lessons learned. Each Member State will designate an authority competent to ensure the application and enforcement of the proposed regulation.
- **How the legislation builds on and interacts with the Proposed Regulation on preventing and combating the sexual abuse and sexual exploitation of children**: The Proposed Regulation focuses on setting out obligations on relevant online service providers. On the other hand, the CSA Directive focuses on setting out obligations on Member States, notably on the definition of offences and level of penalties, given its legal basis (Art. 82(2) and 83(1) of the TFEU. Under this legal basis it is not possible to directly regulate online service providers, nor to set up a centre to steer and support efforts in this regard. Both legal instruments interact as follows:
  - Firstly, the Proposed Regulation utilizes and refers to the criminal offences present in the CSA Directive, notably on the definition of child sexual abuse material and of grooming.
  - Secondly, the definitions of criminal offences are key to help law enforcement determine and label new/previously unseen pieces of material (pictures, videos, text etc…) as the child sexual abuse material under EU law. This will then serve as indicators for the companies, who will use the indicators (otherwise known as ‘hashes’) throughout respecting their detection obligations on known child sexual abuse material, and the basis for the removal and blocking orders.
  - Thirdly, the Proposed Regulation will facilitate the work of Member States thanks to the potential creation of the EU Centre, which will facilitate the exchange of best practices on prevention and assistance to victims. The Proposed Regulation does not introduce any new obligations for Member States on prevention and assistance to victims, beyond those already present in the CSA Directive.

Proposal for a Directive on combating violence against women and domestic violence

- **What it does**: The Proposal for a Directive on combating violence against women and domestic violence lays down measures related to (i) the definition of criminal offences and penalties in the areas of sexual exploitation of women and children (both boys and girls), as well as computer crime, (ii) the rights of victims of all forms of violence against

women or domestic violence before, during or after criminal proceedings, and (iii) victims' protection and support.

- **How CSA-related responsibilities are distributed between EU and Member States:** The Proposal will ensure that Member States focus on defining criminal offences and penalties including countering sexual exploitation of women and girls, and will ensure the support of victims throughout criminal proceedings.
- **How the legislation builds on and interacts with the Proposal**: The CSA Directive does not provide for a specific gender-based dimension, both in terms of offences and specific prevention, assistance, support and protection of victims. The Proposal is complementary in this respect, since it provides for new measures and standards that enhance the rights of victims of gender-based violence, including CSAE, whose victims are predominantly girls according to relevant statistics[30].

Relevant Sustainable Development Goals (SDGs)

The most relevant SDGs for this initiative are 5.2. (eliminate all forms of violence against women and girls), and 16.2.(end abuse, exploitation, trafficking and all forms of violence against children).

Other SDGs of particular relevance are those that address risk factors of CSA, such as SDG 1 on poverty (e.g. children forced by their parents to be sexually abused online), SDG 3 on health (e.g. given the short and long-term negative health consequences of CSA on children), SDG 4 on education (e.g. provisions on prevention mechanisms to raise awareness of CSA online risks), and SDG 9 on industry, innovation and infrastructure (e.g. as the initiative aims to support service providers efforts to fight against CSA online, including through definitions of online child sexual abuse and exploitation).

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[30] Collin-Vézina, D., et al., Lessons learned from child sexual abuse research: Prevalence, outcomes, and preventive strategies, 18 July 2012, p. 6. See also M. Stoltenborgh, M.H. van IJzendoorn, E.M.Euser, M.J. Bakermans-Kranenburg, A global perspective on child sexual abuse: Meta-analysis of prevalence around the world, 2011, pp. 79-101. and M. Stoltenborgh, M.H. van IJzendoorn, E.M.Euser, M.J. Bakermans-Kranenburg, A global perspective on child sexual abuse: Meta-analysis of prevalence around the world, 2011, pp. 79-101. This study, based on 331 independent samples and almost 10 million individuals, found an overall prevalence rate of 13%, with the rate for girls being more than twice that of boys (18% vs. 8%, respectively). These numbers concur with those of another study involving more than 10 000 individuals, which found a prevalence of 7.9% of males and 19.7% of females: Pereda N, Guilera G, Forns M, Gómez-Benito J, The prevalence of child sexual abuse in community and student samples: a meta-analysis, 2009.

2. PROBLEM DEFINITION

Table 1 shows the intervention logic (problem, drivers, objectives and options) that will be described and analysed in the impact assessment:

Problem	Problem drivers	General objective	Specific objectives	Legislative		
				A	B	C
Notwithstanding the 2011 CSA Directive, children in the EU are not protected effectively enough against sexual abuse and exploitation, and certain behaviours that should be criminalised cannot be brought to court due to persisting challenges related to **criminalisation investigation and prosecution**, as well as to **insufficient prevention** and **assistance to victims.**	1. The increased **online presence of children,** and the latest **technological developments,** raise challenges for law enforcement while creating new opportunities for abuse 2. The different **legal frameworks** in place in the Member States **concerning investigation and prosecution** do not allow for an effective fight against child sexual abuse and exploitation 3. Member States' efforts to **prevent** child sexual abuse and to **assist victims** are **limited**, **lack coordination** and are of **unclear effectiveness**	Improve **identification, protection and support of victims** of child sexual abuse, ensure **effective prevention**, and **facilitate investigations and prosecution.**	1. Ensure the **criminalisation** of all forms of online child sexual abuse and exploitation 2. Ensure that **national rules on investigation and prosecution** allow for an effective fight against child sexual abuse and exploitation 3. Improve **prevention** as well as protection, support and assistance to victims and ensure an **increased coordination** among different Member States and, at the national level, among all the actors involved	Targeted legislative adjustments 1) **clarifying ambiguities** of current framework 2) ensuring **coherence with new instruments** 3) improving the quantity and quality of available information	Option A + Legislative amendments **modifying definitions of crimes** to take into account current and expected technological developments	Option B + Legislative amendments to ensure more **effective prevention, assistance to victims and investigation,** and prosecution, taking into account the cross-border dimension of the phenomenon

2.1 What is/are the problems?

2.1.1 Definition and magnitude

Notwithstanding the 2011 CSA Directive, children in the EU are not protected effectively enough against sexual abuse and exploitation, due to persisting challenges related to

- prevention, in particular due to a lack of prevention programmes for offenders and for people who fear that they might offend;
- a lack of criminalization of certain actions that have emerged as modi operandi since the adoption of the original Directive;
- the definitions of some offences and the associated level of penalties may benefit from additional clarity as experience has shown that they have led to divergent interpretation in different Member States;
- limited possibilities and police resources for investigation and prosecution;
- assistanceand support measures for child victims are not sufficient to ensure a full protection of children.

Some Member States employed transposition measures which were not mandated by the Child Sexual Abuse Directive, but which proved effective in the fight against child sexual abuse[31]. It is time to take stock of the lessons learnt from the process of transposition and implementation of the 2011 Directive and to turn best practices into EU-wide standards whenever appropriate.

Prevalence

At least **one in five** children falls victim to sexual violence during childhood[32]. This includes sexual touching, rape, sexual harassment, grooming, exhibitionism, exploitation in prostitution and pornography, online sexual extortion and coercion. A global study of childhood experiences in 2021 found that more than **one in three** respondents (34%) had been asked to do something sexually explicit online during their childhood, and **more than half** (54%) had experience a form of child sexual abuse online[33]. A recent survey in Spain

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[31] For example, measures mandating employers in professions that involve direct and regular contact with children to request the criminal records of candidates when recruiting for a position.

[32] One in Five Campaign, Council of Europe, 2010-2015.

[33] Economist Impact survey of more than 5,000 18 to 20 year olds in 54 countries, published in the 2021 Global Threat Assessment, WeProtect Global Alliance, 2021. The forms of child sexual abuse online surveyed (referred as "online harms") include 1) Being sent sexually-explicit content from an adult or someone they did not know before they were 18; 2) Being asked to keep part of their sexually-explicit online relationship with an adult / or someone they did not know before a secret; 3) Having sexually-explicit images of them shared without consent (by a peer, adult, or someone they did not know before); and 4) Being asked to do something sexually-explicit online they were uncomfortable with (by a peer, adult, or someone they did not know before).

concluded that **two out of five** Spanish adults suffered sexual abuse when they were children[34].

The majority of victims are girls, who are **more than twice** as likely to be abused than boys[35].

Vulnerable children[36] are more likely to fall victims of CSA online. The recent survey about childhood experiences[37] also found that:

- 59% of respondents who identified as **transgender and non-binary** experienced online sexual harm, compared to 47% of cisgender[38] respondents;
- 65% of respondents who identified as **LGBQ** experienced online sexual harm, compared to 46% non-LGBQ+ people;
- 57% of **respondents with disabilities** experienced online sexual harm, compared to 48% of respondents without disabilities.

In addition, existing support measures do not effectively cater to particularly vulnerable children, such as child victims who have disabilities, children in migration, and children with gender-based vulnerabilities[39].

The scale of CSAE has showed no sign of decline in recent years. Although important gaps in terms of available statistics on CSAE were identified during the study, estimates on CSAE trends can be derived from data available in some individual Member States and/or on specific CSAE offences.

For instance, statistics available in Germany, Italy, and Romania show that CSAE offences have been continuously growing in recent years.

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34 M. Ferragut, M. Ortiz-Tallo, M. J Blanca. Prevalence of Child Sexual Abuse in Spain: A Representative Sample Study. Journal of Interpersonal Violence, 21 September 2021.

35 Collin-Vézina, D., et al., Lessons learned from child sexual abuse research: Prevalence, outcomes, and preventive strategies, 18 July 2012, p. 6. See also M. Stoltenborgh, M.H. van IJzendoorn, E.M.Euser, M.J. Bakermans-Kranenburg, A global perspective on child sexual abuse: Meta-analysis of prevalence around the world, 2011, pp. 79-101.

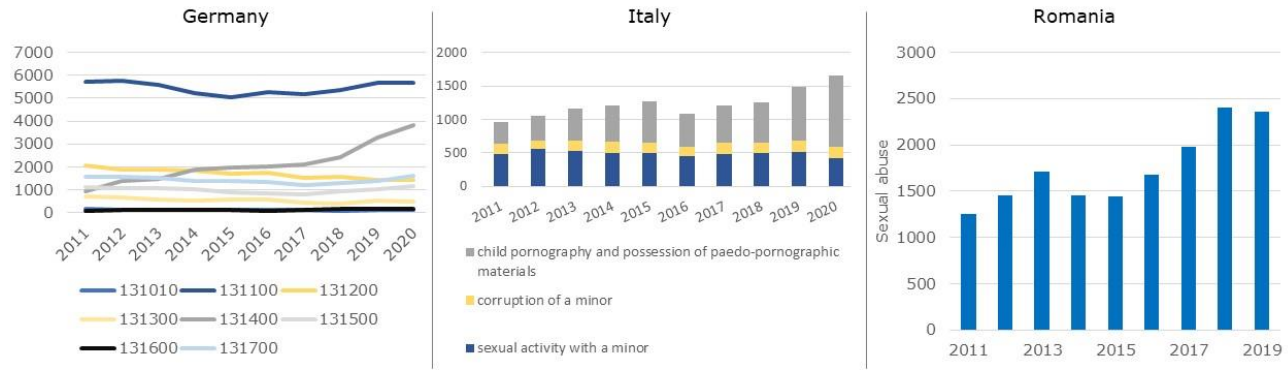
36 There is no definition in EU law of "vulnerable children", so the measures taken by Member States to protect vulnerable children vary across Member States.

37 Idem footnote 33.

38 Cisgender is when the gender identity of person (how they identify themselves) is the same as the sex they were assigned at birth (male or female). In contrast, people who are transgender or nonbinary have genders that are different from their sexes.

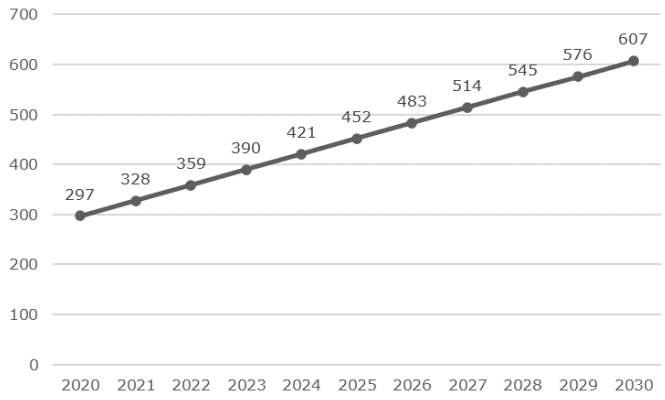
39 See evaluation annex (III – Evaluation Matrix)

Trends in CSAE offences in Germany[40], Italy[41] and Romania[42]



According to UN-CTS trend data, child pornography offences in the EU nearly doubled from 2014 to 2019. Assuming that such trends will evolve in line with the previous period, it can be expected that the next 5 to 10 years will continue to see an increase in CSAE-related offences. The figure below illustrates the evolution of the number of child pornography offences over the next years if it maintains the growth rate recorded from 2014 to 2019.

Child pornography, number of offences per 100,000 population[43]



Overall, stakeholders consulted during the study agreed that CSAE-related offences will increase in the next 5 to 10 years.[44] Such increases in scale were stated to be strictly related

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40 Police Crime Statistics from BKA. Available at: link. Legend for Germany – 131010: Sexual acts under Sect. 176 (5) PC, 131100: Sexual acts under Sect. 176 (1 and 2) PC, 131200: Indecent exposure/sexual acts in front of children, 131300: Sexual acts under Sect. 176 (4), 131400: Exerting influence on children, 131500: Consummation of sexual intercourse with a child or other acts, 131600: Serious sexual abuse of children for the purpose of producing and distributing pornographic material, 131700: Other types of serious sexual abuse of children.

41 Italian Police Crime Statistics.

42 Data from the Romanian Ministry of Labour and Social Protection.

43 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (2018 UN-CTS). Available at: https://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html.

44 33 respondents to online survey Q11.2; targeted interview with one third country organisation (#31).

to technological and social developments, which are also expected to facilitate and enable new forms of CSAE, as well as to pose new challenges to victims' protection of child victims.

"Offline" and online CSA

The sexual abuse of children can take multiple forms, **both offline** (e.g. engaging in sexual activities with a child or exploiting a child for prostitution) and **online** (e.g. forcing a child to engage in sexual activities via live streaming, or viewing or distributing online child sexual abuse images and videos). The **offline** and **online** aspects of the crimes have become increasingly intertwined, and most CSA cases today contain **an online component**[45]. For example, an offender may abuse a child offline, record the abuse, and share it online. Or the offender may establish a first contact with children online and then lure them to meet offline and sexually abuse them[46]. It is therefore not possible to separate categorically between online and offline.

Interlinkages between detection, reporting and action, prevention, and assistance to victims

In addition to the online-offline interlinkages, all the different areas of the problem are also **closely related**: **detection, reporting and action** (i.e. follow up to the reports, including removal by service providers and action by law enforcement)**, prevention, and assistance to victims**. In general, for public authorities to be able to act and assist the victim, the crime has to be detected and reported, which in turn may prevent future crimes from happening (e.g. if the offender is arrested and granted access to a prevention programme and the victim is rescued). This also applies to detecting grooming and to stopping the circulation of CSAM (known and new), which are both criminal behaviours.

The distribution of CSAM is a form of re-victimisation that occurs every time the images and videos are seen. The knowledge that the images and videos are being distributed is a continuous source of distress for victims. In addition, recent surveys indicate that the viewing of CSAM can lead to hands-on abuse[47]. When CSAM is detected by service providers and investigated by law enforcement, it frequently leads to stopping ongoing or future abuse of child victims by the offenders caught distributing CSAM and/or grooming the child.

National and cross-border challenges.

The fight against child sexual abuse is hampered by both national and cross-broder challenges. Both national difficulties and differences among Member States legislative frameworks can lead to an EU-wide under-performance in the fields of prevention, investigation and prosecution of child sexual abuse and exploitation offenses.

In relation to prevention, the monitoring of the implementation of the Directive has shown significant divergencies in the approach taken by different Member States, and significant challenges in the setting up of specific prevention programmes, in particular, targeted at

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[45] Targeted survey of law enforcement authorities, 'Fighting child sexual abuse: detection, removal and reporting of illegal content online' (2021): Two thirds of law enforcement authorities surveyed indicate that over 70% of child sexual abuse cases have an online component.

[46] ECPAT, Summary Paper on Child Sexual Exploitation, November 2020, p. 6.

[47] Protect Children, CSAM Users in the Dark Web: Protecting Children Through Prevention, 2021.

potential offenders and offenders at risk of re-offending. These programmes are national in nature. However, failure to adopt effective and dedicated prevention measures in one Member State has consequences for all others, given the cross-border nature of child sexual abuse and exploitation. In the face of the phenomenon of travelling offenders and of the rise of online abuse and exploitation, a failure to establish effective offender-side prevention in one Member States can easily lead to EU-wide consequences, i.e. to the commission of further offenses in another Member States.

As a cross-border crime, child sexual abuse requires cross-border investigations. If not all forms of child sexual abuse are criminalised in all Member States, cross-border cooperation on investigations becomes challenging. Hence, it is crucial to ensure that the Directive minimum definition of what constitutes child sexual abuse and exploitation in the Union includes new trends, such as live-streaming, abuse in virtual reality settings and the dissemination of paedophile manuals online.

In addition, the Directive contains a provision on effective investigation and prosecution of child sexual abuse, but significant divergencies have emerged as to its implementation, in part due to its relatively broad wording. The resulting unavailability of the most effective investigative tools (e.g. undercover investigations on the dark web) in some Member States hampers the collection of evidence and identification of victims and offenders in cross border cases. Moreover, excessively short statutes of limitations in some Member State prevent prosecution of offenses occurred in the past. The lack of prosecution entails the impossibility to include these offenses in the perpetrator's criminal record, leading to a *de facto* failure of the cross-border checks that are possible through ECRIS (whose consistent use by all Member States for background checks in this area seem to constitute a challenge in and of itself) and of the system of exchange of criminal records for the purpose of employment. This last consequence is particularly troubling in light of recent studies showing that the level of danger posed by child sexual abuse offenders does not decrease with age.[48]

A last point to note is the lack of systematic collection of statistical data on child sexual abuse and exploitation by each Member State. This is linked to the vague wording of the Directive, coupled with the Member States resistance to commit resources to data collection in the absence of a specific obligation to do so. The result of this lack of data is a reduced effectiveness of the fight against child sexual abuse in all its components, from prevention to investigation and effective assistance to victims, both at the national and cross-border level.

[48] See Amicus Curiae by American Psychological Association in Supreme Court case Marion R. Stogner v State of California, p. 23 and following and studies quoted therein.

Box 1: importance of detection, reporting and action in prevention and assistance to victims

The distribution of CSAM is closely linked to its **production**, and therefore physical sexual abuse of children. The detection and reporting of CSAM is therefore a key **prevention tool** and an important way **to assist victims** by also preventing re-victimisation.

The detection of CSA online frequently leads to **stopping ongoing or future physical sexual abuse**. This is clearly the case for new CSAM and grooming, which often reveals ongoing and/or imminent physical sexual abuse. But it is also the case for known CSAM, as viewing it often leads to hands-on abuse. In an anonymous online survey in the Darkweb, 37% of individuals who viewed CSAM had sought direct contact with a child **after viewing the material**[49]**.** Also, half of the offenders sentenced in the US in 2019 for CSAM related offences (non-production) engaged in aggravating sexual conduct prior to, or concurrently with, the CSAM charge[50]. The detection of CSAM also stops its **distribution**, which **fuels demand for more and new material** and therefore **new abuses**. Offenders not only exchange CSAM bilaterally but are typically required to contribute with new material to join online communities trading it. 44% of offenders convicted in the US for CSAM-related offences (non-production) participated in an online community, 77% required sentencing enhancements for possession of 600 or more images[51]. The material demanded has become more and more extreme. In the same 2019 US data, 52% of cases included images or videos of infants or toddlers and 84% of cases required sentencing enhancements for images depicting sadistic or masochistic conduct or abuse of an infant or toddler.

Detection, reporting and action

The proportion of cases where CSA is **discovered in a timely manner** and prevented or stopped **is very limited**. Oftentimes, children do not manage to seek help themselves, and those in their 'circle of trust' (i.e. family and other close contacts), in charge to provide protection and care, are often the abusers[52]. **One in three victims will never tell anyone** and at least **four in five** CSA cases are not reported to public authorities[53]. There are indications that the **COVID-19** crisis has exacerbated the problem[54], especially for children who live with their abusers[55]. In this context, **online service providers** and in particular 'online intermediaries' [56] such as messaging services, online forums, and online

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49 Protect Children, CSAM Users in the Dark Web: Protecting Children Through Prevention, 2021.

50 United States Sentencing Commission, Federal Sentencing of Child Pornography (non-production offences), June 2021.

51 *Ibid.*

52 Gewirtz-Meydan, A., Finkelhor, D., Sexual Abuse and Assault in a Large National Sample of Children and Adolescents, 16 September 2019.

53 *Ibid*

54 Europol report on online child sexual abuse during the pandemic, 19 June 2020. Europol report on *'Exploiting isolation: sexual predators increasingly targeting children during COVID pandemic', 19 June 2020*

55 Unicef et al. COVID-19 and its implications for protecting children online, April 2020.

56 See also the Impact Assessment accompanying the Proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, SWD(2020) 348 final, December 2020, p.7 (para 15).

platforms (such as video-sharing and media sharing platforms, social networks, etc.) have acquired an **important role**, as they are often the only ones to have any **possibility to detect** the ongoing abuse[57].

The exponential development of the digital world has facilitated the **global sharing of materials** and the creation of networks of offenders via online intermediaries. The images and videos of CSA **continue to circulate** long after the abuse itself, and survivors often find themselves powerless to ensure removal of online content depicting their abuse[58]. It is estimated that, **at any given moment**, across the world there are more than **750 000 individuals online** exchanging CSAM, streaming live abuse of children, extorting children to produce sexual material or grooming children for future sexual abuse[59].

The past few years have nonetheless seen a **strong increase** in reports of CSA online submitted by online service providers globally through NCMEC: from 1 million reports in 2010 to **over 21 million in 2020.** The number of reports concerning the EU (e.g. images exchanged in the EU, victims in the EU, etc.) has also dramatically increased: from 17 500 in 2010 to **more than 1 million in 2020[60].**

The amount of **grooming** cases reported globally **increased by 98%** in 2020 compared to the previous year (37 872 in 2020 vs 19 147 in 2019), presumably due to the **pandemic**, when both children and offenders spent more time online and at home[61].
The reports that service providers submitted in 2020 in relation to cases in the EU included **3.7 million** images and videos of **known CSAM**, **528 000** images and videos of **new CSAM**, and more than **1 400 grooming** cases[62].

Prevention
Prevention is an essential component for tackling CSA at its roots. There are two main types of prevention efforts:

1. Prevention efforts focused on **children** and their environment and on decreasing the likelihood that a child becomes a **victim**. Examples include **awareness raising campaigns** to help inform children, parents, carers and educators about risks and preventive mechanisms and procedures, as well as **training,** and efforts to detect and stop online grooming.
2. Prevention efforts focused on potential **offenders** and on decreasing the likelihood that a person **offends[63]**. Examples include prevention programmes for persons who

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57 See the impact assessment accompanying the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse, SWD/2022/209 final, p20.
58 NCMEC, Captured on Film, 2019.
59 U.N. General Assembly, Human Rights Council, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, 13 July 2009.
60 NCMEC, 2020 data: The data does not include the UK in the first years of the period to ensure comparability.
61 NCMEC, Online Enticement Reports Skyrocket in 2020, 21 January 2021.
62 NCMEC, 2020 data.
63 In a recent survey to offenders in the Darkweb, 50% of offenders stated that they wanted to stop offending and expressed feeling of shame, guilt and self-harm. See Protect Children, CSAM Users in the Dark Web: Protecting Children Through Prevention, 2021.

fear that they might offend, and for persons who have already offended, to **prevent recidivism**[64].

Setting out effective prevention programmes remains challenging and statistics on offenders are not collected by Member States for research purposes. Monetary and personnel-related resources are limited and lack coordination, and efforts, where present, are rarely evaluated to assess their effectiveness (see section 2.2.3. on problem drivers).

Convicted offenders may continue to be pose a risk of re-offending after serving their sentences. It is estimated that some 20% of sex offenders on average (with big differences between different profiles of offenders)[65] go on to commit new offences after conviction. Additional measures to reduce the risk of their reoffending (such as exclusion from certain activities involving contact with children, or monitoring) are not always taken, and are difficult to implement if they leave the country[66]. However, research also shows that those who get help are 97% more likely not to offend again[67].

Assistance to victims

Assistance to victims is essential to mitigate the harm and severe consequences for children's physical and mental health caused by child sexual abuse.

Victims require both **immediate and long-term assistance**, before, during and after criminal proceedings and taking into account the best interests of the child. This assistance must be specific, i.e. following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns[68].

However, **immediate and long-term assistance** remains limited, not sufficiently coordinated between relevant actors within and between Member States and of unclear effectiveness. This leads to information gaps, hampers the identification and sharing of best practices and lessons learnt and decreases the efficacy of efforts (see section 2.2.3. on problem drivers).

2.1.2 Why is it a problem?

The fact that some child sexual abuse crimes are not adequately addressed in the EU is **a problem** because it results in victims not being rescued and effectively assisted as soon as

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64 Di Gioia, R., Beslay, L., 'Fighting child sexual abuse-Prevention policies for offenders, 3 October 2018.

65 Redondo, S., 'Sirve el tratamiento para rehabilitar a los delincuentes sexuales?' in *Revista Española de Investigación Criminológica*, No 4, 2006.

66 This is illustrated by a number of tragic cases in recent years, and in particular by that of Mr Fourniret in 2004. A French citizen, he had previous convictions for a series of murders and sexual assaults against children before moving to Belgium. As the Belgian authorities were not aware of these previous convictions, he was able to start working in a school. He was then able to use this position to commit further murders and sexual assaults against children (source: NSPCC (2007) "Protecting children from sexual abuse in Europe: safer recruitment of workers in a border-free Europe").

67 Caldwell, M. F. (2016). Quantifying the decline in juvenile sexual recidivism rates. Psychology, Public Policy and Law, 22, 414–426.

68 As required by Article 19(3) of the CSA Directive.

possible, children being less protected from crimes, and offenders enjoying impunity. It affects **public security** in the EU and infringes **children's fundamental rights** under the Charter of Fundamental Rights of the EU (Charter)[69], including the right to such protection and care as is necessary for their well-being, the right to human dignity and the right to privacy.

Additionally, CSA has societal and economic costs. In particular, it contributes to an increased risk of serious mental and physical health problems across the lifespan, and exerts a substantial economic burden on individuals, families, and societies. There are **negative consequences at all stages**:

- **Before** the crime is committed: in the absence of proper preventative interventions, individuals who could have been stopped from abusing children may become first-time offenders, offenders are more likely to re-offend, and children are more likely to become victims if they and their carers lack awareness of the threat.
- **While** the crime is being committed: the consequences of not detecting and addressing the crimes swiftly include **prolonged suffering and harm** for victims. In addition, it reinforces the **perception of impunity**, reducing deterrence and facilitating further offending.
- **After** the crime has been committed: the consequences of not acting effectively after the crime include the inability to provide proper immediate and long-term **assistance to victims**, with negative effects for victims and society as described above. In addition, it may not be possible to prosecute offenders, which reduces opportunities for rehabilitation before, during and after criminal proceedings to prevent reoffending.

2.1.3 Who is affected and how?

First, **children** in the **EU and elsewhere**, who may fall victim to sexual abuse and suffer its negative effects, both in the **immediate and long-term**[70]. **Immediate effects** include physical injuries and psychological consequences (e.g. shock, fear, anxiety, guilt, post-traumatic stress disorder, denial, withdrawal, isolation, and grief), sexual behaviour problems and over-sexualised behaviour, academic problems, substance abuse problems, increased likelihood of involvement in delinquency and crime, and increased likelihood of teen pregnancy[71]. **Long-term effects** include psychological and social adjustment problems that can carry over into adulthood and affect married life and parenthood. They include negative effects on sexual and overall physical health; mental health problems including depression, personality psychotic disorders, post-traumatic stress disorder, self-mutilation, attempted or completed suicide; and relational and marital problems including fear of intimacy and spousal violence.

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69 See Annex 5, Chapter 2.2.Point(s) of comparison, p. 63

70 Institut National de Santé Publique, Gouvernement du Québec, Consequences of child sexual abuse; ODI Report: The cost and economic impact of violence against children, p.20.

71 Masumova, F., A Need for Improved Detection of Child and Adolescent Sexual Abuse, May 2017; Darkness to Light, Child Sexual Abuse StatisticsChild Sexual Abuse Statistics, accessed on 20 April 2021.

Secondly, **governments and public authorities.** The competent public authorities (e.g. law enforcement or governments at national, regional and local levels) dedicate significant resources to act against CSA. In particular, they put in place prevention programmes and measures to assist victims, and conduct investigations after they become aware of possible CSA.

Finally, **society** in general, given that CSA has consequences not only for the victims, but also for society as a whole[72]. **Social costs** correspond to the non-monetary consequences of the criminal acts, and include diminished quality of life for society and increased feelings of insecurity among individuals. **Economic costs** include those of police and judicial services (e.g. criminal prosecution, correctional system), social services, victim support service and victim compensation programmes, education, health, and employment costs.

Box 4: Estimated costs of child sexual abuse

Victims of child sexual abuse require **immediate and long-term assistance**. The costs of providing such assistance can be significant. For example, the total lifetime costs of assistance to victims arising from new substantiated cases of child sexual abuse in the United States in 2015 was estimated at USD **1.5 billion** per year[73].
The long-term effects of child sexual abuse on victims also include lifelong **loss of potential earnings and productivity[74]**. The total lifetime cost of such losses arising from new substantiated cases of CSA in the US in 2015 was estimated at USD **6.8 billion** per year[75]. Overall, the total estimated costs of child sexual abuse in the US in 2015 were estimated at **USD 11 billion** per year.

A study[76] run in the UK on financial and non-financial costs relating to CSA in England and Wales during the years 2018-2019 found that the cost of CSA between those 2 years to amount at least to **£10.1 billion**. This estimate takes into consideration the **lifetime consequences as a result of CSA** for victims as well as the **cost of anticipating and preventing abuse and the police, court, prison, and safeguarding costs anticipated as part of the response to abuse.** The unit lifetime cost of an instance of contact CSA is an estimated £89,240.

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72 Institut National de Santé Publique, Gouvernement du Québec, Consequences of child sexual abuse; ODI Report: The cost and economic impact of violence against children, p.20.
73 Letourneau, E., The Economic Burden of Child Sexual Abuse in the United States, May 2018.
74 *Ibid*.
75 *Ibid,* based on combined estimated productivity losses for non-fatal and fatal cases.
76 Radakin, F., Scholes, A., Soloman, K., Thomas-Lacroix, C., & Davies, A., The economic and social cost of contact child sexual abuse, 13 December 2021

2.2 What are the problem drivers?

*2.2.1 The increased **online presence of children,** and the latest **technological developments,** raise challenges for law enforcement while creating new opportunities for abuse*

Developments in and the spread of **information technology** have made child sexual abuse more acute in both the offline and online dimensions. Images and videos of child sexual abuse are produced through hands-on abuse and then exchanged and accessed online. The internet has become the main medium for sharing CSAM, as well as for contacting children with the aim of abusing them[77].

<u>The internet and technology facilitates the exchanges among offenders</u>
The internet facilitates the creation of **communities** in which offenders **share materials and experiences**, including on **how to avoid law enforcement**. Broader Internet penetration and an expanding use of mobile devices make it possible for offenders to misuse technology to contact, groom and abuse children. Additionally, the easy availability of encrypted messaging platforms, peer to peer networks, and easy access to the 'Darknet' make it easier for perpetrators to connect, cooperate, evade identification and share child sexual abuse and exploitation material.

A recent study[78] shows that over half of all discussion observed on known offender dark web forums was related to new tools to evade detection and make offending more secure. For example, the study shows that veiled or hidden use of typical grooming or child sexual abuse material (CSAM) terms in gaming has grown over 13% 2019-2020.

<u>Online exchanges among offenders lead to contact with children online</u>
According to a recent research focusing on dark-net online communities of child sexual abuse offenders[79], contact with other CSAM users is associated with higher likelihood of contacting children online and therefore a higher risk of further offend against children. The desensitisation and normalisation that comes from groups of CSAM users may increase the risk that these individuals will commit further sexual offenses against children.

<u>Sharing of self-generated material has significantly increased</u>
Technology has also facilitated the production and sharing of self-generated material. Up to 88% of self-generated, sexually explicit online content has been taken from its original location and uploaded elsewhere. "Sexting[80]" behaviour makes adolescents especially vulnerable to abuse. Around 15-40% of young people engage in sexting, using smartphones, messaging apps and lives-streaming technology to explore their sexuality in

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[77] European Parliament (2017). Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment.

[78] Global Threat Assessment 2021 - WeProtect Global Alliance

[79] ReDirection Report, Darknet Online Communities of Child Sexual Abusers: Reinforcing and Rationalising Offending Behaviour**,** July 2022, available here.

[80] Sexting could be defined as anything from sexy talk, such as suggesting sexual activity or making sexualized comments, to more explicit displays of sexuality, such as sending nude or nearly nude photos or videos, usually with the use of technological means, such mobile phones.

an increasingly risky online environment[81]. Minors also produce material to boost their online status on particular platforms, seeking likes and other indicators of approval, and in some cases for financial gain.

The Internet Watch Foundation (IWF) reported[82] a **168% increase** from 2020 to 2021 globally. Self-generated sexual imagery of children aged 7-10 years old has increased three-fold making it the fasted growing age group. Self-generated content of children aged 11-13 remains the biggest age group for this kind of material, with a 167% increase from 2020 to 2021. The Internet Watch Foundation also found that 46% of self-generated material identified during 2020 was classified as 'Category A- depicting the most severe form of CSA.

Whereas the first time the material is shared may be consensual, further re-sharing is typically not consensual. In a 2020 survey conducted by Thorn, 1 in 6 children aged 9 to 12 admitted that they had seen **non-consensually** reshared nudes of other children, up from 1 in 9 in 2019[83]. A separate survey by Economist Impact of 18-20 year olds on their childhood experiences found similar data: 18% of them reported experiencing a sexually explicit image of themselves being shared by a peer **without consent**[84].

First time sharing of self-generated material may also be the result of **online grooming**. In the same survey conducted by Thorn, **50%** of the children aged 9 to 17 said that they had sent the nudes to someone they had never met in real life, up from 37% in 2019[85].

Livestreaming of child sexual abuse enables long-distance abuse

The wider availability of internet connections and their increased speeds and data capacity have facilitated the spread of child sexual abuse via livestreaming.

Livestreaming of child sexual abuse can also take the form of a child groomed/coerced into producing and sharing illicit material of themselves in front of a webcam. Up to 88% of self-generated, sexually explicit content being shared online originated from children coerced into live-streaming these actions.

In many cases, livestreamed abuse is transmitted online in encrypted/private channels and usually no trace is left of the abuse unless recorded by the abuser and disseminated more broadly.

Technology also facilitates the sexual abuse of children for financial gain

The internet has created a marketplace that enables the low-threshold buying and selling of child abuse online. Enabled by technology (e.g. livestreaming, private communication applications, cryptocurrencies), considerable **profits can be made with little risk** by organised crime groups involved in the trade in child pornography or the direct abuse of children. **The growing use of cryptocurrencies** (such as Bitcoin) **as an alternative payment method ensures anonymity in payment transactions** and facilitates offences related to child sexual abuse committed for financial gain. The global annual revenue of

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81 Bracket Foundation (2019). Artificial Intelligence – Combating Online Sexual Abuse of Children.
82 IWF Study 2022.
83 Thorn, Self-Generated Child Sexual Abuse Material: Youth Attitudes and Experiences in 2020, 2020.
84 Economist Impact, WeProtect Global Alliance Global Threat Assessment, 2021.
85 Thorn, Self-Generated Child Sexual Abuse Material: Youth Attitudes and Experiences in 2020, 2020.

CSAM sites is estimated to have more than tripled between 2017 and 2020[86]. Online platforms to be used by adults only for the exchange of explicit adult content, are instead used for the monetisation of CSAM, as some of these platforms fail in preventing access by minors who register with fake identification and sell or appear in explicit videos.

Technology is constantly developing… and constantly creating new threats

The constant development of technology also entails the continuous attempts of misuse by offenders for child sexual abuse purposes. For example, the **use of entertainment tools based on virtual reality technology to contact children for the purpose of sexual exploitation**. Notably, it has been argued that immersive video games incorporating haptic[87]technologies that enable the delivery of sensation to wearers, may attract those with a sexual interest in children. Child sexual abuse through virtual reality technology has already been documented, but its future developments, implications and impact on children are yet to be fully understood[88].

Member States dispose of different resources to combat child sexual abuse

The evaluation found that some national LEAs have insufficient expertise in order to effectively investigate cases of online CSAE[89], which also hinders the EU-wide fight against CSAE. In addition, CSAE related investigations often require specific technological tools which can be expensive and harder for some Member States to afford than others[90]. Not only are there divergent resources and levels of expertise among Member States, but also divergencies in the available budget to fight against child sexual abuse and exploitation. The limited amount of resources available constitutes a horizontal problem-driver for any initiative targeting the public sector, in particular but not only where law enforcement is concerned.

Legislation lags behind technological developments

Studies show that existing rules are limited in scope and do not cover technological developments that pose increasing threats for children becoming victims of sexual abuse,

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86 Ibid.

87 Haptic technology is the use of tactile sensations to stimulate the sense of touch in a user experience. For example, direct applications of haptic solutions frequently include phone and game controller vibrations. Haptic science also involves any tactile feedback such as air pressure or sound waves.

88 Baines, V. (2019). Online child sexual exploitation: Towards an optimal international response. p30-31.

89 Targeted interview with two CSO (#19); respondent to Q7 ('Do you have any other comments in relation to the current situation and challenges in your actions to fight against child sexual abuse online?') PC Fighting child sexual abuse: detection, removal and reporting of illegal content online.
European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU. European Implementation Assessment. Available at: link;

90 European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU. European Implementation Assessment. Available at: link.

such as text and audio-based CSAM, live streaming, virtual reality and augmented reality CSAM, CSAM deepfakes[91], the use of digital currencies, and metaverse developments[92].

Experts participating in a Commission's expert workshop on key challenges to fight against CSAE pointed out that the limited and inconsistent coverage of new technological developments across national legislations is linked with the vagueness of existing EU provisions, which do not provide an adequate framework for addressing the online dimension of CSAE, including removal of CSAM online[93].

Cyberspace also provides offenders with new opportunities to find, approach and manipulate children under the cover of anonymity. At the same time, national legal systems find it difficult to respond because of the number of actors (users, publishers of websites, internet service providers, and telecom companies) involved in producing and disseminating the information, with different degrees of responsibility and operating in different jurisdictions.

Besides the limited coverage of new forms of online CSAE, some experts also pointed out that the penalties established for CSAE offences committed by means of ICT are too low and not dissuasive enough[94]. The WePROTECT Global Alliance 2019 Threat Assessment for example observed a trend of low sentences for demand-side offenders across jurisdictions that "undermine the gravity of their serious, repeated and sometimes violent" child exploitation and abuse offences[95]. Penalty levels for some crimes, such as possession of child sexual abuse material (CSAM), might be too low to act as a deterrent for perpetrators[96].

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91 Deepfakes use deep learning artificial intelligence to replace the likeness of one person with another in video and other digital media. Deep learning algorithms, which teach themselves how to solve problems when given large sets of data, are used to swap faces in video and digital content to make realistic-looking fake media.

92 Council of Europe, Lanzarote Committee (2022), Second monitoring round (implementation report): the protection of children against sexual Exploitation and sexual abuse facilitated by information and communication technologies. Available at: link. This monitoring round covers all Member States except Ireland;
Targeted interviews with two EU CSOs (#7 and #10), four EU bodies/agencies (#5, #8, #15 and #27), two international bodies (#13 and #25) and two international CSOs (#11 and #16); one respondent to the Public Consultation "Fighting child sexual abuse: detection, removal and reporting of illegal content online"; based on written contributions received to the Public Consultation "Combating child sexual abuse - review of EU rules".

93 European Commission workshop report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse.

94 European Commission workshop report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse;
online survey Q4.5; targeted interview with one international CSO (#11); two respondents to the Public Consultation "Combating child sexual abuse - review of EU rules".

95 WeProtect Global Alliance, 'Threat Assessment 2019', (Report, WePROTECT Global Alliance).

96 Commission workshop report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse; targeted interviews with one representative from one CSO (#11); feedback provided by one respondent to survey question #4.5 (See Annex I.1.1).

Stakeholders' views on problem driver 1 (Increased online presence of children, and the latest technological developments)

Considering main trends relevant to CSAE, ***most respondents of the online survey*** claimed that the number of offences prosecuted related to child pornography (69%, n=22 out of 32), offline CSAE (46%, n=12 out of 26), and online CSAE (66%, n=19 out of 29) increased (by more than 5%) over the past ten years, though the increase appears to be most significant for crimes related to online CSAE and child pornography. The majority of respondents (74%, n=35 out of 47) agreed that CSAE-related offences will increase in the next 5-10 years. Specifically, growing trends will mainly concern the amount of child sexual abuse material (CSAM) circulating online (n=3), dissemination of CSAM through the darkweb (n=12), online solicitation (n=9), including for the production of self-generated content by victims (n=13) and live streaming (n=4).

Many stakeholders (n=6) believe that tech-facilitated means and their ongoing development and use in society represent key threats for the safety of children (n=30), introducing inter alia new forms of child sexual exploitation (e.g. sugaring and survival sex). In particular, they refer to artificial intelligence technologies, like deepfake technologies (n=8), the metaverse (n=2), as well as to malicious uses of tech-based services, like social media and gaming platforms (n=6), often characterised by encrypted communication (n=7), and anonymous online services (n=8), such as cryptocurrency-based payment methods (n=1). Such technological developments pose a serious threat also in light of the diffusion of technological devices and access to social media among many more children and increasingly younger (n=12), combined with a lack of parental control and awareness of the dangers of navigating the web (n=7).

Regarding emerging technological developments, the ***participants to the targeted interviews*** were concerned by developments in AI, augmented reality (e.g. the metaverse) and gaming. Interviewees also raised concerns over the proliferation of existing technology, both in terms of the increasing use of technology as well as children accessing technology at an ever-younger age. The lack of parental/caregiver filtering between children and content/interactions facilitated by technology presents new opportunities for offenders to target their victims. Two interviewees also specified the increasing threat posed by organised criminal groups, as the trade of CSAM represents a growing market for criminal organisations to profit. One interviewee posited that offenders are already drawing from organised criminal groups and adopting some of their tactics, for the sake of profiting off of their own activities they would conduct anyway. The other interviewee foresaw existing organised crime groups entering into the market themselves for the sake of profit.

Finally, many ***stakeholders replying to the public consultation*** observed that, since 2011, significant technological development took place, and rendered more difficult the fight against CSAE. Specifically, risks are determined, on the one side by the increasing number of children spending more and more time on the internet (e.g. on social media platforms), often without adult supervision; on the other, by the increasing use of technology by offenders, who can benefit from hidden identities, encrypted communication, peer-to-peer networks on the darkweb to perpetrate CSAE-related offences (e.g. grooming and distant coercion and control of victims). Meanwhile, the online environment enables new forms of offences (e.g. live streaming, revenge porn, deep fakes, AI-child sex robots, sexual assault and sexual harassment taking place in the Metaverse), which are not fully addressed by the CSAE Directive. Against this background, the online space results underregulated in this respect, lacking an adequate and efficient infrastructure to prevent children from falling victim to CSAE.

*2.2.2 The different **legal frameworks** in place in the Member States **concerning investigation and prosecution** do not allow for an effective fight against child sexual abuse and exploitation*

Certain behaviours are not considered a criminal offence in all Member States, and due to the nature of different interpretations on how to transpose the Directive and the fact that the terminology present in the Directive was interpreted differently (such as 'child pornography'), and that some definitions were not provided (such as the age of sexual

consent), variations in criminal law and procedure have given rise to **differences in investigation and prosecution in different countries**.

'Paedophile handbooks'

'Paedophile handbooks refer to documents created by offenders for offenders with information on how to find, approach and groom children to sexually abuse them. Some countries such as Germany have banned them, whereas others like the Netherlands are considering legislation banning them. Taking into account the principle of strict interpretation of criminal law, and as outlined in the Explanatory Report to the Council of Europe Convention regarding the advantages of harmonising criminal offences, this situation may favour certain acts in Member States where the law is more lenient, make the collection of comparable data and experience more difficult, and obstruct international cooperation (in particular extradition and mutual legal assistance)[97].

Box 10: Pedophile handbooks

Grooming or child paedophile handbooks are identified under the proposed Dutch law[98] as "*instruction manuals containing tips and tricks for sexually abusing children*". The legislative proposal goes on to state that they could *"inspire potential child molesters to action"*. The emergence of paedophile handbooks/grooming manuals is a relatively recent phenomenon, with their distribution and acquisition greatly facilitated by the internet.

Typical handbooks[99] can contain information on where to look for children, how to identify possible victims and gain their trust and create a relationship, how to coerce them into abuse and ensure their silence. Manuals also provide tips on how to avoid being caught in the real world and online, including tips and tricks on how not to leave any physical evidence including DNA, and how to exploit technology such as encryption, VPNs, the darkweb and peer-to-peer sharing and in sophisticated cases, the legislative systems and how to avoid prosecution. These handbooks are not only a threat to children but they serve to further desensitise abusers and normalise these crimes.

The motion calling for the criminalisation of dissemination, acquisition and possession of paedophile handbooks was adopted by the Dutch House of Parliament on the 13 September 2022. These crimes would carry a maximum sentence of four years' imprisonment. At the time of writing, debate on the bill has yet to take place in the Senate. Similarly, Germany adopted an amendment to their criminal code in late June 2021[100], making the possession and/or dissemination of any material with instructions on how to perpetrate child sexual abuse punishable by up to three years imprisonment.

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97 See the Explanatory Report to CETS 201, para. 112.

98 House approves maximum prison sentence of four years for possession of 'paedophiles' handbook'. News item of 13/09/2022, Ministry of Justice of the Netherlands

99 *Abuse by the book: Paedophiles share grooming manuals and learn to prey on children*, Child Rescue Coalition.

100 German legislation criminalising paedophile handbooks.

Statute of limitations

Another important difference concerns statutes of limitations. Different time limitations have been established in the Member States as regards the definition of the period during which victims can report abuses after they reached the age of majority. The CSA Directive does not set any time-limit indication, leaving the Member State with discretion as regards statutes of limitation for CSAE-related offences. Such a margin of discretion has created some barriers to the prosecution of CSAE offences.

Box 11: Differences in statutes of limitations

The **variance in national statutes of limitation results in different levels of criminalisation of CSAE offences across the EU.** For instance, as pointed out during an interview with an EU-level CSO conducted by the study team, the shorter the statute of limitation, the fewer the victims who can disclose their abuses, and in turn the fewer the perpetrators that can be convicted[101]. Moreover, the study team found evidence that, in some Member States, the statute of limitation might be too short for victims to disclose their abuses, as they may need a long time to be emotionally ready to report abuse, particularly in the event they suffer from post-traumatic disorders. In turn, an insufficient timespan prevents victims to report cases, and this affects both prosecution of offenders and protection of the right of CSAE victims and their families within the EU[102].

Travelling child sex offenders

Western European countries, traditionally known as the source of travelling child sex offenders, are now becoming the destination of child victims of sexual abuse.[103] However, children's vulnerability to sexual abuse is particularly increasing in Eastern and Central Europe, which have become countries of origin and destination[104].

The different legal frameworks across Member States create difficulties to cooperate with regard to travelling child sex offenders. Difficulties have emerged with respect to the exchange of information on convictions, with a consequent limited effectiveness in preventing travelling sex offenders from moving and gaining access to children in different Member States[105].

Severe challenges persist also when cooperating with third countries, including in relation to jurisdiction, lack of trust towards data protection regimes, lack of hotlines in third countries, and cumbersome legal procedures, such as Mutual Legal Assistance (MLA).

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[101] Targeted interview with one EU CSO (#29).

[102] Tamarit Sumalla J.M., Hernandez-Hidalgo P. (2018), Victims of child sexual abuse: understanding their need for justice. Available at: link; European Parliament (2017), Report on the implementation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography. Available at: link; targeted interview with two EU CSOs (#10 and #29), one representative from academia (#32), one international CSO (#11) and one international body (#13).

[103] European Parliament (2020). Combating sexual abuse of children Directive 2011/93/EU, European Implementation Assessment.

[104] ECPAT (2016). Offenders on the move. The Global Study on Sexual Exploitation of Children in Travel and Tourism. Available at: link.

[105] ECPAT (2020). Summary Paper on Sexual Exploitation of Children on Travel and Tourism.

The application of certain rules on criminal jurisdiction often results in child sex offenders committing offences abroad and enjoying impunity in practice.

Statistics

A comprehensive, factual dataset with comparable statistics related to investigations and prosecutions of child sexual abuse cases for all Member States is not available. Indeed, most of the Member States do not have in place a comprehensive national database including the number of identified CSAE victims[106]. The most complete dataset available is from the statistics of the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS) collected by the UNODC,[107] which, however, is limited in terms of (i) availability of responses of the individual Member States over the time period (2014-2019) and (ii) completeness of the questions answered. Some consulted stakeholders shared frustrations on the lack of a single EU database that brings together all the statistics related to all aspects of CSAE[108].

Another issue relates to the lack of standardisation of data collection mechanisms in place, preventing data comparability both within and across the Member States[109]. The lack of publicly available information affects research in the area, e.g. on the effectiveness of primary, secondary and tertiary prevention programmes, which indeed is limited[110].

Stakeholders' views (online survey, targeted interviews and public consultation) on problem driver 2 (Different legal frameworks and their effect on investigation and prosecution)

Regarding investigation and prosecution of CSAE offences, ***survey respondents*** confirmed that the CSAE Directive's implementation has enhanced the use of appropriate investigative tools to fight against CSAE. Most respondents (77%, n=34 out of 44) agreed that the CSAE Directive's implementation had a moderate or even large effect on ensuring that LEAs have access to the right tools to investigate cases of CSAE. Two respondents mentioned that the CSAE Directive's implementation had helped introduce high-tech and specialised tools for investigating CSAE cases. Also, a large share of respondents agreed that the sanctions foreseen by the CSAE Directive are dissuasive (44%, n=22 out of 50), effective (48%, n=25 out of 52), and proportionate (51%, n=27 out of 53) to a large or very large extent. Nevertheless, the share of respondents that considered such sanctions as only moderately dissuasive is still considerable (34%, n=17 out of 50). Finally, the majority of respondents confirmed that there is high variance in terms of what materials constitute "child pornography" according to Member States' legislations. Depending on specific national definitions included in different Member States' legislations, "child pornography" can include AI robot (51%, n=24 out of 47), anime and manga depicting sexual images of children (63%, n=35 out of 56), child sex dolls (51%, n=27 out of 53), deep fake (67%, n=32 out of 48), literary novels romancing child sexual abuse (39%, n=20 out of 51) and texts explaining how to groom (46%, n=23 out of 50).

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[106] European Council (2017), Final report of the seventh round of mutual evaluations on "The practical implementation and operation of the European policies on prevention and combating cybercrime".

[107] United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (2018 UN-CTS).

[108] One respondent to online survey Q2.1.2; targeted interviews with one representative from the prison, detention and restorative justice institutions (#18), one representative from academia (#14) and one international body (#25).

[109] Targeted interview with one international body (#25), one respondent to the Public Consultation "Combating child sexual abuse - review of EU rules".

[110] UNICEF (2020), Action to end Child Sexual Abuse and Exploitation: A Review of the Evidence, page 38. Available at: link; targeted interviews with one representative from the prison, detention and restorative justice institutions (#18) and one representative from academia (#14).

In addition, regarding CSAE investigation and prosecution, the ***participants to the targeted interviews*** agreed that the CSAE Directive provided for an effective legal framework for investigation and prosecution procedures at the national level. The most reported factor undermining the effectiveness of the CSAE Directives was the absence of a common definition of the "age of sexual consent". Also, interviewees highlighted that the term "child pornography" should be replaced with a more suitable term: as the term "pornography" is primarily used for adults engaging in consensual sexual acts, hence using the terms "child pornography" might appear to imply a similar legitimacy to that of consensual pornography. A shortage of both financial and human resources available at the Member State level emerged as an additional barrier to investigation and prosecution of CSAE-related offences. Stakeholders agreed that the CSAE Directive has helped investigate and prosecute cross-border online CSAE-related offences, though they broadly agreed its contribution has been insufficient. One interviewee criticised the CSAE Directive's focus on perpetrators and committed offences instead of regulating the online environment that enabled the crimes.

Respondents to the public consultation In terms of crime investigation and prosecution, the majority of stakeholders responded to the public consultation stated that the CSAE Directive contributed to successful criminal proceedings to a moderate or high extent (78%, n=28 out of 36), and that the penalties foreseen by the CSAE Directive have a proportionate and dissuasive effect to a moderate, high or very high extent (66%, n=23 out of 35). Also, the extension of the statute of limitation after the victim has reached the majority was mentioned as the key provision of the CSAE Directive that contributed the most to increasing reporting of CSAE cases (60%, n=24 out of 40 respondents answering very high or high extent). ***The possibility to continue investigation and prosecution of CSAE offences even if the victim's statement was withdrawn was mentioned among the key measures that contributed to improving the investigation and prosecution of offenders*** (50%, n=9 out of 18 respondents answering very high or high extent).

The respondents identified as one of the major problems affecting the fight against CSAE in the EU the use of term 'child pornography' which has been found as being outdated and incoherent. The term narrows the category of material that should be considered abusive to children, for instance, it does not include self-produced sexual content, with respect to which, however, children need protection. Moreover, the word 'pornographic' risks distracting from the serious violation it actually consists of, because it can imply the idea of consent from the depicted children. They further stated that internet Service Providers (ISPs) need clear and mandatory rules on the detection, reporting blocking and removal of CSAM in their services, which should also be held accountable for failure to act. To render such procedures effective, cooperation between ISPs and LEAs authorities should be strengthened.

Finally, the respondents supported the creation of a European Centre dedicated to the fight against online CSAE, as outlined in the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse. The Centre will facilitate CSAE prevention and enhance cooperation in delivering justice not only within the EU but also working with jurisdictions outside of the EU. Stakeholders raised that the operational activities and methods of the European Centre remain unclear and should be defined. To this end, the Centre would benefit from an EU-wide set of updated terminology and definitions.

Stakeholders' views (case study interviews[111]) on problem driver 2 (Different legal frameworks and their effect on investigation and prosecution)

As a result of the conducted case study interviews, the consulted law enforcement and judicial authorities highlighted the following needs with regards to legislative policy measures about the adequate legal framework and its effect on investigation and prosecution:

[111] Four case study interviews with national stakeholders from Germany, Italy, the Netherlands and Romania have been conducted online. The interviews involved key ministries, JAs, LEAs and national CSOs and aimed at the collection of their views on key problems affecting the fight against CSAE, as well as the feasibility/functioning of identified policy measures and related impacts. In total, 18 stakeholders have been consulted during the case study interviews.

- *Replace the concept of "child pornography" with "child sexual abuse material (CSAM)" / Replace "child pornography" with child sexual exploitation material" (CSEM).* At the same time, one JA, one NCA and one CSO argued that a recast CSAE Directive should include two separate definitions of CSAM and CSEM according to the specific content they refer to. In their view, inclusion of just one overarching definition could create misunderstanding in the transposition of the CSAE Directive at the national level.
- *Pointed to the need to ensure prohibition of manuals that contain instructions for offenders on how to groom or sexually exploit children.*
- *Require the Member States to establish a common minimum threshold for the age of sexual consent*. Along the same lines, two NCAs pointed out that a common definition of a minimum threshold for the age of sexual consent would at least minimise the risk that offenders exploit differences in national laws to perpetrate CSAE offences in countries where lenient penalties are in place.
- *A couple of interviewees also stressed the need to remove any distinction between above/below the age of sexual consent.* However, one NCA pointed out that introducing this measure might be challenging in terms of political feasibility because, due to differing cultural views and domestic debates, the age of sexual consent is given greater weight in some Member States than in others.
- *Require the Member States to establish minimum rules for CSAE offences "perpetrated through tech-facilitated or tech-enabled means.* However, one NCA highlighted that the CSAE Directive shall remain "tech-neutral" in terms of how CSAE offences are defined, and that the threats posed by the use of technological instruments shall be addressed through adequate prevention measures.
- *Require the Member States to provide for an aggravating circumstance for CSAE offences "perpetrated through tech-facilitated and tech-enabled means"*. However, a few argued that including an aggravating circumstance for CSAE offences perpetrated online could be relevant though not necessary, and that online offences should be on par with those that occur offline. Also, one LEA further remarked that any aggravating circumstances should not go so far in terms of higher penalties so to lead an offender to opt for engaging in offline CSAE. Finally, one LEA and one NCA specified that the national legislation in their Member State already provides aggravating penalties for crimes perpetrated through tech-facilitated means against children who are below the age of sexual consent.
- *Require the Member States to ensure that any statute of limitations commences from the victims' age of majority.*
- *Prohibit the statute of limitations for CSAE offences.*
- *Require the Member States to ensure adequate training of professionals in charge of investigating and prosecuting CSAE offences,* while (one) LEA representative remarked the necessity to invest on the recruitment of new staff to deal with the need to assess the increasing volume of reported CSAM. Also, one CSO further specified that training courses shall involve also other stakeholders, such as hotline analysts, who could have a supportive role in the identification and assessment of CSAM.
- *Mandate employers to request information on criminal convictions during the recruiting process for any activities involving direct and regular contact with children, including volunteers.*
- *Require, on a mandatory basis, professionals and persons working with children to report CSAE offences.* One of the CSO pointed out that, sometimes, reporting mechanisms are burdensome, hence preventing professionals to report CSAE offences while one LEA suggested that parents shall be included in the group of mandated reporters, as sometimes they refrain from reporting due to shame or reluctance. Finally, four NCAs stated a mandatory requirement for professionals working with children to report CSAE offences would be too strong whereas capacity building initiatives would be needed to improve skills of professionals working with children to understand the signs of sexual abuse suffered by children.

Stakeholders' views (final workshop[112]) on investigation and prosecution of CSAE offences

Positive impacts are expected in particular from:

- A common understanding of what child sexual exploitation material is and what is covered;
- A common minimum threshold for the age of sexual consent;
- An obligation to run any statute of limitations from the victim's age of majority;
- An obligation for background checks.

Participants raised concerns regarding:

- The dissuasive effect of a ban for manuals that contain instructions for offenders;
- Difficulties in establishing reporting systems tailored to different groups of children;
- Mandate employers to require information, an alternative could be having an independent organisation in charge of performing background checks.

*2.2.3 Member States' efforts to **prevent** child sexual abuse and to **assist victims** are **limited**, **lack coordination** and are of **unclear effectiveness***

Prevention efforts

- Limited.
  In relation to the two main types of prevention efforts described in section 2.1.:
  - Prevention efforts to decrease the likelihood that a child becomes a victim. **Awareness raising[113] and training** is limited in availability, particularly to organisations and persons that come in regular and direct contact with children as part of their jobs or vocational activities, in addition to carers and parents. A vast majority of the abuse occurs in the circle of trust of the child. At the same time, those in regular and direct contact with children should have the knowledge and tools to ensure that children do not become victims, given their proximity to the child.
  - Prevention efforts to decrease the likelihood that a person offends.
    Research into what motivates individuals to become offenders is **scarce and fragmented**. This current lack of research makes it difficult to put in place effective programmes before a person offends for the first time, in the course of or after criminal proceedings, both inside and outside prison. As a result, there are currently very few programmes in place[114].

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[112] A final workshop with Member States' stakeholders, including NCAs, LEAs, JAs, CSOs and hotlines from 21 Member States, had been held online on 4 November 2022.

[113] The Commission- funded network of Safer Internet Centres is a good example. It raises awareness on online safety and provides information, resources and assistance via helplines and hotlines on a wide range of digital safety topics including grooming and sexting.

[114] For an overview of prevention programmes in the EU and third countries, see Di Gioia R., Beslay, L. (2018) Fighting child sexual abuse: prevention policies for offenders – Inception Report, EUR 29344 EN, doi: 10.2760/48791

- Uncoordinated. Multiple types of stakeholders need to take action to enact a preventive approach that delivers results. This includes public authorities, the research community, NGOs, and providers of online services used by children. The various types of practitioners in this field do **not communicate sufficiently** with each other and with researchers on the effectiveness of the programmes, lessons learned and best practices; **language** can be a further barrier. Expertise and resources to establish and implement such initiatives are not evenly distributed in the EU, and successful programmes are mostly local endeavours. There are **overlapping efforts** in some areas, e.g. Member States designing similar programmes and campaigns in parallel[115], whereas other areas, such as reaching out to potential offenders, are **not sufficiently addressed**.

Unclear effectiveness. The few programmes that exist are **rarely evaluated** to assess their effectiveness and usability[116]. A recent systematic review of the published empirical literature on child sexual abuse perpetration prevention interventions found **only five** published evaluation studies, and these were methodologically limited (e.g. four examined the same intervention only on adults in Germany, and the other one focused only on children aged 5 to 12)[117]. The difficulty to assess the effectiveness of both prevention measures and assistance to victims efforts is compounded by the failure by Member States to systematically collection statistics on the trends in the area of child sexual abuse and exploitation. This is likely linked to the need felt by Member States to make allocation choices in relation to the resources available to fight such crime. In the *absence of an obligation to collect statistics in the 2011 CSA Directive* (which the Commission had proposed at the time but which was refused by Member States) only encourages Member States to set up mechanisms to collect trends and statistics, in recital (44)), Member States have neither established targeted mechanisms nor devoted sufficient resources to achieve this objective.

Assistance to victims' efforts

- Limited. Victims of CSA do not always receive the **tailored and comprehensive assistance** required[118], such as support in trying to stop the sharing and distribution online of the images and videos depicting their abuse, which perpetuates the harm.
- Uncoordinated. Victims of CSA require comprehensive support that brings together all relevant sectors, including health, legal, child protection, education and employment. Such **coordination** between relevant actors within and between Member States is lacking. The existing initiatives do not systematically make use of existing best practices and lessons learned in other Member States or globally. This translates into **information gaps** on help resources, gaps in specialised support, and **overall inefficiency** of efforts.

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[115] Di Gioia, R., Beslay, L., 'Fighting child sexual abuse-Prevention policies for offenders, 3 October 2018.
[116] *Ibid.*
[117] Seto, M.; Letourneau, E.; Overview of perpetrator prevention evidence and existing programmes, October 19, 2021.
[118] Unicef, Action to end Child Sexual Abuse and Exploitation: A Review of the Evidence 2020, 2020.

While the **digitalisation of justice** has led to positive results in some cases, access to justice was not improved for all victims of crime, in particular vulnerable victims. This finding was also echoed in the impact assessment for the recent Commission proposal on digitalisation of justice, which indicated that victims risk being deterred from exercising their rights or being unable to do so due to a lack of digital tools[119] or to limited accessibility of the IT resources in case victims are persons with disabilities.

- Unclear effectiveness. There is little data on whether CSA victims have access to appropriate support, and existing research suggests that the level of satisfaction with support received is low[120].

Box 8: main sources of evidence on current efforts on prevention and assistance to victims

The CSA Directive requires Member States to put in place prevention measures of programmes of the two main types described in section 2.1.1. (i.e. programmes focused on children or on possible offenders), as well as assistance to victims measures. The Commission has been **monitoring the transposition of the CSA Directive since 2013**, when the deadline for Member States to transpose it expired. One of the main challenges for Member States concerns the transposition of the articles concerning **prevention and assistance to victims**[121].

Member States have generally struggled to put in place the required prevention programmes or measures, in particular those for offenders and for people who fear that they might offend, as well as assistance to victims programmes. In some cases, these **programmes have not been put in place yet and in others they are in place but they do not fully comply with the requirements of the Directive**. The Commission organised six dedicated workshops in 2018 and 2019 to support Member States in the transposition of these and other provisions and better understand the challenges.

These workshops, together with additional bilateral exchanges between the Commission and Member States, revealed a need for **more structured and continuous support**, as some aspects of prevention and assistance to victims have not been traditionally an area of focus for Member States' action in the fight against CSA. The shortcomings typically originate in a **lack of expertise in relevant areas, as well as difficulties in communication and coordination between key actors**, e.g. different ministries. In particular when it comes to measures targeting (potential) offenders, there remains significant room for improvement.

In addition to the evidence gathered through monitoring the transposition of the Directive and supporting its implementation, the **feedback from stakeholders** during the consultation activities, in particular NGOs focused on child's rights, shows the need for improving awareness and education of children, parents, and caregivers. This feedback

[119] SWD (2021) 392 final, 1.12.2021, p. 14.

[120] For example, a recent study by the Dutch hotline EOKM shows that 81.7% of the boys who had been victims of sextortion and were in touch with a counsellor were not satisfied with the support received.

[121] Report from the Commission assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, COM(2016) 871 final.

also included the need for improving the availability of effective prevention programmes for offenders and persons who fear that they might offend, as well as the assistance to victims' programmes[122].

Stakeholders' views on problem driver 3 (Prevention of child sexual abuse and assistance to victims)

Regarding CSAE prevention, ***most respondents*** (60%, n=27) ***to the online survey*** considered that the CSAE Directive's implementation has contributed to ***preventing repeated offences against children*** (e.g. stopping offenders from holding professional positions that bring them in regular and direct contact with children), at least to a moderate, large or very extent. Yet, 29% (n= 13 out of 45) of respondents still claimed that the CSAE Directive's contribution had little if any contribution in this regard. Although several stakeholders (44%, n=17) considered that its contribution was moderate or large, the majority of respondents (50%, n=19 out of 38) deemed that the CSAE Directive's implementation only contributed to a small extent, or it did not contribute at all, to preventing abuses of children with disabilities. Similarly, most respondents (59%, n=20 out of 34) considered that the CSAE Directive's implementation had contributed to preventing abuses of children with specific gender needs (e.g. girls, boys, LGBTQI+) to a small extent, or it did not contribute at all. However, according to most respondents, the CSAE Directive has contributed to a moderate, large, and very large extent towards the prevention of child abuses in the context of migration (53%, n=17 out of 32), the uploading, access to, and dissemination of CSAM (71%, n=30 out of 42), and the dissemination of material advertising the organisation of travels to commit CSAE (66%, n=23 out of 35). Further, most of respondents (64%, n=25) considered that the implementation of the CSAE Directive has contributed to preventing first-time offences against children (e.g. through intervention programmes to persons who fear they might offend) to a moderate, large or very large extent. Also Also, some respondents (n=4) highlighted that initiatives or measures targeting potential offenders are still insufficient, and that they are often the result of independent actions taken by the single CSO, rather than a direct result of the CSAE Directive implementation.

Most of the survey respondents (77%, n=19 out of 53) considered that the CSAE Directive's implementation has contributed to ***facilitating access by child victims to assistance and support measures*** available to them (e.g. legal remedies and appropriate specialist protection measures) at least to a moderate, or to a large or very large extent. Some survey respondents reported that support services are made available as long as necessary (n=8), or that the period is determined on a case-by-case basis (n=2). Moreover, most of the survey respondents (51%, n=27 out of 53) considered that the CSAE Directive's implementation has contributed to ensuring that victims of CSAE do not suffer additional trauma and harm from participating in criminal investigations and proceedings from a large to a very large extent. However, some survey respondents (n=5) commented that many of the assistance and protection services available to CSAE victims were already in place before the implementation of the CSAE Directive. Survey respondents (84%, n=49 out of 58) also considered that efforts at the EU level against CSAE would benefit from additional EU training for JAs and LEAs working with victims of CSAE, from a large to a very large extent.

Most of the LEAs responding to the online survey confirmed they frequently cooperate with other LEAs (92%, n=12 out of 13) and JAs (84%, n=11 out of 13) in their Member State in relation to CSAE cases. According to respondents, main cooperation mechanisms facilitating coordination of national actors concerned with the fight against CSAE (e.g. including, among others, ad-hoc memorandum, regular exchange of information, ad-hoc cooperation agreement) are available in their country to ***facilitate coordination of national actors concerned with the fight against CSAE.*** As to cooperation with authorities in other countries in relation to CSAE, it mainly occurs with LEAs (39%, n=20 out of 51), competent authorities (34%, n=17 out of 52) and JAs (22%, n=11 out of 51).Some respondents (n=5) also pointed to the role played by the International Association of Internet Hotlines (INHOPE) Network in facilitating cross-border cooperation with third countries' hotlines and LEAs.

[122] Targeted online roundtable with NGOs and feedback from open public consultation (see annex 2).

With regard to the ***effectiveness of prevention measures, participants to the targeted interviews*** pointed to education initiatives and awareness-raising activities as the major areas where the CSAE Directive has shown a positive contribution. However, one interviewee claimed that national budget and effort are still too much focused on the repression side of the fight against CSAE, with limited investments in prevention measures. Another interviewee emphasised that, due to insufficient resources available at the Member State level, prevention measures are usually targeted at very specific audiences and lack a comprehensive approach to CSAE prevention. For instance, most secondary prevention initiatives are not targeted at the right audience (e.g. mid 65 years old men are not usually considered, while they represent a significant share of all offenders). Finally, some interviewees pointed to the insufficient offer of initiatives aimed at the prevention of online CSAE offences, which, according to the interviewees, is a consequence of the inadequate coverage of such offences within the CSAE Directive.

As a result of the four case study interviews with national stakeholders from Germany, Italy, the Netherlands and Romania, the following legislative policy measures related to prevention and assistance have been identified:

- ***Require Member States to ensure the protection of child victims with special needs during criminal proceedings.***
- ***Require the Member States to establish a formal referral mechanism to ensure prompt referral of child victims to the most appropriate services.***
- ***Require Member States to ensure adequate prevention of CSAE offences against children with special needs.*** More precisely, one CSO representative emphasised that effective prevention policies against CSAE should define special measures for children with disabilities as they face higher risk of becoming CSAE victims. Another CSO representative pointed out the need for sexual education of children with special needs, adding that, in his Member State, it will likely become mandatory for schools to deliver, upon parental consent, sexual education programmes for children with special needs.
- ***Require the Member States to ensure that hotlines have a clear legal mandate to act as a formal body entrusted to receive, view and assess reported CSAM***. Two CSOs highlighted that a clear legal mandate for national hotlines would improve the effectiveness of their cooperation with LEAs. One CSO stressed that currently the national hotlines are subject to different rules across the Member States, including on the type of CSAM contents that hotlines can view, assess and report. This led to fragmentation and discrepancy of data collected by different national hotlines. Therefore, in their view, a legal mandate that clearly states the type of data that can be collected by different national hotlines across the Member States would allow comparability of data on reported CSAM collected by different national hotlines, while contributing towards improved hotlines' cooperation. Finally, another CSO stressed that, at the minimum, hotlines should be legally allowed to proactive search for CSAM/CSEM content upon request from child victims.
- ***Require the Member States to establish a National Rapporteur or equivalent mechanism.*** Any measures aimed at facilitating the collection of national data would be welcome as such measures would allow for a comprehensive and comparable overview of the CSAE phenomenon. Moreover, a couple of interviews underlined that the independence of the national rapporteurs would allow them to better perform their functions, including getting data from all relevant national actors as well as strengthening the credibility of reports developed the national rapporteur. One CSO strongly supported this measure as it would favour the establishment of a centralised database including granular statistics and data that are currently stored by different institutions. However, one NCA stressed that the mandate of national rapporteur should cover all forms of violence against children – and not being limited to sexual violence - as this allows comparability of data on the risk factors faced by children victims of any forms of violence.
- ***Establish an EU anti-CSAE Coordinator (ACC)*** Two CSOs stressed that the ACC would be suited to coordinate all Member States' actions and projects concerning CSAE. However, one CSO warned against the risk that the role played by ACC may overlap with the role of similar authorities (i.e. European Centre to prevent and counter child sexual abuse) that are currently foreseen in the proposal for a regulation to combat and prevent online child sexual abuse. In order to avoid this risk, two NCAs suggested that the tasks of the EU ACC could be assigned to the EU Centre to prevent and counter child sexual abuse when it is established.

Stakeholders' views (final workshop) on assistance, support and protection of CSAE victims

Positive impacts are expected in particular from:

- Adequate medical/psychological assistance to CSAE victims;
- Measures specifically tailored to children with specific needs during criminal proceedings;
- Access to existing schemes of compensation for CSAE victims;
- Establishment of a formal referral mechanism aimed at prompt identification of CSAE victims, as well as providing them with adequate assistance services.

Examples of good practices included: the Barnahus model, online reporting mechanisms (e.g. chatbot), victims' funds for compensation, and compensation to victims not dependent on the conviction of offenders;

Concerns were raised regarding support after the age of majority, funding availability for compensation schemes and support for children in migration.

Stakeholders' views (final workshop) on prevention of CSAE offences

Positive impacts are expected in particular from:

- Programmes specifically tailored to children with specific needs, ensuring flexibility in the wording and the listing of children with special needs;
- Mandatory measures to block access to web pages containing or disseminating CSAM/CSEM accompanied by removal and take-down processes of CSAM/CSEM (which are currently included in the proposal for a Regulation on combating and preventing online CSAE);
- Clear legal mandates for national hotlines, with appropriate funding for IT infrastructures needed to detect CSAM/CSEM;
- Establishment of National Rapporteurs or equivalent mechanisms, however, ensuring that national existing coordination mechanisms are appropriately taken into account.

Most participants, when asked about the expected effectiveness of the establishment of an EU anti-CSAE Coordinator (ACC), replied that they did not know and that they were not able to answer. However, some of them warned against risks of duplication of tasks and responsibilities at the EU level with other existing EU bodies.

Two Member States (NCA of EE and PT) flagged that it is paramount that any measures do not conflict with other proposed EC tools (i.e. the Proposal for a Directive on Combating Violence Against Women and Domestic Violence).

Finally, the large majority (68%, n=26 out of 38) of the ***stakeholders responded to the public consultation*** acknowledged (and deemed as very high, high or moderate) the contribution of the CSAE Directive regarding the support and assistance provided to victims. Also, according to 71% (n=23 out of 32) of respondents, the CSAE Directive contributed to ensuring that victims are not punished for their involvement in criminal activities that they may have been compelled to take part in, or were involved in unknowingly, from a moderate to a very large extent. Moreover, 76% of respondents (n=19 out of 25) agreed that the CSAE Directive contributed to ensuring protection of victim's privacy, identity and image during criminal proceedings to a moderate, high or very high extent.

With regards to the issue of child-friendly and sensitive justice, respondents supported a revision of the CSAE Directive towards ensuring child-friendly justice systems. This means that children should receive information about their rights and their involvement in the proceedings in a format and language that they can understand and that is tailored to their specific needs and age. To this end, authorities should, inter alia, adopt approaches that take into account the experienced trauma and gender-specific needs of the victims.

Considering the prevention of CSAE, many respondents provided positive feedback (very high and high extent) regarding the contribution of the CSAE Directive towards the removal/blocking of webpages containing or disseminating CSAM (44%, n=20 out of 45). Positive feedback was also provided regarding the contribution of the CSAE Directive towards the establishment of prevention programmes targeted at people who have not committed a crime but fear they may offend against children (41%, n=15 out of 37).

Many stakeholders state the need for awareness-raising activities to avoid children becoming victims of CSAE (e.g. through social campaigns and workshops) targeting the public and professionals working with minors, as well as for education programs in schools across the EU, including on themes such as sexual consent, gender equality, and online safety. Prevention initiatives targeting children should be age-appropriate and take into account gender-specific needs. Likewise, special attention to specific needs should be paid when designing prevention programmes for foster children, children in institutional care or living in domestic environments posing risks of becoming victims. Further, stakeholders expressed the need for mandatory rehabilitation programmes.

2.3 How likely is the problem to persist if there is no EU level action?

The problem of CSA is likely to continue **worsening** in the absence of additional EU level action, driven by the issues identified in the problem drivers section.

In view of the ongoing digital transition of society, both children and offenders will keep spending even more time online. As such, we can expect online threats related to CSAE to continue to increase and evolve[123].

As children will be increasingly exposed to predators online, **prevention** will play a particularly important role. Parents and children will need the knowledge and tools to protect themselves. Without a solid and structured approach to awareness raising and education to benefit children, parents and caregivers, children will continue to fall victim to sexual abuse in greater numbers. This concerns both online abuse, which may be followed by crimes committed offline, but it applies also to purely offline abuse. While awareness of the problem is currently on the rise in a number of Member States when it comes to abuse in organised sports or other activities targeting children, an effective and systematic prevention response is still lacking. Whether sexual abuse takes place offline or online, children will therefore often continue to lack information on where to seek help, and the adults around them will not be in a position to notice or remedy the problem.

On the opposite side of the problem, people who are attracted to children will continue using the online space and related technological tools to find victims and evade law enforcement. Those who may want to seek support to overcome this attraction will often not dare to come forward for fear of legal consequences and social stigma. Instead, they will likely continue to seek information online, and often become drawn in by other predators into committing crimes, rather than finding professional help. Therefore, initiatives addressing more apparent aspects of prevention, such as awareness raising

[123] Westlake, B. (2020), The past, present, and future of online child sexual exploitation: Summarizing the evolution of production, distribution, and detection. Available at: link.

initiatives, will not be enough to address the entire problem, and the CSA issue is likely to continue growing.

Increased online activity and consequent exposure of children to predators will unavoidably result in **more victims**. Victims will continue having difficulties to access **long-term assistance**. Without more developed support systems in all EU Member States, the situation of victims will continue to vary. However, even in Member States with more advanced support systems, many victims will be left to face the psychological, physical and economic consequences of CSA without proper assistance, once the immediate proceedings around the crime are closed. In cases where the crime is never reported, victims and their families may not know where to seek help, or that they should be entitled to it.

Divergences in the criminalisation of offences across the Member States will persist, and consulted experts stressed that there are **differences in the classification of the offences across Member States** (i.e. some are considered misdemeanours and not felonies, especially in cases of possession of child sexual abuse material), which may result in lower prioritisation of action and restrict the availability of tools for LEAs [124].

3. WHY SHOULD THE EU ACT?

3.1 Legal Basis

The appropriate legal bases are the same ones as for the original CSA Directive: Articles 82(2) and 83(1) TFEU.

Article 82(2) enables judicial cooperation in criminal matters, enabling Parliament and Council to establish minimum rules on, among other aspects, the rights of victims of crimes. Article 83(1) allows for the adoption of 'minimum rules concerning the definition of criminal offences and sanctions', including in the area of child sexual exploitation. All proposed options envisaged in the present Impact Assessment are based upon these two articles. The options address gaps in criminalisation and facilitate the mutual recognition of judgments and judicial decisions across Member States by further aligning minimum standards in relation to the definitions of crime and offenses, improving the system of transmission of information on previous offences between Member States and further clarifying the minimum rights to be granted to child victims.

3.2 Subsidiarity: necessity of EU action

The EU should take action in protecting children against child sexual abuse and exploitation only if and in so far as the objective cannot be sufficiently achieved by the Member States and can be better achieved by the Union.

[124] Commission meeting report (2019), Expert Workshop on current and future challenges in the fight against child sexual abuse.

As already highlighted by Council Framework Decision 2004/68/JHA and Council Decision 2000/375/JHA[125], a satisfactory improvement as regards the rules applicable to countering child sexual abuse and exploitation cannot be sufficiently achieved by Member States acting alone or in an uncoordinated way. In the absence of EU action, Member States would have to keep adopting individual national laws to respond to current and emerging challenges, with the likely consequence of fragmentation and diverging laws likely to negatively affect the effective fight against child sexual abuse. The inherent cross border nature of child sexual abuse offenses is not a novelty: phenomena such as travelling child sex offenders, who cross borders to regain contact with children, as well as the spreading of online child sexual abuse material, have been known for decades.

In conclusion, Member States acting individually cannot effectively (i) prevent the commission of child sexual abuse offenses in their territory, (ii) investigate and prosecute child sexual abuse crimes with a cross-border dimensions, and (iii) identify and adequately provide assistance to victims.

Stakeholders' views on the necessity of EU action

The majority of respondents who took part in the online survey conducted as part of the Study confirmed the necessity of additional EU intervention to fight against CSAE. Specifically, the three main areas where EU intervention is deemed necessary (to a large and very large extent) are the establishment of: (i) additional EU funding for the fight against of child sexual abuse and exploitation in the EU (95%, n=56 out of 59), (ii) common minimum standards for ICT companies to report cases of online child sexual abuse and exploitation (93%, n=51 out of 55), (iii) additional EU trainings for judicial and LEAs working with victims of child sexual abuse and exploitation (85%, n=49 out of 58). Furthermore, additional EU action is believed necessary to ensuring a common definition of CSAM (n=5) and common rules to fight against CSAM related offences (n=11), higher level of harmonisation of procedures and penalties during cross-border investigations (n=12) as well as common standards for the use of adequate tools to detect CSAE, including its online format (n=4).

Furthermore, following 35 individual interviews (both during the evaluation and the impact assessment phase) with a broad range of the stakeholders (incl. EU bodies/agencies, international bodies, EU and international level CSOs, academia, national authorities and industry) opportunities for both legislative and non-legislative EU action were raised. As concerns legislative action, interviewees raised the possibility for the EU to adopt new EU rules on online dimensions of CSAE to strengthen internet safety for children. Four interviews raised the point that the terminology of the CSAE Directive should be revised to ensure that definitions therein are up-do-date. For instance, the term ‘child pornography’ should be replaced with ‘child sexual abuse material’. Also, one interview highlighted the need to include in the CSAE Directive specific provisions on data collection requirements for the Member States.

The large majority of respondents (94%, n=45 out of 48) to the public consultation agreed that the fight against CSAE continues to require action at the EU level, and it fully respects the subsidiarity principle.

3.3 Subsidiarity: added value of EU action

Facilitate investigation and prosecution

CSA, in particular online offences, frequently involve situations where the victim and the abuser are in different jurisdictions, within the EU and beyond. As a result, it can be very

[125] Council Decision of 29 May 2000 to combat child pornography on the Internet, 2000/375/JHA.

challenging for the authorities of a single country to have access to all the information needed to effectively investigate and prosecute offenders, as well as to swiftly identify and recue victims from ongoing abuse. EU-level intervention enables cooperation between Member States notably by setting minimum standards and ensuring that the same behaviours are criminalised across Member States.

Facilitate and support Member States' action on prevention and assistance to victims
While Member States are best placed to assess the gaps and needs, and implement action in their local context, they often lack information on what prevention and assistance to victims programmes are available, how effective they are, and how to approach their implementation in practice – who needs to be involved, what are the technical and legal pre-requisites and estimated costs. EU level action can provide a forum for exchange of necessary information and expertise to avoid duplication of efforts and blind spots. EU action can also help identify best practices and lessons learned at national level (from Member States or third countries) and incorporate them into EU-level initiatives, so that other Member States can benefit from them. These best practices can then be incorporated as needed into EU law to further facilitate their application across the EU.

Stakeholders' views on the added value of EU action

Considering the effectiveness of the EU action in the field of CSAE, the large majority of respondents (88%, n=44 out of 50) to the public consultation[126] agrees that an EU-wide cooperation framework is necessary to effectively combat this crime. At the same time, following 35 individual interviews (both during the evaluation and the impact assessment phase) with a broad range of the stakeholders (incl. EU bodies/agencies, international bodies, EU and international level CSOs, academia, national authorities and industry), the following outcomes have been obtained with regards to EU added value. Interviewees agreed that the CSAE Directive provided for a legal framework that stimulated the adoption of rules against CSAE across the Member States. One interviewee pointed out that the minimum common rules provided by the CSAE Directive represent the necessary precondition towards an effective detection, investigation and prosecution of CSAE offences, which have often cyber and cross-border elements. Several interviewees highlighted that the CSAE Directive facilitated cross-border cooperation for the taking down of CSAM, which might not have happened otherwise.

4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1 General objective

The general objective is to improve the **identification, protection and support of victims** of child sexual abuse, ensure **effective prevention**, and **facilitate investigations and prosecution.**

[126] In the context of the study, a public consultation in all EU official languages concerning the evaluation of the CSAE Directive and a preliminary discussion on the objectives of a policy intervention to review it was carried out via the Commission's tool EU Survey. It ran between 20 April 2022 and 13 July 2022. Overall, 50 responses were received from stakeholders in 23 countries, including 18 Member States (AT, BE, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, MT, NL, PT, SE and SI) and five third countries (Canada, Iran, Thailand, UK and US). In addition to the replies to the PC questionnaire, 20 written contributions were received, including eleven contributions from CSOs, three from representatives of business organisations, four from ICT companies, one from a legal expert and one from a EU citizen.

4.2 Specific objectives

There are 3 specific objectives that address the problem drivers identified in section 2.2.:

1. Ensure the **criminalisation** of all forms of online child sexual abuse and exploitation. This objective is of particular relevance to problem driver 1, as the increased online presence of children, as well as the latest technological developments, raise challenges for law enforcement while creating new opportunities for abuse. It is important to ensure that national rules on investigation and prosecution are efficient in fighting child sexual abuse and exploitation.
2. Ensure that **national rules on investigation and prosecution** allow for effective action against child sexual abuse and exploitation. The effectiveness should be evaluated by setting up mechanisms to monitor the effectiveness of national rules through a series of key indicators and statistics. This objective is of particular relevance to problem driver 2, as the different legal frameworks in place in the Member States concerning investigation and prosecution do not always allow for effective action against child sexual abuse and exploitation.
3. Improve **prevention** as well as protection, support and assistance to victims, require Member States to systematically collect statistics on child sexual abuse, and ensure an **increased coordination** among different Member States and, at the national level, among all the actors involved. This objective is of relevance to problem driver 3, as Member States' efforts on prevention of CSA and assistance to victims are limited, lack coordination and are of unclear effectiveness. This objective therefore reflects the need to create a framework, with comprehensive and **effective prevention programmes** as well as appropriate assessments of the harm suffered by victims, and to ensure proper care as needed, taking into account the specific needs of the victim.

<u>Contribution to relevant SDGs</u>
The three specific objectives directly contribute to achieving the most relevant SDGs for this initiative, 5.2, eliminate all forms of violence against women and girls, and 16.2, end abuse, exploitation, trafficking and all forms of violence against children.

Specific objectives 1 and 3 also directly contribute to achieving other SDGs of relevance, such as SDG 1 on poverty and SDG 3 on health, by reducing the proliferation and effects of CSA and ensuring support to victims where it is currently missing.

Specific objective 3 helps achieve SDG 4 on education (e.g. through the awareness raising campaigns or the exchange of related best practices on offender prevention including on offenders who are children).

5 WHAT ARE THE AVAILABLE POLICY OPTIONS?

5.1 What is the baseline from which options are assessed?

In the **baseline scenario** no further EU policy action is taken. The following section assesses how, in the absence of the initiative, the existing and already planned policy instruments would address the problems and objectives identified in SDG 4. It is important to note that the baseline scenario might differ depending on whether the proposed CSA regulation is adopted and enacted as proposed by the Commission or not.

The objectives of the Recast are aligned with, and complementary to, those of the proposed CSA online regulation. Both instruments aim to effectively prevent and combat child sexual abuse in the EU, in line with the 2020 Strategy. They do so by acting, respectively, on two complementary dimensions of child sexual abuse.

The proposed regulation governs the conduct of private actors, whose services are increasingly used by perpetrators on the digital single market. It aims at ensuring that providers of online services take responsibility for keeping children safe on their platforms, by assessing the risk of misuse of their services for the purpose of child sexual abuse, taking mitigating measures, reporting, removing, and blocking online CSA, as well as by detecting it proactively, where needed and if ordered to do so by a judge or independent administrative authority.

The proposed Recast of the CSA Directive aims at setting the appropriate legislative framework for the action of national authorities in the field of criminal law. The CSA Directive sets the standards of what is illegal, which then in turn apply also in the context of actions and obligations of private actors as outlined in the CSA online Regulation. In addition, Member States are responsible for the adoption of prevention programmes covering all aspects of the problem both offline and online, for effective investigation and prosecution of child sexual abuse cases, for the criminalisation of related conducts, as well as for the adoption of assistance and support measures for victims.

The need for close cooperation between economic actors and national authorities, as well as the close link between online and offline child sexual abuse (most CSA cases today contain an online component**)**[127] make the two legislative interventions equally necessary and complementary. It is clear that, for example, for public authorities to be able to act and assist the victim, the crime has to be detected and reported. Reporting from online service providers is crucial in this respect (already today, in some Member States, up to **80%** of investigations are only launched due to reports from service providers)[128] and it may prevent future crimes from happening (e.g. if the offender is arrested and granted access to a prevention programme).

Finally, the creation of an EU Agency (the EU Centre) that will act as a knowledge hub on child sexual abuse under the proposal, support the work of the prevention network and ensure coordination among member states, as envisaged in the proposed CSA regulation, can only make the implementation of the Recast Directive more effective.

Because of the close link and complementarity between the proposed CSA Regulation and the proposed Recast Directive, the uncertainty concerning the outcome of the negotiations of the CSA proposal affects the baseline from with the options presented in this initiative are assessed: such a baseline will vary depending on whether the proposed CSA regulation will be adopted as proposed by the Commission.

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[127] Targeted survey of law enforcement authorities, 'Fighting child sexual abuse: detection, removal and reporting of illegal content online' (2021): Two thirds of law enforcement authorities surveyed indicate that over 70% of child sexual abuse cases have an online component.

[128] Targeted survey of law enforcement authorities (see annex 2, section 1).

Regardless of the outcome of the negotiations concerning the CSA proposal, the criminalisation of CSAE offences perpetrated using new and emerging technologies will continue to be insufficient if no action is taken. Emerging trends, such as livestreaming of child sexual abuse and abuse in virtual reality settings, will not be covered by EU criminal law and Member States can be expected to continue to take a divergent approach on their criminalisation, as well as on the definition of CSAM and its circulation in the dark web.

Moreover, there will continue to be variance in national definitions of the age of sexual consent, in statutes of limitation for CSAE-related offences, as well as with respect to the investigative tools allowed in the fight against CSAM and the rules on disqualification arising from convictions. Finally, Member States are expected to continue to face issues in using ECRIS to share requests for information during background checks. These issues will result in persisting legal uncertainties and coordination challenges during cross-border cases due to different prosecution systems in place across the Member States.

National authorities will likely continue to suffer from divergent resources and limited expertise, which in turn prevent them from adequately detecting CSAE. If the proposed CSA regulation is adopted as proposed, the problem of underreporting in the area of CSAE will be partially addressed as a result of the obligations imposed on online service providers. However, high rates of underreporting by victims are expected to persist if no action is taken to ensure that statutes of limitations do not start running before the victim becomes of age and that reporting channels are not only available and child friendly, but also suitable for victims with special needs (e.g. children with disabilities).

These considerations about the shortcomings of the current framework are supported by the feedback provided by stakeholders during the various consultations. More than 80% of respondents to a public consultation questionnaire agreed that a potential revision of the CSAE Directive should aim to address specific new and emerging challenges that are not and should be covered at the EU level, such as the monetisation of CSAM and novel ways to carry out child sex tourism including live-streaming of abuse, the threats posed by ongoing technological developments including deep fakes and AI-child sex robots, and the metaverse, as well as the increasing online dimension of CSAE.

Moreover, 86% of stakeholders support the creation of a national authority in charge of coordinating the effort against CSAE at the national level. 73% called for harmonisation of the age of sexual consent, and more than 90% asked for harmonisation of the investigative tools and techniques allowed to combat CSAE.[129]

1. Legislation

Existing and upcoming EU legislation is not likely to effectively address challenges. The 2011 Directive is not able to capture the new specificities of the online environment, and the proliferation of CSA is expected to continue in line with future technological developments. In addition, the implementation of the Directive has shown that coordination among Member States is still suboptimal and that not all Member States make

[129] Annex 2 section 4.2, p. 18.

use of all effective investigation techniques allowed by the legislation. The Proposed Regulation to Prevent and Counter Child Sexual Abuse would address several issues concerning the proliferation of online child sexual abuse, yet, as its definitions of online child sexual abuse rely entirely on the 2011 Directive, the protection of children will not be fully ensured without potential changes to such a Directive. In other words, the definition of child sexual abuse material and solicitation enshrined in the Directive constitutes the foundation of all the obligations imposed on online service providers (i.e. the obligation to assess and mitigate the risk of online child sexual abuse on their services, to report it and, if ordered to do so, to detect it, as well as to remove child sexual abuse material or block access to it). If the Directive is not updated to ensure that current trends in the field of child sexual abuse are covered, providers will not be obliged to protect children from these new manifestations of online child sexual abuse under the proposed regulation.

In addition, if there is no change to the 2011 Directive, incoherence will emerge with upcoming legal texts in related areas, for example the Directive on violence against women, which adopts specific provisions on offenses and level of penalties for certain types of violence against women and girls and provides that the statutes of limitations for certain offences committed against girls commence at the earliest once the victim has reached the age of majority.

Finally, the challenges that emerged in relation to the implementation of the 2011 Directive have shown that coordination between public authorities among and within Member States, as well as prevention and protection, support and assistance to victims measures, are likely to remain suboptimal in the absence of a legislative intervention further detailing the current minimum standards and enhancing the obligations imposed on Member States to the extent possible under the Treaties. If the CSA regulation is adopted as proposed, the exchange of information on the online trends and prevalence of this crime, as well as on the prosecution of cases launched thanks to reporting by online service providers, will be facilitated by the reporting requirements enshrined in Articles 83 and 84 of the proposal. However, the information collected in accordance with those Articles will cover only part of the picture, as it will be limited to the activities conducted under the proposed CSA regulation itself, and to criminal investigations and proceedings linked to reporting by online providers in accordance with such a proposal.

Analogously, if the CSA regulation is adopted as proposed, the establishment of the EU Centre and of national Coordinating Authorities will facilitate the exchange of information and the coordination among Member States in relation to any activity carried out under the proposed CSA regulation itself. However, the mandate of these authorities is limited by the scope and objectives of the proposed CSA regulation.

For reasons linked to its internal market legal basis, the proposed CSA regulation is addressed mostly to online service providers and does not contain obligations for Member States to adopt measures on protection, prevention or assistance and support to victims. Victims are only attributed the right to seek the support of the EU Centre in obtaining information on the online dissemination child sexual abuse material concerning them and in seeking its removal. Hence, the need to strengthen the prevention, protection, support and assistance to victims' mechanisms enshrined in the Directive will persist

independently of the adoption of the CSA regulation. Provisions on prevention programmes, as well as measures on assistance and support to victims to be adopted by Member States, are enshrined in the Directive – and will be strengthened in its recast. Hence, it will be for the national contact points established under such a recast to collect information and facilitate coordination and exchanges of best practices in these areas. If the proposed CSA regulation is adopted as proposed, Member States might chose to appoint the same authority as national contact point under the recast Directive and Coordinating Authorities under the CSA regulation.

More in detail, the added value (i.e. what they can achieve in preventing and combatting CSA) and the limitations of the existing and upcoming EU legal instruments are the following:

Proposed horizontal instruments

The main proposed horizontal instruments in this regard (such as the Victims Right Directive) address some of the problems and challenges but, given the specific challenges of CSA, can only provide limited and partial solutions.

The Victims' Rights Directive and its Revision

- **What it can achieve** in the fight against CSA: as a horizontal instrument, the Victims' Rights Directive covers the assistance, support and protection to all victims of crime. The upcoming revision of the Victims' Rights Directive is expected to further improve victims' access to information, to support and protection in accordance with victims' needs, victims' participation in criminal procedure and access to compensation from the offender.
- **Limitations**: Nonetheless, the current or planned legislation will not provide for specific measures that respond more directly to the specific needs of CSA victims.The Victims' Rights Directive contains complementary solutions, in particular in relation to special support and protection of the most vulnerable victims, such as child victims of sexual abuse, it refers to the need to cooperate with other Member States to improve the access of victims to the rights set out in the Directive but it does not contain specific mechanisms to do so. This Directive does not address only CSA victims, for which dedicated mechanisms to facilitate the exchange of best practices, which take into account their specific needs, may be required.

Sector-specific legislation, proposed and existing

The sectoral instruments (the Proposed Regulation to Counter Child Sexual Abuse, the Human Trafficking Directive and its Revision, the Proposal for a Directive on combating violence against women and domestic violence, the Europol Regulation and its Revision) focus on particular aspects of the problem such as online child sexual abuse, which are not a full component of child sexual abuse to provide a comprehensive EU-level solution.

The Proposed Regulation to Counter Child Sexual Abuse

- **What it can achieve** in the fight against CSA: the Proposed Regulation focuses on online child sexual abuse, which is just one component of the various forms of

child sexual abuse. It creates obligations for service providers to detect, report, block and remove child sexual abuse material, and establishes the creation of a new EU Centre which would facilitate the process and can also act as a hub of expertise regarding combating CSA, including with respect to prevention and assistance to victims.

- **Limitations**: the Proposed Regulation is not a criminal law instrument, and does not define the role of Member States and their public authorities in preventing and combating child sexual abuse, or strategies to prevent abuse and to assist victims.

The Human Trafficking Directive and Its Revision

- **What it can achieve** in the fight against CSA: The Human Trafficking Directive has protection measures such as providing for the appointment of a guardian or a representative as well as for safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services
- **Limitations:** Although the Human Trafficking Directive and its ongoing Review contains certain complementary elements to the CSAE Directive and other additional measures, it focuses merely on human trafficking and not the phenomenon of child sexual abuse in its entirety.

Proposal for a Directive on combating violence against women and domestic violence

- **What it can achieve** in the fight against CSA: The Proposal requires the Member States to provide that the statutes of limitations for offences committed against a child covered by its text commences at the earliest once the child victim has reached the age of majority. This is not only necessary to align with the VAW proposal, as explained above, but also crucial in light of the data emerging from research in this area. Children very rarely report their abuse shortly after its occurrence, because of a series of factors, including trauma, shame and the lack of trusted adults in the immediate environment. Recent data by the Australian Royal Commission[130] indicate that most victims of child sexual abuse only report the abuse more than 30 years after its occurrence. Hence, statutes of limitation that would expire shortly after the victim has reached the age of majority are not effective in ensuring that prosecution, investigation and victims' support can be provided.

  Hence, if adopted, the Proposal is expected to lead to clear improvements regarding both domestic and cross-border investigations against CSAE, notably due to strengthened and more harmonised rules concerning statute of limitations for those offences committed against a child covered by the Proposal.

[130] Final report of the Australian Royal Commission on Identifying and disclosing child sexual abuse, 2017 (https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_4_identifying_and_disclosing_child_sexual_abuse.pdf) .

As for assistance to, and support and protection of CSA victims, the Proposal for a Directive on combating violence against women and domestic violence provides for some measures not included in the CSAE Directive. These include guidelines for law enforcement and judicial authorities concerning how to treat children in a child sensitive-manner, a targeted support for victims with specific needs and groups at risk, and a strong role of national bodies to carry out assistance to victims.

The Proposal is complementary in this respect, since it provides for new measures and standards that enhance the rights of victims of gender-based violence, including gender-based victims of CSAE.

- **Limitations:** It does not encompass the full aspect of fighting against child sexual abuse and exploitation, and focuses on more generic elements related to violence, with a specific focus on adult women. The positive effects expected from the implementation of the Proposal will concern only a specific group of CSAE victim, namely those that are in the scope of the Proposal (i.e. victims of violence against women and domestic violence). This difference in scope also addresses the concerns flagged by two Member States about possible overlaps between the frameworks.

The Europol Regulation and its revision

- **What it can achieve:** Europol is able to receive personal data from private parties, inform such private parties of missing information, and ask Member States to request other private parties to share further additional information. These rules would also introduce the possibility for Europol to act as a technical channel for exchanges between Member States and private parties. Such a development would contribute to increasing the level of cooperation between the three aforementioned stakeholders, potentially improving the effectiveness of CSA investigations.
- **Limitations**: in and of itself, the revised mandate of Europol will not provide a comprehensive solution to address CSA online, which requires a multi-faceted approach. Enabling a more efficient exchange of personal data between Europol and private parties is a necessary but not a sufficient condition for achieving this objective.

2. Coordination

The sharing of best practices and expertise between Member States is minimal and unsystematic. The current level of ambition and of collaboration between the various public and private stakeholders results in ad-hoc and temporary solutions and is rarely effective in addressing CSA. As a result, Member States have been facing difficulties in fulfilling some of their obligations under the CSA Directive, which ultimately means that prevention measures are not sufficient to protect children and stop offenders from committing crimes, and victims do not receive appropriate support.

The points down below outline the current limitations that are being faced in terms of EU level cooperation on investigations, prevention, and multi-stakeholder cooperation.

EU level cooperation in investigations

- **What it can achieve** in the fight against CSA: the existing EU level cooperation in investigations has produced significant successes in the fight against CSA[131] and will likely continue to do so. If the proposal is successful, the EU Centre will facilitate the process of detection, reporting and removing online child sexual abuse across Member States.
- **Limitations**: the ability of Europol and law enforcement agencies in the EU to cooperate in investigations is limited by the resources that they can allocate to this crime area. For example, Europol has only been able to examine 20% of the 50 million unique CSAM images and videos in its database[132].

EU level cooperation in prevention

- **Limitations**: currently, the Commission services themselves are supporting the work of the prevention network by coordinating it and providing a secretariat. However, there are limits to the level of support that can be provided, in particular as the network expands. The activities of the network could therefore be constrained to a level that would not allow it to reach its full potential of support to Member States. As for the EU Centre, in addition to its main tasks of facilitating detection, reporting, blocking and removing CSA in accordance with the proposed Regulation, it is foreseen to have a supporting role in coordinating research work, exchanging information and bringing together stakeholders, including for prevention purposes. However, the proposed Regulation is still under discussion and the EU Centre will not be fully operational for several years.

Multi-stakeholder cooperation at EU and global level

- **Limitations**: at EU level, the focus of the EU Internet Forum is to faciliate targeted exchanges between public authorities and online service providers. The Forum is not designed for discussions with a wider variety of stakeholders, including practitioners. Moreover, participation is voluntary and there are no legally binding obligations.

3. Funding

Action using EU funding is mostly project-based, and the uptake of EU funding is not optimal. For example, some Member States do not always make use of the funds available to them to tackle CSA (e.g. through the Internal Security Fund national programmes), possibly due to lack of knowledge on what funding is available and

[132] European Parliament Intergroup on Children's Rights expert meeting on EU legislation on the fight against child sex abuse online, 15 October 2020

where it could be applied. Projects that take place, either national or cross-border, run the risk of replicating what has already been done due to lack of coordination

- **What it can achieve** in the fight against CSA: action using EU funding is likely to continue in the current project-based form, both as calls for proposals as well as research projects. EU-funded projects will continue to facilitate development of e.g. relevant IT tools for law enforcement and interventions aimed at preventing CSA and helping victims.
- **Limitations**: the current project-based efforts would be extended from grant to grant without long-term sustainability. Such long-term perspective may be supported by individual Member States with a national focus, but a comprehensive EU-wide approach and reinforced framework will continue to be lacking. The risk of projects duplicating existing efforts, will still be high; moreover, the update of successful projects will likely remain limited to participating countries.

Baseline costs

In the baseline scenario, the **inefficiencies** in the prevention, investigation and assistance to victims of child sexual abuse are expected to have a negative economic impact on society. A higher number of victims will experience a diminished quality of life, likely resulting also in productivity loss, and will require significant support, putting a strain on public services.

The economic impact on public authorities will depend upon the level of action taken by service providers, which will dictate the number of CSAM and grooming reports received by those authorities. The existing **legal fragmentation and lack coordination** would remain and could act as a barrier to efficiently fight against CSA. In the absence of reforms addressing existing gaps in the legislation and technological developments, the issues would continue, driving up the economic costs for individual Member State entities.

As seen in ***boxes 4 and 14***, the impact of CSA on its victims generates significant costs. Assuming similar costs and prevalence of CSA in the US as in the EU, adjusting for the larger population in the EU, the overall estimated annual CSA costs in the EU at present amount to **EUR 13.8 billion**[133].

5.2 Description of the policy options

The 3 Policy Options described are of an incremental character. They range from Policy Option A, to Policy Option C. All the Policy Options considered aim to solve and tackle the 3 main problem drivers:

[133] Includes direct costs (victims' assistance) and lifelong loss of potential earnings and productivity

- The increased online presence of children, and the latest technological developments, raise challenges for law enforcement while creating new opportunities for abuse

- The different legal frameworks in place in the Member States concerning investigation and prosecution do not allow for an effective fight against child sexual abuse and exploitation

- Member States' efforts to prevent child sexual abuse and to assist victims are limited, lack coordination and are of unclear effectiveness.

Both Options A and B aim to tackle most of the identified problems through gradual changes. Considering the specificities of child sexual abuse, which is considered to have a significant long-term impact on particularly vulnerable victims, Option C includes measures that are expected to have the necessary positive impact in terms of investigating and prosecuting offenders, matching the scale of the threat concerning the cross-border nature of child sexual abuse.

5.2.1 Option A: legislation 1) Targeted legislative adjustments clarifying ambiguities of current framework; 2) ensuring coherence with new instruments; 3) improving quantity and quality of available information.

The first policy option would be to issue certain targeted legislative adjustments which clarify the ambiguities of the current framework, ensuring coherence with new instruments such as the Proposed Regulation to Counter Child Sexual Abuse, and the Proposed Directive on Combating Violence against Women and Domestic Violence, and improving the quantity and quality of available information. In addition, Member States would have to compile and keep up to date a statistical database on child sexual abuse-related offences among the total number of police reports/investigations and court cases.

<u>Legislative adjustments clarifying ambiguities</u>

Member States would have to effectuate punctual amendments to their criminal codes or codes of criminal procedure, based on the following legislative adjustments which the Directive would incorporate:

On pornography depicting a child

- Rules on offences concerning CSAM apply also when CSAM depicts a person appearing to be a child whose age cannot be determined, thereby encompassing both a prevention and countering CSAM aspect, as persons who might actually be children can therefore be better protected against CSAM.

On exemptions from criminalisation

Persons who become aware of the abuse should be able to report it without having to fear sanctions for breaches of professional rules on confidentiality, as for the reasons mentioned before, the child itself may not be in a position to denounce the crime. Also, victims should not be criminalised in any situation. The following elements are proposed:

- providing for an exemption from criminalisation when CSAM is accessed or downloaded for the purpose of reporting it to law enforcement when this is established beyond any reasonable doubt;
- clarifying that Member States can elect not to criminalise the consensual acquisition, possession or production of CSAM by children over the age of consent only if the material is destined for the private use of those children and those children alone;
- clarifying that victims should not be criminalised for possession of materials depicting their abuse.

On compensation claims

- As also highlighted in the stakeholder consultation[134], there is a need to better specify the content of the victims' right to compensation in the context of child sexual abuse and ensuring that compensation takes due account of the damages related to the re-victimisation process arising from the circulation of online CSAM.
- It should also be ensured that victims of child sexual abuse offenses have access to national compensation schemes for the victims of crimes. These targeted amendments would go beyond the content of Article 16 of the Victims' rights Directive, which for the moment only entitles the victim to 'a decision on compensation by the offender', without specifying what aspects should be taken account in the calculation of compensation and whether the victims should be compensated by the state when the offender cannot comply.

On transmission of information on convictions

- Clarify that the transmission of information on convictions between Member States is possible even when there is no consent of the person concerned, if the law of the transmitting states allow it. This would encompass both a prevention and countering CSAM aspect, as potential offenders might already be noticed, thereby preventing any future abuse.

On statute of limitations

- It is important that charges can be brought by the victim once he or she has recovered from the trauma of suffering the abuse, which can take years after it happens, particularly given the vulnerable situation of children.
- Clarifying that the time-limit for prosecution of CSA related offenses cannot start running before the victim reaches the age of 18.

<u>Coherence with new instruments</u>

The Proposal for a Directive on combating violence against women and domestic violence proved to be complementary in this respect, since it provides for new measures and standards that enhance the rights of victims of gender-based violence, including gender-

[134] Annex 2, section 4.3, p. 18.

based victims of CSA. Nevertheless, there are amendments to be made to the CSA Directive in order to ensure a full coherence with new legislation when adopted.

On definitions

- Describing cyber violence as any act of violence covered by this Directive that is committed, assisted or aggravated in part or fully by the use of information and communication technologies.

- Defining information and communication technologies as all technological tools and resources used to digitally store, create, share or exchange information, including smart phones, computers, social networking and other media applications and services.

- Also, Article 45 of the Proposal for a Directive on combating violence against women and domestic violence introduces the notion of non-consensual act,[135] specifying that consent can be withdrawn at any moment during the act and that the absence of consent cannot be refuted exclusively by the child's silence, verbal or physical non-resistance or past sexual conduct. This definition should be further specified in the CSA Directive, also considering that clarifications around the topic of consent would be welcomed by stakeholders, as outlined by stakeholders in the contractor's study[136].

On levels of penalties

- The Proposal for a Directive on combating violence against women and domestic violence broadens the scope of Article 3 of the CSA Directive. Precisely, Article 45 adds engaging with a child – or causing a child to engage with another person – in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object to the offences amounting to sexual abuse, establishing a maximum term of imprisonment of at least 12 years as a punishment for such offences to child below the age of sexual consent and 10 years for the ones above the age of sexual consent.
- Therefore, this level of penalty should be increased in the CSA Directive, also considering that the contractor's study[137] reported that some experts suggested that

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[135] European Commission (2022), Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence. Article 45 "A non-consensual act is understood as an act which is performed without the child's consent given voluntarily, or where the child is unable to form a free will due to the presence of circumstances referred to in paragraph 5, including the child's physical or mental condition such as a state of unconsciousness, intoxication, sleep, illness or bodily injury".

[136] Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment (Finalised on 30 November 2022), The EU dimension of the problem, p. 24 & Figure 8 – To what extent do you think that the efforts at the EU level against child sexual abuse and exploitation would benefit from a common definition of the "age of sexual consent"? , pp. 29-30

[137] Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the

penalty levels for some crimes, such as possession of child sexual abuse material might be too low to act as a deterrent for perpetrators.

On assistance to victims

The Directive should add that assistance should be accessible to victims with disabilities[138], free of charge and available state-wide, all day long, every day of the week. The service can also be provided online and must ensure confidentiality of the users.

5.2.2 Option B: Option A + Legislative amendments modifying definitions of crimes to take into account current trends and expected technological developments.

The 2nd policy option would be for implementing the measures provided for in Option A, and in addition propose actual legislative amendments which modify the definitions of crimes, to take into account current and expected technological developments.

New trends and phenomena concerning serious forms of child sexual abuse and exploitation are currently not covered by EU legislation. This was also highlighted as a point to address by more than 80% of respondents to the public consultation.[139] Therefore, with Option B, Member States would have to effectuate punctual amendments to their criminal codes or codes of criminal procedure, based on the following legislative amendments which the Directive would incorporate:

<u>Legislative amendments modifying definitions of crimes</u>

This would encompass both a prevention and countering CSAM aspect, as offenders would have less scope to perform crimes if, exploring the following points, they would not have access to physical reproductions of CSA, to deep fakes, to paedophile handbooks. Criminalising new trends such as sexual chatting with children or live streaming of child sexual abuse as a stand-alone offence would cause concern for potential offenders, who might therefore be more reticent in engaging in similar activities. Enabling investigations in the darkweb would have a both preventive and investigation-supporting aspect, as potential offenders might be noticed more quickly and easily, thereby preventing any future abuse.

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impact assessment of the possible options for its amendment (Finalised on 30 November 2022), Driver 1.1: Inadequate criminalisation of some CSAE offences negatively affects related investigation and prosecution, p. 26-27

[138] Improving access to justice and legal protection for persons with disabilities is among the objectives set out in the Strategy for the Rights of Persons with Disabilities 2021-2030. See: https://ec.europa.eu/social/BlobServlet?docId=23707&langId=en

[139] Annex 2, section 4.2, p. 18.

On virtual reality

Some Member States in their implementation have broadened the original scope of the Directive with regard to the definition of child pornography, to cover not only realistic images but also fictitious material such as drawings, deep fake images or novels. In other instances, national criminal law was proposed to criminalise the production and distribution of child sex dolls going beyond the categories of criminalised acts set out in the Directive. Therefore, it would be important for the Directive to focus on:

- Ensuring that the language and definitions on CSA related crimes are future proof with regards to potentially new technological developments;
- Adapting the definition of offenses to include those committed in virtual reality environment;
- Adapt to language evolution by criminalising deep fakes, sex dolls, paedophile handbooks;
- Criminalise production, possession and access to physical reproductions of CSA (child sex dolls, child AI robots).

On new trends

- Include adults over the age of sexual consent engaging in sexual chatting with children under the age of sexual consent;
- Criminalising sexual live streaming of children as a stand-alone offence.

On investigations in the dark web

- Enabling investigative units to perform takeovers of platforms in the dark web/distribute CSAM for the purpose of investigations.

5.2.3 Option C (legislative): Option B + Legislative amendments to ensure more effective prevention, investigation and prosecution, taking into account the cross-border dimension of the phenomenon.

The 3rd policy option would include adopting the measures provided for in Option B, and in addition issuing legislative amendments which will ensure more effective prevention, investigation and prosecution of child sexual abuse, taking into account the cross-border nature of the phenomenon.

A number of provisions would be introduced to assist with investigating offences and bringing charges. Especially on child pornography, sex offender networks are difficult to investigate by law enforcement authorities, as they often require sex offender newcomers to provide new child abuse images as a way of vetting them, something that traditional rules regulating enquiry activities by the police may forbid. EU harmonisation of

investigative tools and techniques to combat CSAE was also supported by more than 90% of the respondents to the Commission's public consultation.[140]

Legislative amendments

Member States would have to effect punctual amendments to their criminal codes or codes of criminal procedure, based on the following legislative amendments which the Directive would incorporate:

On prevention

Amendments would be introduced to help prevent child sexual abuse and exploitation offences, through a number of actions. Some would concentrate more specifically on offenders and people who fear that they might offend, as Member States' action in this area has proven suboptimal under the current Directive, showing that the relevant provisions need strengthening. In particular, amendments should achieve the following:

- identifying clear benchmarks to assess the effectiveness of prevention programmes;
- ensuring the existence of dedicated prevention programmes for offenders both inside and outside of prison;
- ensuring the existence of dedicated prevention programmes for persons who fear that they might commit child sexual abuse related offenses
- ensuring that Member States can introduce cross-border disqualifications for sex offenders from certain types of jobs involving children.
- encouraging the harmonisation of national law on transmission of information on previous offenses without consent of the offenders concerned

Another important initiative related to prevention would be encouraging the creation of a national Anti-Child Sexual Abuse Coordinator. The creation of this post would ensure a named individual who would coordinate national efforts and serve as a voice for prevention and for victims. This would allow for a significant improvement in cooperation among public authorities within each Member States and between different Member States, addressing the challenges identified in this respect as one of the major obstacle to effective prevention and fight against child sexual abuse under the current legal framework.

The proposed measure is consistent with the creation of a national focal point to advocate on behalf of victims and survivors, to raise awareness and remove the stigma that prevents victims from coming forward to report child abuse, and equally to address the societal stigma associated with treating offenders and reaching out to persons who fear they might offend. Taking account of the complex and interwoven coordination needs, this proposed measure is consistent with the need of a national focal point to promote an objective and systematic approach to the identification of knowledge gaps and gaps in service provision across multiple and diverse stakeholders, and how these gaps can be addressed by sharing best practice across Member States.

[140] Annex 2, section 4.2, p.18.

On investigation and prosecution

A large margin of discretion left by the CSA Directive regarding the operations of these systems leads to a series of self or co-regulatory measures that vary considerably in scope, methodology, and legal certainty.[141] The optional nature of Article 25 (2) has meant that its implementation by Member States has been inconsistent and varied. Challenges persist, particularly when cooperating with third countries to tackle online CSAE. The proposed initiatives include:

- enabling the use of undercover agents for investigative purposes;
- ensuring that existing tools, notably the European Criminal Records Information System (ECRIS) and the Schengen Information System (SIS), are fully leveraged and used more effectively in this area in the future, by engaging informally with Member States through the competent Commission services and assessing, in cooperation with the competent Commission Services, whether the issuance of guidelines or dissemination of best practices could be useful

There is a lack of coordination between the judicial system and health sectors, which hampers victims' access to these services. In addition, psychological assistance for child victims is not always ensured. With regard to CSAE cases occurring within the victim's family, evidence suggests that there is limited ad hoc legislation to deal with these cases. Evidence reviewed reveals that it remains unclear how the specific and individual needs are assessed across Member States. The suggested measures in this policy option would entail:

- Identifying clear benchmarks to assess the effectiveness of assistance to victim programmes;
- Having Member States collect statistics on child sexual abuse, and have them collect disaggregated data available for groups considered to be vulnerable;
- Introduce stricter requirements to address issues related to the lack of training of professionals, judges and educators dealing with child abuse cases.

5.4 Conclusion on Policy Options

Summary on Policy Options

All Options proposed were genuinely destined to tackle child sexual abuse and exploitation in all its forms, and the Policy Options were considered in an exponentially increasing manner, with each one adding in further measures which would combat this cross-border phenomenon.

The following table demonstrates how each Policy Option aims to solve each of the problem drivers, thereby proving that all Options proposed were genuinely destined to tackle child sexual abuse and exploitation in all its forms, and that the Policy Options were considered in an exponentially increasing manner, with each one adding in further measures which would combat this cross-border phenomenon.

Problem Driver	Policy Option A	Policy Option B	Policy Option C
Problem Driver 1: Technology	-Define cyber violence -Define information and communication technologies	-Criminalize new developments (paedophile handbooks, deepfakes, sex dolls) -Ensuring future proof language on new technology	-Undercover agents for investigations
Problem Driver 2: Different Legal Frameworks	-Clarify ambiguities (exemption from criminalization) -Ensure coherence with new EU law	-Criminalize sexual chatting with children -Enable investigative units to perform dark web takeovers	-Allow cross border disqualifications for sex offenders -Increase use of ECRIS+SIS
Problem Driver 3: Programmes on prevention and assistance to victims	-Improve information available -Ensure compensation claims -Clarify statute of limitations	(Carry Over from Policy Option A)	Create national CSA rapporteurs -Prevention programmes in and out -Trainings for professionals

5.5 Options discarded at an early stage

The process of building the retained options started with scoping the widest spectrum of measures and discarding a number of them along the way, which included notably:

- **Repeal of the Directive in favour of a new Directive**, i.e. completely redrafting the 2011 Directive. However, from the evaluation it has become clear that the main

elements and structure of the Directive are still fit for purpose[142]. The issues identified as problematic did not justify a complete overhaul of the Directive, and could more easily be addressed through targeted amendments. A complete overhaul would not have been efficient from a point of view of implementation at Member State level either.

- **Integration of new elements in a new piece of legislation:** the option to integrate certain specific measures on countering child abuse into other existing and proposed legislations such as the Victims Right Directive or the proposed Directive on combating violence against women and domestic violence was considered, but then discarded as the data and research shows that the problem has to be addressed specifically and from a holistic perspective, due to its scale and specificities.
- **Including a non legislative Option among the Policy Options for this Impact Assessment:** As the majority of the issues identified in the problems and problem drivers are directly linked to vague definitions in the current Directive, legislative options are necessary to address the issues surrounding the Directive. If non-legislative measures were chosen, this would mean that there would be remaining divergences with other legal texts, including recent ones, such as the Directive on Violence against Women.

6 WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

None of the policy options are expected to have an environmental impact, as already underlined in the Evaluation Roadmap/ Impact Assessment. Therefore, this criteria is not addressed in the analysis below.

6.1 Qualitative assessment

Summary table: costs and benefits

	Costs (-) /Benefits (+)				
Policy Option	**Security Impact**	**Social Impact**	**Economic Impact**	**Fundamental Rights Impact**	**UN SDG Impact**
Policy Option A	+	++	-/+	+	+
Policy Option B	++	++	-/+	++	+

[142] Evaluation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, Chapter 5, Conclusions and Lessons learned, p. 32

Policy option C	+++	++	+	+++	+

6.1.1 Security impact

Option A would ensure a high level of harmonisation of the criminal law against child sexual abuse in Member States and thus, a higher level of security for citizens. Moreover, the legislative clarifications related to exemptions from criminalisation, specifications on compensation claims, and clarifications on statute of limitations would facilitate a more effective law enforcement and judicial response.

The legislative definitions related to the criminalisation of pornography depicting children, the criminalisation of offences committed in virtual reality, the criminalisation of physical reproductions of CSA, the criminalisation of sexual chatting with children under the age of consent, the creation of live-streaming as a stand-alone offence among the other novelties listed in **Option B** would adapt criminalisation to encompass behaviours that are on the same level of harm as those already criminalised but are currently not evenly treated across Member States.

Option C is considered to have the **highest impact** on security as it would combine the separate impacts on security of **Options A** and **Option B** with regards to harmonisation of criminal law, and also expand definitions related to crime as outlined in **Option C**. While strengthening the criminal law response to countering child sexual abuse is essential to reduce the crime, this needs to be accompanied by policy measures outlined in **Option C** related to cross-border cooperation, all of which aim at enhancing coordination among law enforcement and judicial authorities and between them and the private sector.

In addition, initiatives to create EU-wide expert networks on prevention and victim assistance and legislative initiatives specifically targeting electronic service providers demonstrate the cross-border, cross-sectoral and multi-agency nature of this crime area. These developments highlight the high degree of coordination required to support a comprehensive response to preventing and combating child sexual abuse, online and offline. A more wide-ranging coordination challenge, domestically and at EU level, has been ensuring alignment across related national arrangements associated with addressing online child protection needs. These initiatives include the 2022 Digital Services Act, the 2018 Audio-visual media Directive, and the 2022 Better Internet for Kids strategy.

Therefore, coordination must take account of potentially overlapping and duplicate responsibilities with national arrangements in the form of Digital Service Coordinators and Safer Internet Centres. The creation of Anti Child Sexual Abuse Coordinators, as highlighted in **Option C,** will strengthen coordination within national arrangements.

This broader context also illustrates how the increasingly administrative nature of such regulatory measures go beyond traditional understandings of law enforcement, and where coordination requires a different degree of impartiality and objectivity, which is why the need for national coordinators is becoming a constant in many EU legislations. An obvious

point of comparison is the setting up, under the 2011 Directive on preventing and combating trafficking in human beings and protecting its victims, of national rapporteurs or equivalent mechanisms to inform and assess policies, and the establishment of an EU Anti-Trafficking Coordinator to consolidate coordination and cooperation at EU level.

6.1.2 Social impact

Measures which improve efficiency in fighting child sexual abuse are expected to have positive social impacts such as an increase in security, as well as a lesser need for parental or self-protecting measures, and contribute to trust in authorities.

Option A and B would have a positive social impact, as they would contribute to ensuring a higher level of safety of citizens against crime and reduce impunity of criminals, as provisions would be encoded in law. However, it would not be sufficient in itself to harmonise practices across Member States.

Option C would be expected to have the **most significant impact** on society, as it would also entail benefits both on the prevention and the assistance to victims' side. In particular, the creation of clear benchmarks to assess the effectiveness of programmes can be expected to allow Member States to select the most impactful programmes for the benefit of children. On the prevention side, the Option would introduce stricter requirements to address issues related to professionals, judges and educators dealing with child abuse cases.

Member States would have to set up an independent national institution to promote and protect children's rights: they would create an Anti-Child Sexual Abuse Coordinator. As has been shown also in the context of Anti-Trafficking Coordinators and is evident where national coordinators against child sexual abuse have already been appointed, this helps harmonise existing structures and processes, enhance prevention and victim support, and provide relevant stakeholders with more consistent data and information.

In addition, and underpinning the identification, evaluation and sharing of good practice, the Anti-Child Sexual Abuse Coordinator element is consistent with the development of comparable evidence bases across Member States in order to support policy making and evaluation nationally and at EU level. A national focal point is best positioned to not only bridging the practitioner-researcher gap to better inform the policy making and evaluation, but also to ensure that evidence-based policy recommendations are taken forward and acted upon.

This need is highlighted by the finding that most Member States are not collecting statistics on offenders for research purposes, for example where most of Member States have yet to establish a comprehensive national database that includes statistics on identified CSAE victims. The need of comparable data on CSA investigations and prosecutions is highlighted in view of the administrative statistics to be generated per Article 83 of the proposed CSA Regulation, and how such information will bring added depth to addressing knowledge gaps and understanding policy needs.

Impartiality is required to ensure communications across diverse stakeholders both in terms of the provision of information and the subsequent assessment for the evaluation of prevention and victim assistance programmes, which has been identified as rarely undertaken by Member States. The creation of benchmarks at EU level is essential to a process of evaluation to assist Member States to select impactful programmes. The development of such benchmarks is in turn necessary to avoid the risk of fragmentation where national legislatures may otherwise respond on case-by-case basis to current and emerging challenges such as those reflected in the problem drivers.

6.1.3 Economic impact

As detailed in the impact assessment on Directive 2011/93, in the long term, negative economic consequences of child sexual abuse include inefficient State intervention due to lack of trust in public authorities, inefficient use of resources due to the need to adopt (more or less effective) self-protecting measures at the individual level, decreased productivity linked to trauma suffered by victims, and unfair distribution of wealth as criminals profit from their activities. While Directive 2011/93 and its implementation have contributed to improvements in this area, further efforts are required. In the case of child sexual exploitation and abuse, this is exacerbated by the economic cost of the psychological distress of victims and their increased health risks, and the cost of processing offenders.

It is difficult to put an exact price on child sexual abuse, and even more so on changes to be made to the criminal law framework governing child sexual abuse and exploitation. Therefore, the present assessment has to rely on a number of assumptions, generalisations, and extrapolations. Calculations made in 1998 estimated that the economic cost of child sexual abuse crimes range between EUR 100 000 and EUR 250 000 per offence.[143] 20 years later, calculations range in the billions and have drastically increased up to EUR 13.8 billion, as detailed in the following section. As a contrast, measures which improve efficiency in fighting crime are expected to produce a general pattern of net positive economic impact. Even though in the short term there may be a moderate increase in administrative costs due to greater demands on the public system of criminal law, in the medium and long term, a more efficient system to fight and prevent crime deters more criminals and their rehabilitation leads to fewer offences.

None of the policy options analysed would have a negative impact on businesses and companies and citizens. **Option C** would probably have the highest impact, as the combination of legislative measures would further improve the capacity of law enforcement and judicial authorities to deprive any criminals from exploiting child sexual abuse for financial purposes, and to prevent child sexual exploitation from infiltrating the legal economy. Moreover, improving the fight against child sexual abuse would reduce costs, which are incurred by the crime for the society, in terms of coordination of

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[143] Calculations made on the basis of 1998 estimates based on the situation in Australia for reoffending in child sexual abuse crime, taking account of victim-related costs (tangible: direct cost per victim / intangible: economic value of pain and suffering) and offender-related costs (incarceration); taken from Shanahan, M., and Donato, R., 'Counting the cost: estimating the economic benefit of paedophile treatment programs', in Child Abuse and Neglect, Vol. 25, Issue 4, 2001.

investigations, prevention, specialised services, as well as law enforcement, health services and social protection.

6.1.4 Fundamental rights

All policy options are expected to have a **positive impact** on fundamental rights, as they all contribute to preventing and fighting child sexual abuse, and to protecting the victims of the crime, which is prohibited by the EU Charter of Fundamental Rights. They also strengthen the protection of other fundamental rights enshrined in the EU Charter, including the right to human dignity (Article 1), the right to the integrity of the person (Article 3), the prohibition of inhuman or degrading treatment or punishment (Article 4), and the rights of the child (Article 24).

Options A and B would have a solid impact, due to the fact that they are legally binding and impose further obligations on the Member States in criminalising certain conducts, which are particularly harmful for the victims. In this respect, it could be argued that stricter measures, e.g. to increase the level of penalties for certain crimes such as possession of child sexual abuse material (**Option A**) or to criminalise as many forms of exploitation as possible (**Option B**), or to increase the efficiency of investigations (**Option C**) would be most beneficial when it comes to the safeguarding of fundamental rights. While an expansion of investigative possibilities has an impact on fundamental rights of persons suspected of crime, the option considered here would not constitute an introduction of an investigative possibility that was previously not available but would rather provide for clarity on its applicability also in child sexual abuse cases. Its use would take place in the strict framework already provided for under EU and national law, which ensures that more invasive investigative tools are deployed only where necessary and that the impact stays proportionate in light of the gravity of the offense at hand and other considerations.

Therefore, **Option C** is considered to be the best option as it would combine the positive impact of **Option A and Option B**, all while being accompanied by substantive measures on the prevention and assistance to victims' side which will ensure a solid mixture of legislation and coordination throughout human rights protection.

6.1.5 UN SDGs impact

Options A to C would in the long term all be expected to contribute to a reduction of the prevalence of CSA and consequently a reduction of violence against and exploitation of women and girls (SDG 5.2), and the sexual exploitation of children in general (SDG 16.2).

With stronger prevention and assistance to victim measures embedded in law, the Options would also address to some extent SDG 3 on health and well-being, and in particular would contribute to SDG 4 on education. **The Options** would also contribute to SDG 9 (industry, innovation and infrastructure), supporting Member States' efforts in countering new developments to fight CSA in its various new technological forms.

Option C would have a positive impact on the same SDGs as Options B and C, but that impact is expected to be stronger as it would encompass more phenomena as well as coordination of investigations across Member States. The obligation to detect is expected

to significantly reduce the phenomenon of sex tourism, which would lead to a more positive impact on **all SGDs**, in particular SDG 5.2, and SDG 16.2.

The new obligations related to investigations in **Option C** would have positive effects on preventing imminent crimes (and stopping ongoing ones) and would therefore lower the prevalence of CSA, positively impacting **all SGDs.**

6.2 Quantitative assessment

The quantification of the costs and benefits of the policy measures/policy options is limited by the **lack of data**, in particular on the level of the type of abuse in question. Given these limitations, the estimates in this section provide an idea of the **order of magnitude** of costs and benefits and therefore should not be taken as exact forecasts.

6.2.1 Costs

All the policy options under consideration would result in costs for public authorities for Member States, rather than costs to EU citizens and business. It is important to note here that these costs would mostly be generated by an expansion of existing frameworks and efforts, rather than by the creation of new activities. Each policy option includes measures relating to prevention, assistance to victims, and investigation and prosecution of child sexual abuse. Under Options A to C, Member States would also have to proceed with amendments to their criminal codes and codes of criminal procedure in order to comply with legislative adjustments related to new definitions and penalties which will be present in the Directive.

The **prosecution and investigation of CSA** would entail administrative costs for **Member States** under all options. These relate to the expenses for Member States to exchange information on prosecuting offenders and new offences, setting up joint investigative teams and judicial coordination for investigation purposes, Options B and C would have investigative units able to perform takeovers of platforms in the dark web for the purpose of investigations, which will entail costs for Member States where this type of investigative tools are not yet used.

With this in mind, it is important to note that baseline costs of prosecution and investigation will vary depending on whether the proposed CSA regulation will have been adopted or not. If the proposed regulation were to be adopted, online platforms would face stronger obligations to protect children on their platforms, which should eventually result in a lower incidence of child solicitation or “grooming”. Likewise, platforms are expected by law to take steps to mitigate any significant risk of exchange of child sexual abuse materials (images or videos). Should they fail to mitigate a significant risk, national coordinating authorities can issue risk-based detection orders for specific content. These reports, which are currently submitted on a voluntary basis, are expected to improve in quality due to new reporting standards. Both changes should ideally lead to a reduction in overall workload of law enforcement. At the same time, the trend over the past decade has seen a continued increase in child sexual abuse and exploitation online, therefore, an overall decrease of administrative cost is not to be expected.

A large portion of the **prevention-related initiatives** will focus on having Member States exchange information and best practices, and on introducing a closer monitoring on prevention programmes by creating focal points for observation. As detailed in Option C, Member States would have to deal with the administrative and budgetary burden of establishing Anti-Child Sexual Abuse Coordinators. Even in this case, the financial burden of setting up these entities would vary significantly depending on whether the proposed CSA regulation will have already been enacted. As the function of national Anti-Child Sexual Abuse Coordinator might well be attributed to national Coordinating Authorities established under the CSA proposal (depending on the individual choice of each Member State), the pre-existence of such Coordinating Authorities under the proposed regulation would significantly reduce the costs needed to establish Anti-Child Sexual Abuse Coordinators under this initiative.

Finally, it should be noted that, under Options A to C, certain financial costs in the area of **assistance to victims** would be similarly borne by both the Commission and Member States, relating to compensation claims by victims and the psychological and medical support they would need.

The complexity of these elements of cost (and their partial dependence on a legislative instrument – the CSA proposal – which is not yet in force) makes it difficult to produce clear estimations. That said,

(i) the costs related to the administrative burden of setting up new authorities (the Anti-Child Sexual Abuse Coordinators) capable of collecting statistics on child sexual abuse at the national level can be calculated by proxy, looking at the average costs of permanent staff members in national administrations. As mentioned, these costs might be lower if the function of Anti-Child Sexual Abuse Coordinators is attributed to pre-existing authorities, e.g. (possibly) Coordinating Authorities under the proposed CSA.

(ii) the costs of conducting investigations in relation to an increased number of offenses can be calculated based on the average cost of a child sexual abuse investigation and trial. The difficulty in this calculation resides in the difficulty to estimate the increase in the number of investigations and prosecutions that will arise as a direct consequent of this initiative. In particular, this increase is likely to be higher if the obligation to report online child sexual abuse for providers is enacted before the entry into force of the recast of the Directive and lower if it is not.

Box 14: Costs of Child Abuse

No studies that have estimated the total costs of CSA in the EU, or in a Member State are known to be published[144].

[144] The lack of EU-specific studies is an important gap in knowledge in the fight against CSA in the EU. Such research would be facilitated through the prevention and assistance to victims functions of the Centre.

Letourneau et al. estimated the total annual costs of CSA in the US, adjusted to the reference year 2015, in a paper that appeared in 2018 in the **peer-reviewed** journal Child Abuse & Neglect[145]. The paper estimated total costs including health care costs, productivity losses, child welfare costs, violence/crime costs, and special education costs, based on secondary data drawn from papers published in **peer-reviewed** journals. The paper indicates that its estimates of annual losses of USD 11 billion are **conservative and minimum**, since they could not include the economic impact of nonfatal CSA on male victims due to lack of data, and they relied on cases reported to child protection agencies, whereas it is widely recognised that a substantial proportion of CSA cases never comes to attention of child protection agencies[146].

For comparison, the other known study[147] on CSA costs in the US (not peer-reviewed) estimated the annual costs in USD 23 billion. And the only other known peer-reviewed paper (in addition to Letourneau et al's) on CSA costs estimated the annual costs in Canada in approximately CAN $3.70 billion[148], with a population less than 10% that of the EU.

Although Letorneau et al's paper concerns the US, studies on the economic cost of violence against children (including child sexual abuse) suggest that costs are comparable among high-income countries[149]. Therefore, the **conservative** estimates provided in the above-mentioned paper are assumed to be applicable in the EU context, when adjusted to take account of the larger population in the EU in 2021 compared to that of the US, the inflation rate 2015-2021 and the exchange rate USD-EUR in April 2021, resulting in a total of EUR 13.8 billion of annual CSA costs in the EU.

The outcomes of the study conducted by Letorneau et al are comparable with the outcomes of a study by Radakin et al[150], conducted across 2018-2019 which captured the lifetime economic and social cost of contact child sexual abuse. The study looks at the cohort of 113,144 child victims who experienced contact sexual abuse in England and Wales in the year ending 31 March 2019. It estimates that the cost of i) the cohort being victimised in previous and future years, ii) lifelong consequences of the abuse are estimated to be at least **£10.1 billion (EUR 11.8 billion).** The study breaks down the costs per victim into measures anticipating child sexual abuse (e.g. prevention and awareness raising measures- **£70**), costs as a conseuqnce of the abuse (physical and emotional harms, lost economic output- **£59,300**) and the response (police, criminal justice and safeguarding costs- **£29,240**). It shows that the cost of prevention presented to society and the economy is far cheaper than the costs that need to be borne as a consequence and response to the abuse.

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145 Letourneau et al., The economic burden of child sexual abuse in the United States, May 2018

146 IOM, NRC, Child maltreatment research, policy, and practice for the next decade: Workshop summary, The National Academies Press, Washington, DC (2012).

147 T.R. Miller, M.A. Cohen, B. Wiersema, Victim costs and consequences: a new look, 1996.

148 O. Hankivsky, D.A. Draker, The economic costs of child sexual abuse in Canada: a preliminary analysis, Journal of Health & Social Policy, 17 (2) (2003), pp. 1-33.

149 See, for example Ferrara, P. et al., The Economic Burden of Child Maltreatment in High Income Countries, December 2015.

150 Radakin, F., Scholes, A., Soloman, K., Thomas-Lacroix, C., & Davies, A., The economic and social cost of contact child sexual abuse, 13 December 2021

Prior to leaving the European Union, the UK fully implemented the provisions of the Directive 2011/93, making these figures a closer comparison to the scenario across EU Member States. It must be noted that the figures do not cover the cost of non-contact and online abuse and as such must be treated as a minimum estimate.

6.2.2 Benefits

The main quantitative benefits of the initiative derive from savings as a result of **reduction of CSA** associated costs. It is estimated that at a global level, productivity losses due to sexual, physical and psychological violence against children are equivalent to between 3% and 8% of world GDP.[151] The World Health Organisation analysed community surveys from Europe, which confirmed the extent of abuse: they show a prevalence rate of 9.6% for sexual abuse (13.4% in girls and 5.7% in boys). Applying these figures to the population of children in Europe suggests that 18 million children suffer from sexual abuse.[152] All this considering that many estimates are conservative, and that the consequences of child sexual abuse have different nature and consequences.

The United Nations states that the direct costs of violence against children are more immediate and easily measurable (health care system costs, social welfare costs, criminal justice costs), while the indirect future costs arising from the impact of the violence on the children are more difficult to determine and entail an overall productivity loss to society (psychological and behavioural problems, disruption from education and schooling, toxic stress with impacts on brain development, potential depression and death).[153]

Indeed, financial compensation allocated to survivors "can include general damages for the pain, suffering and loss of amenity (that is, the impact the injury has had on the quality of life) and special damages for past and future financial losses, such as earnings and the

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151 Child Fund Alliance Report. (2014) "The costs and economic impact of violence against children". This figure is calculated by estimating the prevalence of violence against children and the wage differential between workers who complete school and those who do not, and calculating productivity/income losses due to loss of schooling as a result of having experienced violence as a child. The range (between 3% and 8%) is determined through confidence intervals which result from correlations between the estimated cost of violence against children on the one hand, and related variables such as primary school drop-out rates, output per worker, percentage of children who experience violence and percentage of children at work on the other hand.
Full report available at: https://www.childfund.org/uploadedFiles/public_site/media/ODI Report The cost and economic impact of violence against children.pdf.

152 WHO (2013). "European **Report on Preventing Child Mistreatment. Report available at:** e96928 (who.int) A varied set of assumptions was made when making these estimations. Violence against children has several costs, such as health costs and social services and judicial expenditures, among others. Nonetheless, since such administrative records are not available for most countries, and as there are few variables at hand, for estimating the costs are related to productivity and income-generation activities, a varied set of assumptions approach was required.

153 The economic costs of violence against children | UN Special Representative of the Secretary-General on Violence Against Children.
Available at: https://violenceagainstchildren.un.org/economic_costs_of_vac_viewpoint

costs of care and therapy". In 2019, the High Court awarded over £1 million to a victim who had been sexually abused by his teacher at a school. [154]

Strengthening Prevention

The strengthening of prevention measures on the side of both victims and perpetrators would lead to savings relating to offenders (e.g. investigations, criminal proceedings and subsequent detention), savings relating to victims (short and long-term assistance), and savings relating to society at large (productivity losses linked to the trauma of child sexual abuse).

As a general rule, the logic of prevention programmes having a strong economic rationale is reflected in *box 14* and by various research studies, including by analyses of correlations and confidence intervals by the Child Fund Alliance: "scaling up violence prevention programmes is not only desirable from a child welfare perspective, but also cost-effective."[155]

Criminalisation of New Trends

The criminalisation of new trends in the field of child sexual abuse will lead to the rescuing and identifications of more victims, with the relevant societal benefits. A number of law enforcement agencies have highlighted the need for more comprehensive definitions of criminal actions in this space, including efforts that prepare the abuse such as paedphile handbooks, as well as more clarity on new trends, such as the livestreaming of CSA as well as CSAM generated by synthetic means using artificial intelligence-based tools[156]. LEAs also having require access to the right investigative tools and capabilities to investigate specific new criminal trends (e.g. AI-generated CSAM, investigations in the darkweb) and legal certainty allowing exploitation of such tools[157]. This will reduce the time needed for each investigation and to lead to better results in terms of identification of victims and prosecution of perpetrators, reinforcing all the benefits indicated above.

Reducing the number of overall reports received, and improving the quality of those provided to LEAs by the Centre will also result in a reduction in the LEAs' administrative burden. Over the long run, when the Centre is fully functional, the number of criminally relevant provider reports (actionable by law enforcement) is envisaged to reduce as a result of the Centre assuming responsibility to 'filter out' non-relevant reports, and 'enrich' relevant reports

Support and Assistance to Victims

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[154] *Ibid*

[155] Ibid

[156] Conclusions of an expert workshop on the current and future challenges in the fight against child sexual abuse, organised on 6 September 2019. 24 EU Member States were represented together with Europol, and other key stakeholders.

[157] Input from EU law enforcement agencies to a targeted survey rurvey on the review of the EU Directive 2011/93.

The strengthening of support and assistance to victims would itself produce savings in the latter respect, reducing the long-term consequences of the abuse on the victim. The establishment of the EU Centre as a knowledge hub, supporting the associated EU Strategy initiatives of victim assistance and crime prevention expert networks, is envisaged to drive improvements in the efficiency and effectiveness of member state criminal justice interventions in this area.

These benefits will be amplified considerably if the CSA regulation is adopted as proposed by the Commission, as the increased number of reports of CSAE would lead to the identification of a significantly higher number of victims (that would then access support and assistance and suffer less trauma) and perpetrators (that would themselves be granted access to assistance with a view to ensure that they do not commit repeated offenses).

Statistical Collections

To estimate the overall benefits, the first step is therefore to determine the total CSA costs in the EU. However, it is difficult to deliver a precise number on the actual benefits of intervening on prevention, assistance to victims, and investigation and prosecution. The lack of prevalence data on violence against children causes difficulties in calculations of precise costs of child sexual abuse. Many countries lack precise systems to collect administrative data and surveys on violence against children, though methodologies by researchers have been refined over the years.

Many prevalence data across Member States does not distinguish between child sexual abuse within the family setting and that which is committed by perpetrators outside the family.[158] This is also why Policy Option 3 would ensure the creation of clear benchmarks and statistics on reporting as well as the Anti-Child Sexual Abuse Coordinators, to further ensure solid reporting on specific points

Country Studies

The Commission would overcome the statistical difficulties by using country studies as proxies for similar countries, considering middle-level incomes to be the norm.

The annual cost of CSA in the EU was estimated as being **EUR 13.8 billion** in the IA report accompanying the proposed CSA regulation, assuming similar costs and prevalence of CSA in the US as in the EU and adjusting for the larger population in the EU (and without taking the possible entry into force of the proposed CSA regulation into account). In addition, it is to be noted that all published studies on the costs of VAC acknowledge that figures are very likely to be underestimates of the true figure.[159]

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[158] The Report of the Independent Inquiry into Child Sexual Abuse. October 2022. Available at: IICSA: report of the Independent Inquiry into Child Sexual Abuse – GOV.UK (www.gov.uk)

[159] "For example, the impact of the long-term neglect of children that impedes their development is not manifest until much later in adult life. Projecting these costs into the future requires many assumptions and as each study will make different assumptions estimates are highly variable." The economic costs

This estimation is in line with data coming from Spain[160] (conservatively assessing the cost of child sexual abuse **in Spain as 979 million a year in 2015**, which would account for around 1/10 of the cost in the EU based on the proportion between Spanish and EU population).

In addition, this estimation is extremely conservative if compared to a study conducted in Germany which estimates the costs of child sexual abuse and neglect in 2012 **Germany alone to be at least 11 billion a year**.[161]

In the study, the prevalence rate of at least one form of child abuse or neglect classified as 'severe/extreme' was estimated to be 14.5%. When estimated as a share of the German population aged between 15 and 64 years, the age range considered for the prevalence analysis, there would be 7.8 million people in Germany affected by child abuse or neglect. According to the methodology utilised, only 21% of the 7.8 million individuals affected by 'severe/extreme' child abuse or neglect was included in the cost calculation. This is equivalent to 1.6 million (or **3.0% of the population of a Member State aged 15-64 years)**.[162]

A recent Italian study found that as for every known case there are at least nine submerged cases that will never be followed or treated[163], if we project this data on adults today the figure of 9.5 abused children/adults assisted by Social Services of the Municipalities out of 1000 minors and that of nine cases submerged for each case known, the result is a total of nearly six million abused between adults and children (5.7 million), or **slightly less than 10% of the national population.[164]** The estimate was that the cost of child violence is about 13.056 billion Euros per year, equivalent to 0.84% of National GDP. Direct costs amount to 338.6 million Euros, while indirect costs amount to 12.7 billion Euros.

Separately, on the UK side the Independent Inquiry on Child Sexual Abuse stated that there were 3.1 million victims of child sexual abuse in England and Wales: (**7.5% of the population between 18 and 75**) according to the 2019 Crime Survey for England and Wales.[165] The estimated number of victims of child sexual abuse in 2020/21 according to

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of violence against children | UN Special Representative of the Secretary-General on Violence Against Children. Available at: https://violenceagainstchildren.un.org/economic_costs_of_vac_viewpoint.

160 Dubin et al., 'Los costes de la violencia contra la infancia Impacto económico y social', Educo 2018.

161 Habetha et al., 'A prevalence-based approach to societal costs occurring in consequence of child abuse and neglect', Child and Adolescent Psychiatry and Mental Health 2012, 6:35 5

162 According to this prevalence figure and authors' estimates, the average costs for the age range of 15-64 years are a total of €335,421 (mean value) in the moderate scenario and up to €904,375 (mean value) in the worst-case scenario. The resulting average annual costs, related to a period of 50 years, amount to €6,708 per unit victim in the moderate scenario and to €18,087 in the worst-case scenario, with a resulting total annual costs of €11.1 billion incurred as follow-up costs of child abuse and neglect for German society. In the pessimistic scenario, the figure goes up to €29.8 billion (2008 figures). This is between 0.45% and 1.20% of German GDP for 2008.

163 https://www.scirp.org/journal/paperinformation.aspx?paperid=98668#ref11.

164 Savarese, G. , Carpinelli, L. , Villani, R. , D'Elia, D. and Romei, M. (2020) Data on Children Involved and the Social Costs Related to the Phenomenon of Maltreatment and Ill-Treatment towards Children in Italy. Open Journal of Social Sciences**.** Data on Children Involved and the Social Costs Related to the Phenomenon of Maltreatment and Ill-Treatment towards Children in Italy (scirp.org)

165 Child sexual abuse in England and Wales - Office for National Statistics (ons.gov.uk)

the Centre of Expertise on Child Sexual Abuse. The administrative burden was high: 325 days of public hearings and 2.5 million pages of evidence processed.

The study conducted in the UK[166], on estimating the financial and non-financial costs relating to all children who began or continued to experiece contact sexual abuse in England and Wales in the year ending 31 March 2019, provides more robust figures. The study sets out the total number of victims as 113,144 based on prevalence estimates that take into consideration a number of data sources. The total cost of **£10.1 billion** (EUR 11.8 billion) is broken down into 3 main cost brackets: **anticipatory costs** covering education, training and prevention, **costs as a consequence** of abuse looking at physical and emotional harm, healthcare, loss of output and victim services as well as **costs in response** to these crimes, that extend to police court, prison and safeguarding costs. The total lifetime cost per victim is **£89,240.** This is not an in-year cost, and it does not include victims of online and non-contact abuse, however it provides a clear and detailed overview of societal and economic costs per victim.

In particular it underpins the importance of effective prevention initiatives which are not only far cheaper in economic terms that the burden of costs coming from the consequences of and response to abuse, but also have a direct impact on reducing the prevalence of abuse.

According to the relevant IA report, the entry into force of the CSA regulation would reduce this cost by at least 25% (conservative estimation) and more likely 50%, mostly by virtue of the early identification of victims and perpetrators and consequent provision of timely assistance. Hence, the baseline victims cost would be 10,3 million (reduction of 25%) or 6,9 million (reduction of 50%) if the proposed CSA regulation was adopted before the proposed Recast. It is important to note that the precise impact of the Regulation cannot be estimated at this point as it is still being discussed by the co-legislators and significant changes have been proposed. As a result, these assumptions on the potential reduction of the costs cannot be considered as a sufficiently reliable basis and are not taken into account for the purposes of the present impact assessment.

Connection to the Proposed Regulation

As detailed in the Impact Assessment of the CSA regulation, thanks to the benefits of the CSA regulation, if adopted in the form proposed by the Commission, over the medium-term, there would be an increase in the number of reports received to the EU Centre from service providers. This will provide an interplay with the proposed Options A, B and C both on the prevention side, assistance to victims, and investigations and prosecutions. The stronger prosecution and investigation measures which are envisaged increasingly spanning from Options A and C would contribute to a decrease in child sexual abuse.

If adopted as proposed, the CSA Regulation would strengthen the efficiency of reports from service providers, as there would be an increase in actionable reports provided to law enforcement by the EU Centre. In turn, this would lead to the beginning and conclusion of

[166] Radakin, F., Scholes, A., Soloman, K., Thomas-Lacroix, C., & Davies, A., The economic and social cost of contact child sexual abuse, 13 December 2021.

more investigations and prosecutions on the Directive side, thereby contributing to a stronger accountability of child sexual abuse, as at the moment certain perpetrators manage to avoid prosecution.

Therefore, there would be a long-run assumption is an overall reduction in the prevalence of online child sexual abuse due to impact of the CSA proposal's service provider obligations in terms of:

- better risk assessment and risk mitigation;
- improved proactive/preventive detection capabilities;
- better coordination at the national and EU level.

Each of these points would be a task for an evaluation of the CSA Regulation 5 years after its entry into force.

Finally, as proposed increasingly ranging from Options A to Options C there is a need of EU-specific research to: a) assess the economic burden of CSA across the EU; and b) ascertain the financial cost of CSA for criminal justice systems across the EU. On the CSA Regulation side, the EU Centre becoming a de facto knowledge and information hub for the region, would contribute significantly to these transparency and legislative evaluation needs.

Summary of Benefits

Box 15: Benefits of the Proposal

The quantitative benefits originate mainly from two sources:

- Savings from CSA crimes prevented: The prosecuted offenders would have (improved) access to prevention programmes during and after criminal proceedings (including during and after prison), which contributes to decreased reoffending. Persons who fear they might offend must also benefit from the possibility of access to support measures which may succeed in preventing offences. Moreover, the increase in reports could also have a deterrence effect, disrupting possible ongoing abuse and preventing additional offences.
- Savings from better coordination across Member States: The incorporation of new definitions of child abuse, and the use of undercover agents detailed in Option C will allow for an increase in reports in child sexual abuse, and as a consequence prosecuting offenders and preventing them from re-offending as well as better assisting victims of child sexual abuse.
- Savings from better assistance to victims: These would result from better mitigation of the negative effects of these crimes on victims in the longer term, e.g. by facilitating Member States' action in this area through the exchange of best practices and research, and supporting the victims throughout compensation and psychological and medical assistance, as described in Option A.

It is not possible to determine exactly what would be the benefits caused by each of these two categories or each policy measure. In addition, it is not possible to forecast with certitude what would be the exact benefits of each policy measure. For example, the reduction of CSA due to prevention would depend to large extent on the investments and efforts from Member States and the EU, which the policy options considered in this initiative could only help facilitate.

Therefore, overall all options are expected to reduce the cost of violence on an incremental basis, by inducing a reduction in the prevalence of child sexual abuse in the EU through prevention, protection, support, investigation, prosecution.

Table 2 – Summary of costs and benefits for the policy options

Options	Costs	Benefits
P.O.1	Up to EUR 2,4 mil in one year to compile and make statistics relating to child sexual abuse offences	Improved implementation of existing EU legal and policy framework by **clarifying ambiguities** of the current framework including: - ensuring **coherence with new instruments** - improving the quantity and quality of available information through compilation and upkeep of statistical databases by Member States on child sexual abuse-related offences.
P.O.2	N/A	Strengthening of legal framework through legislative amendments that modify definitions of crimes to take into account current and expected technological developments
P.O.3	Approximately EUR 2,4 mil yearly to gather the statistical data, including disaggregated data available for groups considered to be vulnerable to child sexual abuse Yearly costs of EUR 60 000 for national contact points on child sexual abuse[167].	Broader strengthening of legal framework through legislative amendments to ensure more **effective prevention, assistance to victims and investigation,** and prosecution, taking into account the cross-border dimension of the phenomenon. This includes: - Setting out clear benchmarks to assess effectiveness of prevention programmes and effectiveness of assistance to victims programmes - Introduction of cross-border disqualification for sex offenders from jobs involving children - Creation of a national Anti-Child Sexual Abuse contact point in each EU MS. - Broader collection of statistical data on child sexual abuse by EU Member States to include disaggregated data available for groups considered to be vulnerable to child sexual abuse

[167] Cost estimated on the official salary scales of an administrator at Grade 8 and the average hourly labour costs for public administrators set out by Eurostat for 2021.

Stakeholders' views on the costs and burdens associated with the implementation of the Directive

Following an ***online survey***[168] which took as part of the Study to inform the work on the possible revision of the CSA Directive, most respondents reported no remarkable increase in the costs entailed by the CSAE Directive, either with respect to investigation and prosecution of CSAE offences, or to CSAE prevention or to the provision of assistance and protection to CSAE victims. Similarly, respondents identified no change in the costs related to the training of professionals working with victims of CSAE in their country. Yet, respondents reported a significant increase in the provision of and participation in trainings following the implementation of the CSAE Directive in their country. According to the majority of survey respondents, the CSAE Directive has contributed to at least a 3% increase in the number of participants taking part in trainings, including member of the judiciary (56%, n=), police officers (58%, n=14 out of 24), and teachers (50%, n=6 out of 12). Conversely, most consulted stakeholders believed that the CSAE Directive limitedly contributed (less than 3%) to increasing the training offer for front-line police officers (55%, n=16 out of 29), professionals in charge of interviewing children during criminal proceedings (56%, n=15 out of 27), and the judiciary adjudicating cases of CSAE (63%, n=12 out of 19).

With regards to the replies received ***as part of the targeted interviews***[169] conducted as part of the Study mentioned above, on whether the implementation of the Directive has entailed an increase in costs linked to child sexual abuse and exploitation, interviewees agreed that, overall, the costs incurred to reach the objectives of the CSAE Directive are balanced by the overall benefits in terms of higher criminalisation and prevention of CSAE offences. However, ***there are areas where the benefits can still be increased, hence increasing overall cost-effectiveness.*** For instance, hotlines are expensive to maintain (hardware, software, human time, and training) but are not widely used. Interviewees emphasised that ***prevention initiatives are highly cost-effective as prevention is always less costly than repression***. Safety-by-design was raised as an efficient approach to fight against online CSAE. However, such a principle is not widely implemented due to claims of perceived constraints on technological innovation and violations of privacy.

6.3 Conclusion on Assessments

The main policy choices and trade-offs are between, on the one hand, the level of impact on countering child sexual abuse and the ability to prosecute such activities effectively, and the potential interference with fundamental rights and Member States' administrative burdens on the other.

While Policy Option A would aim to tackle Problem Driver 1 by providing definitions of technologies, Policy Option B would instead further criminalize new developments and ensure future proof language on new technology. This would extend the range of EU intervention, and would create a higher administrative burden for Member States, with the positive effects being a stronger protection of children due to a stricter approach against this Problem Driver. Policy Option C would instead allow undercover agents to conduct investigations, with the tradeoff being potential privacy issues balanced with an even more efficient approach to counter child sexual abuse.

The Policy Options should not therefore be seen as ranging from low efficiency to high efficiency against Problem Driver 1, as Policy Option A is encompassed in Policy Option

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[168] In total 67 responses were received to the online survey: 18 from NCA, 15 from CSOs, 13 from LEAs, 11 from JAs, 10 from hotlines

[169] 35 individual interviews were conducted during both the evaluation and the impact assessment phases of the study.

B and so forth. The main differences between these Policy Options is merely the fact that the more one ranges towards Option C, the more there is a higher risk of privacy issues, administrative burdens, and EU law's role in Member States, outweighed by the benefits of protecting children and ensuring that new technologies do not outsmart EU law again.

In a similar spirit, Problem Driver 2 concerns different legal frameworks developing across time. While Policy Option A would aim to clarify ambiguities and ensure coherence with EU law thereby "setting the record straight" without engaging in high administrative burdens or privacy issues or intervention in Member State law, Policy Option B would actually provide new criminalization of certain activities, in order to ensure the legal landscape as a whole is more harmonized. The trade-offs being proportionally the same but growing exponentially, Policy Option C would harmonize the legal frameworks even more by allowing cross-border disqualifications for sex offenders, and increasing the use of platforms such as ECRIS and SIS. Therefore, the trade-offs and the reasoning behind them is the same, with merely an exponential growth of the protection vs trade-off paradigm.

More far reaching measures foreseen under Option C entail a higher risk of affecting interference with fundamental rights and Member States' administrative burdens, considering that cross-border disqualifications for sex offenders have to be carefully managed in order to respect offenders' rights, as should an increase in the use of platforms ECRIS and SIS, as should allowing undercover agents to perform investigations.

Problem Driver 3 concerns prevention and assistance to victim programmes, which are deemed to be national. Option C is of a more global nature when compared to Options A and B, which instead are both fully sufficient both with regards to prevention and assistance to victims. Due to the clarification of ambiguities and the criminalization of wider types of crimes, Options A and B have also however proven their worth on the prosecution and investigative side. Measures under Options A and B alone would stay short of the required major impact, in particular because they would not foresee investigation and prosecution measures which consider the cross-border dimension of child sexual abuse, which is instead an additional consideration that goes beyond the wider picture of child sexual abuse. The creation of national anti-child sexual abuse coordinators are entailed in the Option C measures that are regarded as being the most effective, yet that will also entail a higher degree of interference with Member States' administrative and budgetary burdens.

In conclusion, in terms of fundamental rights, the policy choice must be guided by a balancing of interests, weighing the threats of not countering child sexual abuse effectively against potential interferences with for instance privacy concerns. The costs of implementation are weighed against the expected benefits: for those measures included in the preferred option and which are considered as particularly effective, our appraisal concluded that the costs will be outweighed by the expected benefits.

7 HOW DO THE OPTIONS COMPARE?

Criteria have different weights, which indicate the relative importance of the criteria vis-à-vis each other: effectiveness = 4; efficiency = 4; necessity = 4; coherence = 3; subsidiarity and proportionality = 3. The higher the number, the more weight the criterion has. The assessment is made in comparison to the baseline scenario as a benchmark.

The following table compares the policy options and summarises their rating as compared to the weight of each criteria.

Table 3 – Comparison of policy options

Criteria and type of impacts	Direction	Weight	Rating		
			Policy Option A	Policy Option B	Policy Option C
Criteria					
Effectiveness	+	4	2	2.5	3.5
Efficiency	+	4	2.5	3	3.5
Necessity	+	4	2	2.5	3
Coherence	+	3	2	3	3
Subsidiarity and proportionality	+	3	3	3	3

7.1 Effectiveness

The effectiveness of each policy option is assessed against each of the specific objectives of this initiative.

7.1.1 Ensuring effective prevention of child sexual abuse

Policy Option A and **Policy Option B** would be effective due to the legal obligations they would include related to an increase in penalties, which might deter certain offenders from offending, and due to stricter and more precise definitions on child sexual abuse which will encompass a wider range of the crime. In **Policy Option C,** the statistical requirements on CSA data collection and the creation of national coordinator would increase knowledge about all forms of child sexual abuse, both with EU citizens, professionals and children themselves.

Notably, in **Policy Option C,** there will be a further harmonisation of national law on the requesting of information on previous offenses of the person concerned where necessary, which would turn the possibility for organisers of activities involving regular contact with children to request a potential employee's or volunteer's criminal record into an obligation. This would go a long way in ensuring that they do not bring persons with a criminal record in this area into contact with children. It will also alert national authorities and prevent any future offenders from offending in another Member State. One of the main elements of this Policy Option is that prevention programmes for offenders would exist both inside and outside of prison, and to strengthen the use and efficiency of ECRIS and the SIS, which

will therefore increase the likelihood of successfully preventing any child sexual abuse offences from being committed abroad.

7.1.2 Facilitating investigations and prosecution

Policy Option A would reinforce the criminal justice response to child sexual abuse, as Member States would have to amend their criminal codes or codes of criminal procedure. The evaluation found[170] that certain aspects of the criminal justice response to the crime are not sufficiently and/or adequately addressed in the Directive. **Policy Option A** would aim at addressing these gaps, in particular when it comes to creating rules on pornography depicting children, clarifying exemptions from criminalisation which will thereby allow CSAM to be reported or accessed for the purpose of reporting it to law enforcement when this is established beyond any reasonable doubt, and clarifying the time-limit for status of limitations.

With respect to the criminalisation of additional forms of exploitation, **Option B** would contribute to a stronger response to the crime as it broadens the scope of the Directive to include deep fake images certain fictitious material and child sex dolls as has already been implemented by certain Member States and it would criminalise live-streaming of children as a stand-alone-offence. This will ensure prosecution and facilitate international cooperation in trans-border cases, thereby reflecting the most pressing concerns which have been highlighted by stakeholders as described in the Evaluation Study[171]. The list of the forms of child sexual abuse would remain non-exhaustive, which means that Member States would still have the option to include more purposes of child sexual abuse than those explicitly mentioned in the Directive.

Moreover, with a stricter approach to the sanctions against offenders on a cross-border dimension, **Policy option C** would increase the criminal justice response. Therefore, **Option C** would go further than **Option B** in holding offenders accountable for trafficking offences, encompassing requirements to ensure that existing tools lead to an efficient exchange of information, and establishing national coordinators on child sexual abuse who will analyse best practices.

7.1.3 Improving protection and support of victims of child sexual abuse

Policy Options A and B would ensure that criminal proceedings should continue even if a victim has withdrawn his or her statements, thereby ensuring better victim protection. These Policy Options would protect all types of victims with a particular focus on children with disabilities. They would ensure that victim services can actually be provided online

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[170] Evaluation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, pp. 2-3

[171] Evaluation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, 4.1.1 Effectiveness, p. 15

and can be available all day long and throughout any day of the week. The victim services will be accessible for children with disabilities and reasonable accommodation provided.

Yet, **Policy Option C** would be more effective in ensuring that victims receive adequate assistance, support and protection across the Member States including collecting disaggregated data on categories, as the harmonisation of practices and procedures for the identification and referral of the victims would be considerably limited if Member States do not have a possibility to coordinate at the EU level that would provide them with support in its application at the national level.

7.2 Efficiency

The Policy Options would not incur any costs on businesses and companies, or on citizens.

Support to the knowledge and expertise of national authorities on fighting child sexual abuse will already be provided by the EU Centre, under the Proposed Regulation to Fight Child Sexual Abuse.

Under **Option C,** the work of the national coordinators would require limited additional financial and human resources, which would be mainly revolve among national figures already experts on child protection in national ministries. While some of the targeted legislative amendments under **Option A and Option B** may already be to a certain extent covered in some national legal systems, this does not detract from the overall impact of harmonisation and EU standard setting.

Moreover, while certain new crimes described in **Option B** such as live-streaming already fall within the scope of the Directive in some respects, its explicit addition to the definition and as a stand-alone offence is expected to further encourage national authorities to step up their efforts in fighting this growing trend, and to reduce impunity. Adapting the definition of offences to include those committed in the virtual reality environment will further strengthen national authorities' strategies to counter them, encompassing a wide range of efforts such as research strategies to prevent this emerging phenomenon, close coordination with civil society and professionals such as child psychologists to support victim assistance, and developing new technological tools to investigate and fight this growing trend.

With **Option C,** national authorities would have to identify clear benchmarks to assess prevention programmes and assistance to victims' strategies, which will include a wider data collection strategy and a more detailed qualitative analysis of the efficiency of such programmes and strategies. The overall increase in efficiency connected with **Option C** allows to consider it as a preferred option despite its higher administrative burdens.

7.3 Coherence

The evaluation found[172] that the Directive risks not being coherent with upcoming relevant EU legislative instruments which were able to take into account recent societal and technological developments, such as the proposed Directive on combating violence against women and domestic violence and the Proposed Regulation to Counter Child Sexual Abuse. The three policy options are expected to restore the coherence with these initiatives, as described in Section 5.3.

Policy Options A to C would be coherent with the Proposal for a Directive on combating Violence Against Women, as they would introduce a higher level of penalties and sanctions for certain crimes which would correspond to the level of penalties and sanctions introduced in the Proposal for a Violence Against Women Directive, and as they would incorporate new definitions of child sexual abuse, including in its online dimension, thereby rendering both legal instruments more effective in light with changing realities in this criminal field.

7.4 Necessity and Relevance

The necessity of EU action in the area of fighting child sexual abuse is demonstrated in Section 3.2.1 and in the evaluation. All the policy options are considered to be proportionate actions that would enhance the response to fighting child sexual abuse within the EU.

Policy Option A and B aim at addressing the gaps identified in the evaluation[173], also through legislative changes in the EU framework. **Policy Option C** would combine all the above options, thereby ensuring a stronger response to countering child sexual abuse in light of the developing challenges and phenomena encompassing it.

7.5 Subsidiarity and Proportionality

Section 5.3 of the Impact Assessment already explains how this initiative meets the principles of subsidiarity and proportionality. As the legislative measures under **Policy Options A to C** only consist in targeted amendments to the Directive, limited to the areas where EU action has added value and Member States action has proven insufficient, the principles of subsidiarity and proportionality are respected.

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[172] Evaluation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, 4.1.3. Coherence, p. 23

[173] Evaluation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, 5.2. Lessons learned, p. 34

8 PREFERRED OPTION

8.1 Summary of the preferred option

The preferred option is **Option C**, which includes targeted amendments to the Directive in line with the EU Strategy for a more effective fight against child sexual abuse. Member States would have to adapt their criminal codes and codes of criminal procedure. **Table 3** presents the **preferred legislative measures** among the list of legislative options in Section 5.2.2 and objectives to which they contribute to.

Table 4 – Summary of the preferred option (Option C)

Objectives	**Description of the preferred options (legislative measures)**	**Why is it a preferred option?**
Horizontal Objective-*Ensuring effective prevention of child sexual abuse*	Identifying clear benchmarks to assess the effectiveness of prevention programmes	This option would further harmonise processes related to identifying efficient prevention programmes on child sexual abuse are in the EU. Option C would also allow to clarify some aspects of prevention programmes. The anti-child sexual abuse coordinators would coordinate matters at a national level with regards to prevention programmes for offenders, and educational strategies for children.
	Option C would increase the availability and effectiveness of prevention programmes both in and outside of prison.	Intervention programmes and different types of treatment are proving effective, and best practices should be assessed and shared among Member States, taking care of respecting the fundamental rights of offenders. Having specific and effective prevention programme available in all Member States, for offenders in and outside of prison as well as for people who fear that they might commit child sexual abuse and exploitation offenders would entail significant positive effects on prevention.
Horizontal Objective- *Facilitating investigations and prosecution*	This option would strengthen interoperability of communications on convictions, and ensure the full use of existing tools to prevent sex offenders from committing crimes abroad.	Option C is preferred to Option B**,** as the cross-border nature of child abuse already (implicitly) falls within the scope of child abuse in its many forms, including the so-called phenomenon of sex-tourism which is becoming increasingly difficult to prevent. This option will therefore allow to increase

		the possibility of avoiding that the sex offenders travel abroad to commit crimes, considering that the third country may not be able or willing to take a firm stand against child sexual exploitation.
Specific Objective- *Ensuring the criminalisation of all forms of online child sexual abuse and exploitation.*	This option would introduce new crimes and penalties as part of the definition of child sexual abuse, both in the definition of crimes and in certain cases as a standalone offence.	As this Option incorporates Option B as well, it would ensure that the language and definitions on CSA related crimes are future proof with regards to potentially new technological developments. This option is also preferred as it would increase the range of effective, proportionate and dissuasive sanctions to which legal persons are subject to for committing child sexual abuse. Although Member States will be burdened by the initial cost of administrative matters and having to adapt their criminal codes, the long-term positive effects of this option would outweigh the burdens. This will also ensure coherence with new legislative instruments such as the Proposal for a Directive on combating violence against women, which will therefore reduce any future legal and administrative costs of adapting to it a posteriori. This Option would not preclude Member States to criminalise the other forms of exploitation identified in the Evaluation and Impact Assessment, as the list in the Directive would remain non-exhaustive.
Specific Objective-Ensuring that national rules on investigation and prosecution allow for an effective fight against child sexual abuse and exploitation	Undercover agents will be able to be used for investigative purposes in all Member States.	This option would allow to explicitly address one of the challenges in fighting child sexual abuse, which is offenders building solid networks, both in an offline dimension and in an online dimension by using the dark web.

Horizontal Objective-*Improving protection, support and assistance of victims of child sexual abused*	This Option will allow Member States to identify clear benchmarks to assess the effectiveness of assistance to victim programmes. Member States will have to collect data and statistics on certain categories of what they consider to be vulnerable children.	This will ensure an increased coordination of Member States and national actors, including civil society, when assisting victims. Member States do not currently have harmonised medical and psychosocial support services, and this would be difficult to establish. However, thanks to Option C, Member States can at least share best practices with regards to victim assistance programmes, and ensure the adequate support which will re-insert them as active measures of society. It might be complicated to have Member States identify specific cases of vulnerable children, as each Member States has their own national and cultural specificities when it comes to definitions related to vulnerability. Option C will entail slightly more administrative and research costs for Member States in order to have them collect statistics and disaggregated data available for vulnerable groups.
	This Option will lead Member States to introduce stricter requirements to address issues related to the lack of training of professionals, judges and educators dealing with child abuse cases.	This Option will allow Member States to address the inefficiencies which are currently present in their system with regards to professionals, judges and educators who are not yet fully aware of child sexual abuse and especially new phenomena. A difficulty for this Option would be that the trainings will impose an administrative burden on Member States, and it will be rare that all Member States can use the same trainings due to national specificities.

8.2 REFIT (simplification and improved efficiency)

In compliance with the Commission's Regulatory Fitness and Performance Programme (REFIT), all initiatives aimed at revising existing EU legislation should seek to simplify and reduce administrative burden on Member States. The impact assessment concludes that the preferred option would have an administrative burden which would be offset by the positive impact of the measures on the prevention and fight against child abuse, and protection of the victims of this crime.

The targeted amendments to the Directive are aimed at improving Member States' capacity to fight the crime efficiently, in relation to threats and trends that have emerged and evolved within the past years and with new technological developments. New rules applicable to the Member States are expected to enhance cross-border cooperation, both in terms of investigations and prosecutions, as well as victims' assistance and support.

The initiative will further clarify the legal landscape addressing fighting child sexual abuse across the Member States. The regulatory burden related to the preferred option would be of limited scope, as it mostly consists in improving existing provisions rather than creating completely new obligations. Member States already investigate, prosecute and punish offences related to child sexual abuse as they stand, and Option C would merely introduce a few more definitions and stand-alone offences related to child sexual abuse, which will have a very significant impact on countering the crime. Most of the regulatory and administrative burden on Member States would stem from coordination obligations, the identification of clear benchmarks, and data collection modifications.

The prevention and assistance to victims measures envisaged in Option C are not entirely new obligations, as under the current text of the Directive, Member States already had to establish prevention mechanisms and support victims. With Option C, they will have to identify clear benchmarks to assess the effectiveness of prevention and victim assistance programmes, which might require more coordination and administrative burdens.

All Member States already collect data on child abuse, and Option C would merely ensure better collection methods coupled with more transparency and better reporting. Therefore, introducing a requirement for Member States to collect data on specific indicators and on a regular basis as part of Option C, would not trigger significant additional burden. This legislative change is expected to simplify the work of the National Statistical Authorities and generally improve the quality and availability of the statistics. Moreover, the developing of guidelines, in close cooperation with relevant national authorities, would reduce the regulatory and administrative burden on national authorities.

8.3 APPLICATION OF THE 'ONE IN, ONE OUT' APPROACH

The 'one in, one out' approach refers to the principle whereby each legislative proposal creating new burdens should relieve people and businesses of an equivalent existing burden at EU level in the same policy area.

As explained in the previous sections, this initiative would not entail administrative costs for the private sector, and, as to administrative and adjustment costs and savings, it would mainly concern public authorities.

The preferred option creates **administrative and adjustment costs** for administrations. These are costs that result of administrative activities performed to comply with the obligations included in the proposed initiatives, which Member States will have to adjust to. They concern costs for setting up efficient prevention programmes, providing and sharing detailed information, adjusting to have a stronger victim support network. The preferred option will also generate direct adjustment costs for law enforcement, due to the increased workload to deal with cross-border investigations and partnerships.

On the other hand, the proposed initiatives will **support emerging legislative instruments**: the Proposed Directive on combating violence against women and domestic violence and the Proposed Regulation to Counter Child Sexual Abuse. This would generate savings on administrative costs for public authorities, in particular through the anticipated compliance with harmonised law across Member States.

Furthermore, the initiative is expected, in the longer term, to generate significant **cost savings to society**, derived from a reduction in child sexual abuse crimes (e.g. reduction in productivity losses, see section 6.2.2).

9 HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

The actual impacts of the preferred option, i.e. the actual progress in the fight against child sexual abuse offline and online, will be monitored and evaluated against the three **specific objectives**. The **indicators** would **build on** those of the **2011 Directive** to **minimise disruption** and costs.

The specific objectives basically aim to **strengthen the prosecution, prevention of abuse, and support to victims**. The specific objectives have corresponding **operational objectives,** which would be monitored using various **data sources** through **indicators**, which both Member States and the Commission would be **responsible** for collecting and sharing.

The table below identifies an indicative and non-exhaustive list of operational objectives and corresponding monitoring indicators for the measures identified under the preferred option.

General objective	Specific objectives	Operational objectives	Indicators - *data sources*	Who is responsible for collection - *output*
Improve identification, protection and support of victims of child sexual abuse, ensure effective prevention, and facilitate investigations and prosecution.	Ensure the **criminalisation** of all forms of child sexual abuse and exploitation, and that **national rules on investigation and prosecution** allow for an effective fight against child sexual abuse and exploitation	• Introduce criminalisation of new forms of crime in light of new technological developments • Impose effective, proportionate and dissuasive criminal penalties on offenders • Facilitate the investigation and coordination of criminal proceedings • Prosecute and prevent abuse or exploitation committed abroad	• New definitions of forms of child sexual abuse crimes • Number of offenders being sentenced for different forms of child sexual abuse • Severity of penalties • Lists of behaviours constituting child sexual abuse and exploitation where no sanctions are imposed • Number of investigations opened and closed • Number of criminal proceedings concluded with and without convictions • Estimated number of persons travelling abroad who commit child sexual abuse • Number of offenders being sentenced abroad and in third countries • Severity of penalties imposed for child sexual abuse and exploitation committed abroad	**Member States** – ***internal report*** to the Commission once every **3 years** **Commission** – ***implementation report*** every **3 years** – ***evaluation*** every **6 years**, – ***annual data collection*** published on Eurostat using as sources the annual reports from the EU Centre and from providers, among others **Europol and Eurojust** – ***reporting*** from Europol and Eurojust
	Ensure effective **prevention programmes**	• Promote access to intervention programmes and measures • Ensure that appropriate measures are taken with regard to offenders who continue to be dangerous after release • Ensure that prevention programmes are effectively implemented throughout the EU	• Number of persons without a criminal record of child abuse having followed an intervention programme • Recidivism rate for child sexual offenders • % of offenders having undergone a risk assessment before release • Number of offenders being subject to special measures to reduce risk of re-offending after their release • Qualitative auditing of mechanisms to exchange information on security measures among Member States	
	Improve protection, support and assistance to victims and ensure an **increased coordination** among different member states and, at the national level,	• Encourage victims to report harm to law enforcement authorities • Facilitate access by victims to legal remedies and ensure compensation • Ensure that victims suffer no harm after participating in criminal investigations	• Number of children reporting sexual abuse • Number of children participating in legal proceedings • Qualitative assessment of the trauma suffered by children participating in legal proceedings • Interviews conducted to child victims after legal proceedings, on how their experience with professionals was • Specific collection of data on vulnerable children	

	among all the actors involved			
	Create **harmonised national mechanisms**	• Measure the extent of the crime • Monitor the effectiveness of policy	• Availability of the indicators • Availability of other information	

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ANNEX 1: PROCEDURAL INFORMATION

1. Lead DG, D*e*cide Planning/CWP references

This Staff Working Paper was prepared by the Directorate-General for Migration and Home Affairs (HOME). HOME is the lead DG for the evaluation and the impact assessment of the Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

The Decide reference of this initiative is **PLAN/2021/10693**.
This initiative appears in the 2020 EU Strategy for a more effective fight against child sexual abuse under pillar I, 'Implement and develop the right legal framework to protect children'.

2. ORGANISATION AND TIMING

Organisation

The Terms of Reference for carrying out an external study to support the evaluation of the Directive on combating child sexual abuse and exploitation and child pornography and an impact assessment for a proposal for a Directive (Recast) on the topic were launched on 2 July 2021 with a deadline on 9 August 2021. An evaluation committee consisting of staff from DG HOME and DG JUST selected an external contractor to conduct the study on 30 September 2021[174]. In light of other commitments, the start of the study was postponed to 1 December 2021 and the kick-off meeting of the contract for the study took place on 12 December 2021. The contract had a duration of 12 months and was finalised in November 2022.

The combined evaluation roadmap and inception impact assessment for the initiative was published by DG HOME on the Commission's "Have your say" webpage on 28 September 2021 until 26 October 2021. The Commission carried out a public consultation from 20 April 2022 to 13 July 2022, which was also published on "Have your say" webpage.

The Inter-Service Group (ISG) on Child Sexual Abuse and Exploitation, which already existed, was composed of several Directorate-Generals within the Commission[175]. The

[174] The call for service was issued via framework contract HOME/2019/ISFP/FW/EVA2/0068. Three contractors submitted an offer to carry out an evaluation and impact assessment study. The evaluation committee considered a number of criteria, namely: compliance with the technical specifications described in the Terms of Reference; demonstrated understanding of the objectives and tasks; the quality of the preliminary assessment of difficulties and expected results; the quality of the proposed methodology; and the quality of the project management and team organisation. The Commission awarded the contract to EY/RAND.

[175] DG EMPL (DG Employment, Social Affairs and Inclusion), DG GROW (DG Internal Market, Industry, Entrepreneurship and SME), DG RTD (DG Research and Innovation), SJ (Legal Service), DG SANTE (DG for Health and Food Safety), DG TRADE, DG CNECT (DG Communications Networks, Content and Technology); DG EAC (DG Education and Culture); DG JUST (DG Justice and Consumers); DG NEAR (DG Neighbourhood and Enlargement Negotiations); DG ECHO (DG Humanitarian Aid and Civil Protection); DG ENER (DG Energy); DG ENV (DG Environment); JRC (Joint Research Centre) and DG BUDG (DG Budget). It also included the EEAS (European External Action Service).

meetings of the ISG were chaired by DG HOME. The steering group was regularly consulted over the course of the evaluation and impact assessment, in particular on the draft reports of the contractor responsible for carrying out the external study. The following list provides an overview of the work of the ISG:

- The ISG was consulted in June 2021 in order to provide feedback on the draft Terms of Reference for the external study.

- The ISG was invited to provide feedback on the combined evaluation and inception impact assessment in July 2021

- On 12 December 2021, the ISG was invited to the kick-off meeting of the external study with the contractor.

- In January 2022, the ISG was consulted on the consultation strategy and the public consultation questionnaire and the inception report from the study supporting the evaluation and impact assessment of the Directive.

- On 13 July 2022, the ISG was invited to participate in the meeting to discuss the initial submission of the interim report of the study, drafted by the contractor. The report was subsequently accepted after revisions were made to reflect the comments of the ISG.

- The ISG, as well as DG HOME relevant units, were consulted in writing throughout the evaluation and impact assessment process and their comments to the external study were duly taken into account.

- On 16 September 2022, DG HOME shared with the ISG the final version of the interim report supporting the back-to-back evaluation and impact assessment of the EU Directive on combating child sexual abuse.
- On 30 November 2022, the final report of the study was re-submitted by the contractor to DG HOME for revisions and subsequently accepted.
- A (written) informal consultation with the ISG on the Staff Working Documents on the Evaluation and Impact Assessment took place between 24 October and 17 November 2022.

The last meeting of the ISG, chaired by DG HOME, was held on 17 November 2022. The Regulatory Scrutiny Board received the impact assessment report on 13 December 2022. On 20 January 2023 the RSB issued a positive opinion with reservations.

Timeline and chronology of the IA

This initiative was first announced in the July 2020 EU strategy for a more effective fight against child sexual abuse1, where the Commission notably committed to:

Identify legislative gaps, best practices and priority actions at EU level in the fight against child sexual abuse online and offline, and assess whether the Child Sexual Abuse Directive needs to be updated.

- On 28 September 2021, the Commission published the Inception Impact Assessment for 4 weeks, until 26 October 2021; 17 feedbacks were received. DG HOME has analysed the reactions to the IIA and taken them into account for the purposes of the Impact Assessment.
- The impact assessment itself is based on an evaluation of the Child Sexual Abuse Directive, which was carried out in 2022 back-to-back and was supported by a study.
- On 20 April 2022, the public consultation was launched. The consultation lasted until 13 July 2022; 49 replies were received.
- Targeted consultations and interviews took place in Q2-Q3 2022, with Member State experts and stakeholders.
- The final meeting of the ISG, chaired by DG HOME, was held on 17 November 2022.

3. CONSULTATION OF THE RSB

The Regulatory Scrutiny Board received the impact assessment report on 13 December 2022. The RSB meeting on the Impact Assessment took place on the 18 January 2023.

On 20 January 2023 the RSB issued a positive opinion with reservations, stating that DG HOME had to take the RSB's recommendations into account before launching the interservice consultation once more, which is currently planned for November 2023.

The main modifications made in light of the RSB's comments are detailed in the following table down below.

Feedback provided by the RSB	Modifications introduced
The dynamic baseline should include all measures relevant to this initiative, in particular the CSA Regulation. Given the close interlinkage between the CSA Directive and CSA Regulation, the report should clearly set out how the expected effects from the CSA Regulation proposal have been reflected in the dynamic baseline scenario (and under which time frame) and factor them into the assessment of impacts. It should clarify how the estimated annual baseline victim costs of EUR 13.8 billion take into account the improvements expected from the CSA Regulation proposal. The same should be done when	The dynamic baseline and costs and benefits sections have been substantially integrated, with a clearer overview of the interplay between costs and benefits linked to the proposed CSA regulation, costs and benefits linked to the Directive's recast and the interplay between the two. In particular, • the IA now explains that the IA attached to the proposed CSA regulation estimated a 25% to 50% reduction of the annual cost of CSA (13.8%) as a consequence of the entry into force of this regulation. Hence, the baseline victims cost would be 10,3 billion(reduction of 25%) or 6,9 billion(reduction of 50%) if the proposal was adopted

estimating the benefits of the options.	before the proposed recast. Given the current uncertainty about the scope and timing of the CSA Regulation, it is not possible to estimate more precisely how the Regulation in its final form would affect the status quo; the IA therefore does not take into account possible benefits from the Regulation as it is uncertain whether positive impacts would accrue. • The IA now explains that the cost of setting up national rapporteur would be lower if the Coordinating Authorities were already in place, as MSs would be free to designate those as national rapporteur, without the need to set up new offices. • By strengthening prevention, the recast Directive would reduce the prevalence of CSA and, therefore, the costs of reporting and prosecuting it as assessed in the IA accompanying the CSA regulation.
The report should provide more details on the analytical methods and underlying assumptions. In particular, it should further explain the methodology of the extrapolation of non-EU data to the EU and better justify the assumption of the 25% (and 50% in the long run) reduction of the current costs of CSA as a result of this initiative.	The description and analysis of the analytical methods and assumptions have been significantly revised to take into account the comments of the RSB, notably in paragraph 6.2.1 and 6.2.2 which clarify the assumptions on the costs, subject to further research which was conducted and a consultation survey with law enforcement.
The report should provide more detail on the proposed measure of "independent institutions to promote children rights" and also explain the difference between this and the creation of "Anti-Child Sexual Abuse Coordinators". It should better argue the necessity of independent institutions and explain how this measure would comply with the principle of	We have added several explanations to explain the importance of the creation of independent institutions to counter child sexual abuse activities more precisely on a national level: • Comments in 5.2.3 which focus on how the anti-child sexual abuse coordinators would advocate on behalf of victims and survivors, to raise awareness and remove the

subsidiarity. This assessment should set out clearly the views of Member States regarding the need for this harmonisation element, given the diversity of situations across Member States.	stigma that prevents victims from coming forward to report child abuse, • Comments in section 6.1.1 on the importance of coordination of this initiative with other legislative instruments. • Comments in section 6.1.2 which explain the fact that the anti-child sexual abuse coordinator will be consistent with the development of comparable evidence bases across Member States. Comments that detail the finding that most Member States are not collecting statistics on offenders for research purposes
The report should clearly explain the logic of the policy options and specify that they have an incremental character, while also explaining their individual limits. It should set out clearly the underlying trade-offs that frame the context for the policy options. An overview of the policy options in function of each specific policy objective should be provided. Furthermore, the report should clarify whether Policy options A and B are genuine alternatives and how their measures are to improve prevention. More generally, the options should consider synergies and take advantage of measures introduced in the CSA Regulation proposal.	We have added more explanations on the logic of the policy options and their incremental character and trade offs. • Comments in Section 5.2.1 which describes Option A and in Section 5.2.2 which describes Option B, in order to highlight the value that the Options have in the prevention sphere. • An introduction in Section 5.2 description of the policy options, which outlines their incremental value and their need based on specific problem drives. • A conclusion in Section 5.4 which describes the policy options in detail, as well as the required table which highlights each policy option in function of each specific policy objective • A conclusion to Section 6 impact of the policy options, which describes in more detail the trade-offs of each policy option, from both a

	qualitative and quantitative perspective: Section 6.3 conclusion on assessments.
The views of different stakeholder categories, including those of competent Member States authorities, should be systematically reported throughout the report and account taken of consultation feedback and targeted interviews. The report should clarify stakeholders' expressed preferences on the policy options including dissenting views.	We have better clarified various stakeholders' preferences thorough the text and, where possible (i.e. where data was not collected anonymously and aggregately) we included the relative stakeholders' categories, including dissenting and minority views. In particular: • Incorporated the stakeholders' views throughout the content of the impact assessment. • Tried to more systematically differentiate between preferences expressed by competent public authorities in the Member States and other stakeholders. • Details regarding the call for evidence can now be found also under Annex II (point. 4.1). • The methodological Annex (Annex 4, 1.5. List of sources) has been updated based on the available sources from the IA.

4. EVIDENCE, SOURCES AND QUALITY

The main source of evidence for the present Impact Assessment is the evaluation of the Child Sexual Abuse Directive, which was accompanied by a public consultation (20 April to 13 July 2022) and an external support study[176].

The CSAE Directive has inspired the organisation of six expert workshops (from 17 January 2018 to 6 September 2019) by the Commission, which were held to gather info on challenges and emerging issues on the implementation of some aspects of the Directive. The workshops offered an arena to discuss key issues regarding the implementation of the CSAE Directive as well as its relevance in light of new and emerging issues that affect the intra-EU effort to fight against CSAE.

[176] The study provides a qualitative (and to the extent possible quantitative) assessment of the likely impacts of the identified policy options vis-à-vis the baseline scenario of no EU action.

In addition, the Commission, represented by the Joint Research Centre and the Directorate-General Home Affairs and Migration's Security for the Digital Age unit, organised a series of Thematic Workshops involving experts to support the identification of criteria for classifying 4 and for evaluating prevention programmes covered by Articles 22 and 24 of the CSAE Directive. These steps support EU Member States and other countries in putting effective prevention initiatives in place for persons who fear they might offend against children[177].

Additional external expertise was gathered through the following stakeholder consultation methods: scoping interviews, desk research, online survey, public consultation, targeted interviews, case study interviews, and workshops, as explained in detail in Annex 2.

[177] Di Gioia R., Beslay L. (2023) Help seeker and Perpetrator Prevention Initiatives - Child Sexual Abuse and Exploitation, ISBN 978-92-76-60601-7, doi:10.2760/600662, JRC131323

ANNEX 2: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

1. CONSULTATION STRATEGY

The consultation strategy was built upon the information already collected as part of the evaluation of the Child Sexual Abuse Directive, notably with a view to consider further non-legislative measures and legislative adjustments. More precisely, the consultation strategy in the framework of the Impact Assessment aimed at identifying and assessing possible policy options and assist in the calculation of their costs and benefits. In this context, the views of stakeholders on elements to be included (or not) in a legislative proposal were collected in order to enable the Commission to table a good proposal.

The **objective of the consultations** in the context of the impact assessment on the revision of the child sexual abuse and exploitation acquis was therefore twofold:

1. to collect the views of stakeholders about possible options to tackle the problems identified in the evaluation, including by seeking feedback on the recommendations that emerged as a result of the evaluation exercise;

2. to gather information about possible additional problems that were not covered by the evaluation of the Child Sexual Abuse Directive.

2. CONSULTED STAKEHOLDERS

The following key stakeholder categories have been identified for the consultation in the framework of the revision of the Child Sexual Abuse Directive:

- Member States' national authorities involved in the implementation of the Directive and in furthering its transposition (e.g. law enforcement agencies, prison, detention and parole services, administrative, child protection, and judicial authorities) and regional and local authorities
- Relevant agencies (including Europol, Eurojust & the Fundamental Rights Agency (FRA))
- Relevant organisations in third countries, including the US National Center for Missing and Exploited Children (NCMEC), and the Canadian Centre for Child Protection (C3P)
- Relevant international organisations, including the Council of Europe
- Relevant industry stakeholders
- Hotlines, including the EU funded INHOPE network, and other child protection, child rights, prevention and privacy focused civil society organisations,
- Relevant researchers and academics
- The general public

Short description of the methodology and tools used to process the data

The consultation activities focused on online surveys, targeted interviews, virtual study visit interviews, online questionnaire focused on the costs of identified policy options, case study interviews focused on the costs/impacts of identified policy options, and workshops.

The following actions were carried out in the framework of the consultation:

• The Commission launched an internet-based **public consultation** in all 24 official EU languages. The consultation was questionnaire-based. The consultation period was twelve weeks. The outcome of the public consultation **was analysed by an external contractor**.

• **Data collection process:**

- **Desktop research:** The study team has performed **extensive desk research activities** to carry out the analyses included in this report. A comprehensive and systematic literature review was performed to inform the analysis of the scale, scope and key features of CSAE (Chapter 3) and the assessment of the Directive in accordance with the five evaluation criteria (Chapter 0 provides the evaluation results for the evaluation criteria; relevance, effectiveness, efficiency, coherence and EU added value). The most relevant EU and international initiatives to the fight against CSAE have been examined to draw the policy context relevant to the EU efforts to fight against CSAE. Moreover, a detailed review of the criminal codes (CC) and other relevant national laws transposing the Directive has been carried out assessing the extent to which the Member States have taken the necessary measures to comply with the Directive. Finally, database searches have supported the collection of statistics and data informing the magnitude of CSAE, as well as the analysis of the efficiency of the CSAE Directive.

- **Field research:** The Commission organised field research activities (open surveys and targeted consultations) with MS experts, EMPACT, EU bodies/agencies, international bodies, civil society organisations, prison, detention and restorative justice specialists, education institutions and teachers, representatives from ICT private companies, government-led authorities (including ministries), judicial authorities, law enforcement authorities, and hotlines. An overview of the progress made in engaging stakeholders through the online survey and targeted interviews is available below.

3. TARGETED CONSULTATIONS

The following targeted consultations were carried out in the framework of the impact assessment:

Stakeholder	Survey (n. of respondents)	Interviews (evaluation and impact assessment phase)
EMPACT	n.a.	1
EU bodies/agencies	n.a.	6

International bodies	n.a.	4
Civil Society Organisations	15	12
Academia	n.a.	2
Prison, detention and restorative justice specialists	n.a.	3
Education institutions and teachers	n.a.	2
Representatives from ICT private companies	n.a.	1
Government-led authorities (including ministries)	18	n.a.
Judicial authorities	11	n.a.
Law Enforcement Authorities	13	n.a.
Hotlines	10	n.a.
Third-country organisations	n.a.	4
Total	**67**	**35**

Date	Consultation
28 September 2021 – 26 October 2021	Call for evidence
20 April - 13 July 2022	Public consultation
13 May – 1 June	Online survey
April- September 2022	Targeted Interviews with key stakeholders
4 November 2022	Workshop to support the evaluation and impact assessment of the Directive
11 November 2022	Meeting with the EU Prevention Network

4. OUTCOMES OF THE CONSULTATIONS

4.1 Inception impact assessment

In total, 17 replies were submitted: 10 by non-governmental organisations, 2 by companies and business organisations, 2 by EU citizens, 2 by EU citizens, 2 by other entities and 1 business associations. Interested stakeholders could provide feedback to the Inception Impact Assessment from 28 September to 26 October 2021.

This combined evaluation roadmap/Inception Impact Assessment aims to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular, invited to provide views on the Commission's understanding of the current situation, problem and possible solutions and to make

available any relevant information that they may have, including on possible impacts of the different options. The Roadmap published by the Commission to inform the possible revision of the CSAE Directive, includes four different types of intervention:

- Policy option 1: baseline scenario. This option would imply no further action from the EU. The European Commission would continue to support Member States to fully implement the provisions of Directive 2011/93/EU;
- Policy option 2: Complementing existing legislation with non-legislative measures. This option would consist in additional financial support, and coordination activities aimed at enhancing Member States' efforts in the area of prevention, investigations and prosecution as well as support to victims.
- Policy option 3: New legislation on prosecuting offenders, protecting victims and preventing offences. This option would set out a new legislative framework that would build on the existing CSAE Directive. The intervention would take into account advances in technology, new terminology, categories of criminal acts, ensure effective prevention initiatives, protection and support to victims, and other challenges that have arisen since the adoption of the CSAE Directive in 2011.
- Policy option 4: New legislation on prosecuting offenders, protecting victims and preventing offences plus non-legislative measures. This option entails legislative amendments to the CSAE Directive as proposed in policy option 3 as well as the introduction of the non-legislative measures as provided in policy option 2.

Eleven of the stakeholders replying to the Roadmap consultation advocated for policy option 4, two stakeholders supported policy option 3 whilst another stakeholder supported policy option 2.

Respondents further included suggestions on policy measures with regards to:

- ***Threats posed by the online environment***

Respondents were in favour of new rules concerning the emerging risks of abuse posed by the technological developments (e.g. the Metaverse and decentralised networks) and the increasing use of technologies by both children and perpetrators. Besides new rules towards more efficient criminalisation of emerging CSAE-related offences (e.g. online grooming, live-streaming, self-generated CSAM circulating online, revenge porn, AI-child sex robots, and deep fakes), respondents pointed out that the concept of 'child pornography' shall be replaced with "child sexual abuse material" (CSAM), in line with the ECPAT's Luxembourg Guidelines. This new definition shall cover all forms of CSAE happening online and offline, including virtual CSAM in the form of cartoons, mangas, drawings and fantasy descriptions. Finally, it is suggested that new rules are future-proof with respect to the way technology and tech-enabled crimes are regulated. Adding 'in any form and by any means whatsoever' to the definition of criminalised acts would render the measures easily adaptable to future technological developments and tech-enabled crimes.

- ***Child-friendly and sensitive justice***

Respondents supported a revision of the CSAE Directive towards ensuring child-friendly justice systems. This means that children should receive information about their rights and their involvement in the proceedings in a format and language that they can understand and that is tailored to their specific needs and age. To this end, authorities should, inter

alia, adopt approaches that take into account the experienced trauma and gender-specific needs of the victims.

- ***Prevention initiatives***

Many stakeholders state the need for awareness-raising activities to avoid children becoming victims of CSAE (e.g. through social campaigns and workshops) targeting the public and professionals working with minors, as well as for education programs in schools across the EU, including on themes such as sexual consent, gender equality, and online safety. Prevention initiatives targeting children should be age-appropriate and take into account gender-specific needs. Likewise, special attention to specific needs should be paid when designing prevention programmes for foster children, children in institutional care or living in domestic environments posing risks of becoming victims. Further, stakeholders expressed the need for mandatory rehabilitation programmes for CSAE-convicted felons and alternatives to imprisonment to avoid offenders' recidivism.

- ***Removal and blocking of CSAM online***

Internet Service Providers (ISPs) need clear and mandatory rules on the detection, reporting blocking and removal of CSAM in their services, which should also be held accountable for failure to act. To render such procedures effective, cooperation between ISPs and LEAs authorities should be strengthened.

- ***Creation of an EU centre***

Respondents supported the creation of a European Centre dedicated to the fight against online CSAE, as outlined in the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse. The Centre will facilitate CSAE prevention and enhance cooperation in delivering justice not only within the EU but also working with jurisdictions outside of the EU. Stakeholders raised that the operational activities and methods of the European Centre remain unclear and should be defined. To this end, the Centre would benefit from an EU-wide set of updated terminology and definitions.

[Add. info: *One respondent further suggested the creation of an innovation hub within the proposed EU centre to prevent and counter child sexual abuse online that encourages collaboration amongst the tech industry as well as Member States, civic society and law enforcement, with a view to building best practice in response to the current and emerging challenges in preventing online child abuse and exploitation.]*.

4.2 Public consultation

The Commission carried out an open public consultation targeting the general public with the aim of collecting information, evidence, and views on the issues at stake and to feed into the evaluation questions. In the context of the study, a PC in all EU official languages concerning the evaluation of the CSAE Directive and a preliminary discussion on the objectives of a policy intervention to review it was carried out via the Commission's tool EU Survey[178] which remained open from 20 April 2022 to 13 July 2022. Overall, 49

[178] Public Consultation "Combating child sexual abuse - review of EU rules". Available at: link.

responses were received from stakeholders in 23 countries, including 18 Member States (AT, BE, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, MT, NL, PT, SE and SI) and five third countries (Canada, Iran, Thailand, UK and US).

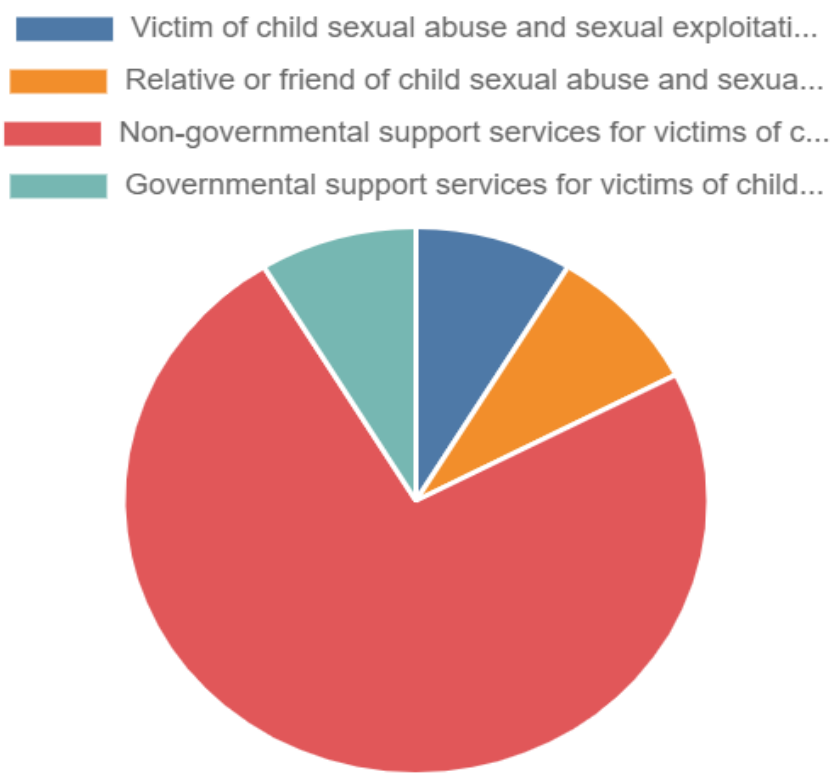
In addition to the replies to the PC questionnaire, 21 written contributions were received, including eleven contributions from Civil Society Organisations, three from representatives of business organisations, four from ICT companies, one from a representative from a national ministry of justice, one from a legal expert and one from a EU citizen.

Regarding the profile of the respondents, 20 answered the survey as individuals (19 EU citizens and one non-EU citizen), while the remaining 30 respondents answered on behalf of an organisation (seven public authorities, two business association, one company/business organisation, 20 non-governmental organisations - NGOs). The size of the concerned organisations was the following: seven large (250 or more employees), seven medium (50 to 249 employees), six small (10 to 49 employees) and 10 micro (1 to 9 employees) organisation. (Table 1)

Table 1: Public consultation responses by type of respondent

Stakeholder type	Number of replies
EU citizen	19
Non-governmental organisation	20
Public authority	6
Business association	2
Company/business organisation	1
Non-EU citizen	1

Among the 49 replies, 2 were from victims of child sexual abuse and 2 from friends or relatives of victims of child sexual abuse. A total of 17 replies came from non-governmental support services for victims of child sexual abuse and sexual exploitation, and 2 from governmental support services for victims of child sexual abuse and sexual exploitation.



8 responses came from France (16.3%). The second largest number of contributions came from Germany (14.29 %, n=7), followed by Netherlands (8.16%, n=4) and Spain (6.12%, n=3). This was followed by Belgium (4.08%, n=2), Czechia (4.08%, n=2), Greece (4.08%, n=2), Italy (4.08%, n=2), Malta (4.08%, n=2), Portugal (4.08%, n=2), Sweden (4.08%, n=2), and Thailand (4.08%, n=2).10 countries had one contribution (Table 2).

Table 2: Responses to public consultation by country

Austria	1	Iran	1
Belgium	2	Italy	2
Canada	1	Malta	2
Croatia	1	Netherlands	4
Czechia	2	Portugal	2
Denmark	1	Slovenia	1
Estonia	1	Spain	3
Finland	1	Sweden	2
France	8	Thailand	2
Germany	7	United Kingdom	1
Greece	2	United States	1
Hungary	2		

A summary of the key findings from the public consultation, grouped by evaluation criterion, is provided below. It should be noted that this summary is not exhaustive and rather presents some of the key results of the public consultation.

Replies to the PC questionnaire

This section presents the main points that emerged from the responses to the PC. For each key finding, the share of respondents confirming the finding is provided, out of the total number of respondents to the question (both in percentage and in absolute numbers).

To what extent was the intervention successful and why?

Effectiveness

Considering the **effectiveness** of the EU action in the field of CSAE, the large majority of respondents (88%, n=44 out of 50) agrees that an EU-wide cooperation framework is necessary to effectively combat this crime.

More in details, in terms of **crime investigation and prosecution**, the majority of stakeholders stated that the CSAE Directive contributed to successful criminal proceedings to a moderate or high extent (78%, n=28 out of 36), and that the penalties foreseen by the CSAE Directive have a proportionate and dissuasive effect to a moderate, high or very high extent (66%, n=23 out of 35). Also, the extension of the statute of limitation after the victim has reached the majority was mentioned as the key provision of the CSAE Directive that contributed the most to increasing reporting of CSAE cases (60%, n=24 out of 40 respondents answering very high or high extent). The possibility to continue investigation and prosecution of CSAE offences even if the victim's statement was withdrawn was mentioned among the key measures that contributed to improving the investigation and prosecution of offenders (50%, n=9 out of 18 respondents answering very high or high extent).

Regarding the **support and assistance** provided to victims, the contribution of the CSAE Directive was deemed as very high, high or moderate extent by the large majority of stakeholders (68%, n=26 out of 38). Also, according to 71% (n=23 out of 32) of respondents, the CSAE Directive contributed to ensuring that victims are not punished for their involvement in criminal activities that they may have been compelled to take part in, or were involved in unknowingly, from a moderate to a very large extent. Moreover, 76% of respondents (n=19 out of 25) agreed that the CSAE Directive contributed to ensuring protection of victim's privacy, identity and image during criminal proceedings to a moderate, high or very high extent.

Considering the **prevention of CSAE**, many respondents provided a positive feedback (very high and high extent) regarding the contribution of the CSAE Directive towards the removal/blocking of webpages containing or disseminating CSAM (44%, n=20 out of 45). Positive feedback was also provided regarding the contribution of the CSAE Directive towards the establishment of prevention programmes targeted at people who have not committed a crime but fear they may offend against children (41%, n=15 out of 37).

Finally, the large majority of stakeholders (70%, n=14 out of 20) confirmed that harmonised monitoring mechanisms aimed at measuring the extent of CSAE crimes currently exist in their countries.

Efficiency

Considering the **efficiency** of the CSAE Directive, the large majority of respondents considered that the positive effects of the Directive were achieved at a reasonable cost (88%, n=7 out of 8) and that its implementation did not cause unnecessary administrative burden (86%, n=12 out of 14).

Coherence

In terms of the **coherence** of the CSAE Directive with other relevant EU legislation, all respondents agreed that it is coherent with the EU Anti-Trafficking Directive (100%, n=17 out of 17). Also, according to the large majority of respondents, the CSAE Directive is coherent with Regulation 2021/1232 (82%, n=14 out of 17) and with the Victims' Rights Directive (95%, n= 20 out of 21). Similarly, the CSAE Directive is considered coherent with international instruments and standards such as the Council of Europe Convention on protection of children against sexual exploitation and sexual abuse (95%, n=21 out of 22), the United Nations Convention on the Rights of the Child (92%, n=22 out of 24) and the Sustainable Development Goals (93%, n=13 out of 14).

How did the EU intervention make a difference and to whom?

EU added value

According to the large majority of respondents (92%, n=34 out of 37), the CSAE Directive made it easier for the Member States to tackle CSAE and CSAM. More in details, the CSAE Directive contributed to reducing the occurrence of CSAE to a very high, high or moderate extent in particular in relation to child sex tourism (63%, n=12 out of 19), the prostitution of minors (61%, n=11 out of 18), the prevalence of offending (both contact offences and otherwise) (55%, n=11 out of 20) and online sexual abuse and exploitation (55%, n=12 out of 22).

Is the intervention still relevant?

Relevance

Regarding the **relevance** of the CSAE Directive, respondents agreed that the CSAE Directive contributed to a very high, high or moderate extent to:

Equipping children with the right knowledge and skills needed to support healthy sexual development whilst staying safe online, including by identifying and reacting appropriately to risky situations (58% (n=26 out of 45));

Addressing issues caused by the development of new technologies including use of peer-to-peer networks, end-to-end encryption and crypto-currency to facilitate this crime, artificial intelligence and use of deep-fakes (48% (n=21 out of 44));

Addressing the increasing online dimension of this crime including e.g. the online production and distribution of CSAM, live streaming of abuse, hosting of this material in bulletproof online spaces etc. (54% (n=25 out of 46)).

Revision of the CSAE Directive

Subsidiarity

The large majority of respondents (94%, n=45 out of 48) agreed that the fight against CSAE continues to require action at the EU level, and it fully respects the subsidiarity principle.

Specific objectives

The majority of respondents agreed that a potential revision of the CSAE Directive should aim to address specific new and emerging challenges that are not and should be covered at the EU level, such as the monetisation of CSAM and novel ways to carry out child sex tourism including live-streaming of abuse (86%, n=36 out of 42), the threats posed by ongoing technological developments including deep fakes and AI-child sex robots, and the metaverse (85%, n=34 out of 40), as well as the increasing online dimension of CSAE (83%, n=35 out of 42).

Moreover, many stakeholders (83%, n=38 out of 46) agreed that the CSAE Directive should be revised in order to require the Member States to nominate a national authority in charge of coordinating the effort against CSAE at the national level. Also, a recast CSAE Directive should include legal harmonisation regarding: the age of sexual consent (73%, n=16 out of 22), civil damages awarded to victims (65%, n=15 out of 23), the definition of the effectiveness of prevention programmes (82%, n=18 out of 22), the investigative tools and techniques allowed to combat CSAE (91%, n=21 out of 23), self-generated material (88%, n=21 out of 24) and the start of the limitation period (67%, n=14 out of 21).

Finally, the majority of respondents stated that the CSAE Directive should more prominently articulate the gender dimension, in particular the protection of girls (63%, n=26 out of 41), and the situation of groups of children particularly exposed to the risk of becoming victims, including children from a disadvantaged background and at risk of social exclusion, Roma children, children with disabilities, LGBTQI+ (76%, n=32 out of 42).

Written contributions

4.3 Online survey

As indicated above, in total 67 responses were received to the online survey: 18 from National Competent Authorities, 15 from CSOs, 13 from law enforcement authorities, 11 from judicial authorities, 10 from hotlines.

This section presents the main points that emerged from the responses to the online survey.

Child sexual abuse and exploitation in the EU

Considering main trends relevant to CSAE, most respondents claimed that **the number of offences prosecuted related to child pornography** (69%, n=22 out of 32), **offline CSAE**

(46%, n=12 out of 26), and **online CSAE** (66%, n=19 out of 29) **increased** (by more than 5%) over the past ten years,[179] though the increase appears to be most significant for crimes related to online CSAE and child pornography. **It is unclear the extent to which the CSAE Directive has contributed to such an increase**. Some respondents (n=4) mentioned that the increase in the number of prosecutions went hand in hand with the ongoing increase in the number of online CSAE offences, which has led to an increase in resources dedicated to prosecution. Other respondents (n=5) suggested that the CSAE Directive's implementation has contributed towards raising awareness about CSAE, which resulted in improved detection of CSAE offences, also due to an increase in related reporting.[180]

To what extent was the intervention successful and why?

Effectiveness

Regarding investigation and prosecution of CSAE offences, survey respondents confirmed that **the CSAE Directive's implementation has enhanced the use of appropriate investigative tools to fight against CSAE**. Most respondents (77%, n=34 out of 44) agreed that the CSAE Directive's implementation had a moderate or even large effect on ensuring that law enforcement have access to the right tools to investigate cases of CSAE.[181] Two respondents mentioned that the CSAE Directive's implementation had helped introduce high-tech and specialised tools for investigating CSAE cases.[182] Also, a large share of respondents agreed that the **sanctions foreseen by the CSAE Directive are dissuasive** (44%, n=22 out of 50), **effective** (48%, n=25 out of 52), **and proportionate** (51%, n=27 out of 53) to a large or very large extent.[183] Nevertheless, the share of respondents that considered such sanctions as only moderately dissuasive is still considerable (34%, n=17 out of 50).[184] Finally, the majority of respondents confirmed that **there is high variance in terms of what materials constitute "child pornography" according to Member States' legislations**. Depending on specific national definitions included in different Member States' legislations, "child pornography" can include AI robot (51%, n=24 out of 47), anime and manga depicting sexual images of children (63%, n=35 out of 56), child sex dolls (51%, n=27 out of 53), deep fake (67%, n=32 out of 48), literary novels romancing child sexual abuse (39%, n=20 out of 51) and texts explaining how to groom (46%, n=23 out of 50).[185]

With respect to reporting mechanisms, **most respondents** (99%, n=66 out of 67) **identified hotlines (phone or online) as the main available avenue for reporting cases of CSAE** in their country, **followed by social media platforms** (61%, n= 41 out of 67) and **focal points (teachers/educators)** (52%, n=35 out of 67). **Most respondents also had positive views about their national hotlines**, which they deemed to be confidential (89%, n=54 out of 61), user-friendly (65%, n=40 out of 62), well-known (41%, n=26 out of 63),

[179] Online survey Q 3.1.
[180] Online survey Q 3.2.
[181] Online survey Q 4.1.
[182] Online survey Q 4.2.
[183] Online survey Q 4.4.
[184] Online survey Q 4.4.
[185] Online survey Q 4.3.

and responsive (59%, n=35 out of 59) to a large or very large extent.[186] Moreover, most respondents (72%, n=38 out of 53) found that confidentiality rules in their countries are not a constraint to reporting cases of CSAE.[187] As anecdotal evidence, one respondent elaborated that CSAE can be reported anonymously at the national level, while another one finds that health and social care workers struggle with their professional confidentiality obligations.

Regarding CSAE prevention, most respondents (60%, n=27) considered that **the CSAE Directive's implementation has contributed to preventing repeated offences against children** (e.g. stopping offenders from holding professional positions that bring them in regular and direct contact with children), at least to a moderate, large or very extent.[188] Yet, 29% (n= 13 out of 45) of respondents still claimed that the CSAE Directive's contribution had little if any contribution in this regard. Although several stakeholders (44%, n=17) considered that its contribution was moderate or large, the majority of respondents (50%, n=19 out of 38) deemed that **the CSAE Directive's implementation only contributed to a small extent, or it did not contribute at all, to preventing abuses of children with disabilities**. Similarly, most respondents (59%, n=20 out of 34) considered that the CSAE Directive's implementation had contributed to **preventing abuses of children with specific gender needs** (e.g. girls, boys, LGBTQI+) to a small extent, or it did not contribute at all. However, according to most respondents, **the CSAE Directive has contributed to a moderate, large, and very large extent towards the prevention of child abuses in the context of migration** (53%, n=17 out of 32), **the uploading, access to, and dissemination of CSAM** (71%, n=30 out of 42), **and the dissemination of material advertising the organisation of travels to commit CSAE** (66%, n=23 out of 35). Further, most of respondents (64%, n=25) considered that **the implementation of the CSAE Directive has contributed to preventing first-time offences against children** (e.g. through intervention programmes to persons who fear they might offend) to a moderate, large or very large extent. Also, some respondents (n=4) highlighted that initiatives or measures targeting potential offenders are still insufficient, and that they are often the result of independent actions taken by the single CSO, rather than a direct result of the CSAE Directive implementation.[189]

Most of the survey respondents (77%, n=19 out of 53) considered that **the CSAE Directive's implementation has contributed to facilitating access by child victims to assistance and support measures available to them** (e.g. legal remedies and appropriate specialist protection measures) at least to a moderate, or to a large or very large extent. Some survey respondents reported that support services are made available as long as necessary (n=8), or that the period is determined on a case-by-case basis (n=2).[190] Moreover, most of the survey respondents (51%, n=27 out of 53) considered that the CSAE Directive's implementation has contributed to **ensuring that victims of CSAE do not suffer additional trauma and harm from participating in criminal investigations and proceedings** from a large to a very large extent. [191] However, some survey respondents

[186] Online survey Q 6.3.
[187] Online survey Q 6.6.
[188] The whole paragraph is based on answers to online survey Q 5.1.
[189] Online survey Q 5.2.
[190] Online survey Q 7.3.
[191] Online survey Q 7.1.

(n=5) commented that many of the assistance and protection services available to CSAE victims were already in place before the implementation of the CSAE Directive.[192] Survey respondents (84%, n=49 out of 58) also considered that efforts at the EU level against CSAE would benefit from additional EU training for judicial and law enforcement authorities working with victims of CSAE, from a large to a very large extent.[193]

To conclude, **most of the law enforcement authorities responding to the online survey confirmed they frequently cooperate with other law enforcement authorities** (92%, n=12 out of 13) **and judicial authorities** (84%, n=11 out of 13) in their Member State in relation to CSAE cases.[194] According to respondents, main cooperation mechanisms facilitating coordination of national actors concerned with the fight against CSAE (e.g. including, among others, ad-hoc memorandum, regular exchange of information, ad-hoc cooperation agreement) are available in their country to facilitate coordination of national actors concerned with the fight against CSAE. As to cooperation with authorities in other countries in relation to CSAE, it mainly occurs with law enforcement authorities (39%, n=20 out of 51), competent authorities (34%, n=17 out of 52) and judicial authorities (22%, n=11 out of 51).Some respondents (n=5) also pointed to the role played by the International Association of Internet Hotlines (INHOPE) Network in facilitating cross-border cooperation with third countries' hotlines and law enforcement authorities.[195]

Efficiency

Most survey respondents reported no remarkable increase in the costs entailed by the CSAE Directive, either with respect to investigation and prosecution of CSAE offences, or to CSAE prevention or to the provision of assistance and protection to CSAE victims. Similarly, respondents identified **no change in the costs related to the training of professionals working with victims of CSAE** in their country.[196] Yet, respondents reported **a significant increase in the provision of and participation in trainings following the implementation of the CSAE Directive** in their country. According to the majority of survey respondents, the CSAE Directive has contributed to **at least a 3% increase in the number of participants taking part in trainings**, including member of the judiciary (56%, n=), police officers (58%, n=14 out of 24), and teachers (50%, n=6 out of 12). Conversely, most consulted stakeholders believed that the CSAE Directive limitedly contributed (less than 3%) to increasing the training offer for front-line police officers (55%, n=16 out of 29), professionals in charge of interviewing children during criminal proceedings (56%, n=15 out of 27), and the judiciary adjudicating cases of CSAE (63%, n=12 out of 19).[197]

<u>Is the intervention still relevant?</u>

[192] Online survey Q 7.2.
[193] Online survey Q 12.1.
[194] Online survey Q 8.1.
[195] Online survey Q 8.4.
[196] Online survey Q 10.8.
[197] Online survey Q 10.9.

Relevance

Most of the stakeholders consulted through the survey consider that the CSAE Directive addresses the specific protection needs of different categories of children in the EU to a large/very large extent.[198] Also, the wording of the CSAE Directive is considered by the majority of respondents to be fully in line with the current political sensitivity (52%, n=24 out of 46).[199]

Problem evolution

The majority of respondents (74%, n=35 out of 47) agreed that CSAE-related offences will increase in the next 5-10 years.[200] Specifically, growing trends will mainly concern the amount of child sexual abuse material (CSAM) circulating online (n=3), dissemination of CSAM through the darkweb (n=12), online solicitation (n=9), including for the production of self-generated content by victims (n=13) and live streaming (n=4).[201]

Many stakeholders (n=6) believe that **tech-facilitated means and their ongoing development and use in society represent key threats for the safety of children** (n=30), introducing *inter alia* new forms of child sexual exploitation (e.g. sugaring and survival sex). In particular, they refer to artificial intelligence technologies, like deepfake technologies (n=8), the metaverse (n=2), as well as to malicious uses of tech-based services, like social media and gaming platforms (n=6), often characterised by encrypted communication (n=7), and anonymous online services (n=8), such as cryptocurrency-based payment methods (n=1). Such technological developments pose a serious threat also in light of the diffusion of technological devices and access to social media among many more children and increasingly younger (n=12), combined with a lack of parental control and awareness of the dangers of navigating the web (n=7).[202]

<u>Need for EU action</u>

The majority of respondents confirmed the necessity of additional EU intervention to fight against CSAE. Specifically, the three main areas where EU intervention is deemed necessary (to a large and very large extent) are the establishment of: (i) additional EU funding for the fight against of child sexual abuse and exploitation in the EU (95%, n=56 out of 59), (ii) common minimum standards for ICT companies to report cases of online child sexual abuse and exploitation (93%, n=51 out of 55), (iii) additional EU trainings for judicial and law enforcement authorities working with victims of child sexual abuse and exploitation (85%, n=49 out of 58).[203] Furthermore, additional EU action is believed necessary to ensuring a common definition of CSAM (n=5) and common rules to fight against CSAM related offences (n=11), higher level of harmonisation of procedures and

[198] Online survey Q 9.1.
[199] Online survey Q 9.6.
[200] Online survey Q 11.2.
[201] Online survey Q 11.1 and Q 11.2.
[202] Online survey Q 11.1, Q 11.2 and Q 11.3.
[203] Online survey Q 12.1.

penalties during cross-border investigations (n=12) as well as common standards for the use of adequate tools to detect CSAE, including its online format (n=4).[204]

4.4 Targeted interviews

The Study Team planned to perform targeted interviews, aiming at:

- Understanding the current state of the debate on the fight against CSAE in terms of both academic developments and possible policy options;
- Investigating current and future needs and challenges as well as the main policy developments in the fight against CSAE vis-à-vis the Directive's objectives;
- Investigating the degree of coherence and complementarity in the fight against CSAE between EU interventions and international measures and standards in view of identifying synergies and overlaps;
- Collecting examples of good practices (also from outside the EU) or possible key developments in terms of cooperation and coordination across Member States for the fight against CSAE;
- Gathering recommendations and suggestions for the improvement of the current practices.

Topic guides and the content of interviews were tailored to the expertise of the interviewee. Stakeholders were identified through suggestions from the Commission, a stakeholder mapping process, recommendations from the interviewees, and recommendations from members of the study's expert panel. Key information was coded into an evidence grid, in relation to each evaluation question.

<u>To what extent was the intervention successful and why?</u>

Effectiveness

Regarding CSAE investigation and prosecution, the interviewees agreed that the CSAE Directive provided for an effective legal framework for investigation and prosecution procedures at the national level. The most reported factor undermining the effectiveness of the CSAE Directives was the **absence of a common definition of the "age of sexual consent"**. Also, interviewees highlighted that **the term "child pornography" should be replaced** with a more suitable term: as the term "pornography" is primarily used for adults engaging in consensual sexual acts, hence using the terms "child pornography" might appear to imply a similar legitimacy to that of consensual pornography. A **shortage of both financial and human resources** available at the Member State level emerged as an additional barrier to investigation and prosecution of CSAE-related offences. Stakeholders agreed that the CSAE Directive has helped investigate and prosecute cross-border online CSAE-related offences, though they broadly agreed its contribution has been insufficient.

[204] Online survey Q 12.4.

One interviewee criticised the CSAE Directive's focus on perpetrators and committed offences instead of regulating the online environment that enabled the crimes.

In the area of assistance, support and protection, interviewees agreed that the CSAE Directive provides for procedural safeguards before, during and after criminal proceedings. Yet, stakeholder claimed that it does not provide for a structured and solid multidisciplinary system of assistance, support and protection of the child. More precisely, interviewees claimed that **assistance and protection should be better tailored to the specific needs of children during criminal proceedings. The Barnahus Model was repeatedly referenced as a good practice** in the field of CSAE. Three interviews emphasised that **underreporting remains a barrier to providing support due to both individual-level constraints** (fear of retaliation from perpetrator, risk of ridicule, shame) and **lack of adequate reporting systems**. According to interviewees, delays and non-child-centred processes hinder the provision of adequate support and protection of children once they have reported an offence.

With regard to the effectiveness of prevention measures, interviewees pointed to **education initiatives and awareness-raising activities as the major areas where the CSAE Directive has shown a positive contribution.** However, one interviewee claimed that national budget and effort are still too much focused on the repression side of the fight against CSAE, with limited investments in prevention measures. Another interviewee emphasised that, due to insufficient resources available at the Member State level, **prevention measures are usually targeted at very specific audiences and lack a comprehensive approach to CSAE prevention. For instance, most secondary prevention initiatives are not targeted at the right audience** (e.g. mid 65 years old men are not usually considered, while they represent a significant share of all offenders). Finally, some interviewees pointed to the insufficient offer of initiatives aimed at the prevention of online CSAE offences, which, according to the interviewees, is a consequence of the inadequate coverage of such offences within the CSAE Directive.

Efficiency

Interviewees agreed that, overall, the costs incurred to reach the objectives of the CSAE Directive are balanced by the overall benefits in terms of higher criminalisation and prevention of CSAE offences. However, there are areas where the benefits can still be increased, hence increasing overall cost-effectiveness. For instance, hotlines are expensive to maintain (hardware, software, human time, training) but are not widely used. Interviewees emphasised that **prevention initiatives are highly cost-effective as prevention is always less costly than repression.** Safety-by-design was raised as an efficient approach to fight against online CSAE. However, such a principle is not widely implemented due to claims of perceived constraints on technological innovation and violations of privacy.

Coherence

The majority of the interviewees reported no issues in terms of coherence of the CSAE Directive with other relevant EU initiatives.

One interviewee pointed to potential inconsistencies between the CSAE Directive and the Lanzarote Convention as regards the definition of solicitation/grooming, which is identical in both measures. Yet, six years ago the Lanzarote Committee pointed out that such a definition is not updated, thus it needs a revision. However, any revision in the Lanzarote Convention should be accompanied by similar revision in the CSAE Directive in order to ensure that the two measures are fully coherent.

Finally, four interviewees raised the challenge of ensuring a balance between requirements included in the CSAE Directive and existing rules concerning data protection and privacy, particularly the right to privacy and confidentiality with respect to the processing of personal data included in the e-Privacy Directive.[205] More precisely, these interviewees claimed that rules included in the Regulation 2021/1232 that allows for a temporary derogation from the e-Privacy Directive should be embedded in the CSAE Directive.[206] However, one interviewee specifies that the rules included in the Regulation 2021/1232 will be embedded in the Regulation laying down rules to prevent and combat child sexual abuse,[207] which is currently under discussion at the EU level.

How did the EU intervention make a difference and to whom?

EU added value

Interviewees agreed that the CSAE Directive provided for a legal framework that stimulated the adoption of rules against CSAE across the Member States. One interviewee pointed out that the minimum common rules provided by the CSAE Directive represent the necessary precondition towards an effective detection, investigation and prosecution of CSAE offences, which have often cyber and cross-border elements. Several interviewees highlighted that the CSAE Directive facilitated cross-border cooperation for the taking down of CSAM, which might not have happened otherwise.

Is the intervention still relevant?

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[205] The providers of electronic communications services must comply with the e-Privacy Directive's obligation to respect the confidentiality of communications and with the conditions for processing communications data. The practices of some number- interpersonal communications services to detect child sexual abuse online could interfere with certain provisions of the e-Privacy Directive. European Commission (2002), Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector. Available at: link.

[206] Regulation 2021/1232 allows for a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by internet service number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse. European Commission (2021), Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse. Available at: link.

[207] European Commission (2022), Proposal for a regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse. Available at: link.

Relevance

Interviewees widely agreed that **the CSAE Directive is not fully relevant.** Definitions therein should be updated to account for current but also forthcoming technologies. For example, artificial intelligence (AI) and self-generated contents were raised as emerging areas that are not addressed but should be. Several interviewees explicitly mentioned the importance of livestreaming, noting that the CSAE Directive fails to account for livestreamed content and instead focuses too heavily on pre-recorded content. Two interviewees raised that, in fact, a significant amount of illicit activities (e.g. livestreaming sexual abuse, distribution of CSAM content, grooming of children for sexual purposes) occurs through licit platforms such as TikTok and Facebook.

Finally, the majority of interviewees held that the CSAE Directive **does not go far enough in addressing the specific needs of different groups of children** (e.g. non-binary and LGBTQ children, children in migration, children with disabilities).

Problem evolution

Regarding emerging **technological developments**, interviewees were concerned by developments in AI, augmented reality (e.g. the metaverse) and gaming. Interviewees also raised concerns over the **proliferation of existing technology**, both in terms of the increasing use of technology as well as children accessing technology at an ever-younger age. The lack of parental/caregiver filtering between children and content/interactions facilitated by technology presents new opportunities for offenders to target their victims. Two interviewees also specified the increasing **threat posed by organised criminal groups**, as the trade of CSAM represents a growing market for criminal organisations to profit. One interviewee posited that offenders are already drawing from organised criminal groups and adopting some of their tactics, for the sake of profiting off of their own activities they would conduct anyway. The other interviewee foresaw existing organised crime groups entering into the market themselves for the sake of profit.

Need for EU action

Opportunities for both legislative and non-legislative EU action were raised during the targeted interviews. As concerns legislative action, interviewees raised the possibility for the EU to adopt new EU rules on online dimensions of CSAE to strengthen **internet safety** for children. Four interviews raised the point that **the terminology of the CSAE Directive should be revised** to ensure that definitions therein are up-do-date. For instance, the term 'child pornography' should be replaced with 'child sexual abuse material'. Also, one interview highlighted the need to include in the CSAE Directive specific provisions on **data collection requirements for the Member States.**

4.5 Virtual study visits to selected Member States

In order to finalise the assessment of the Directive and preliminarily assess the consequences of the identified policy options, the Study Team implemented virtual study visits in four selected Member States. The study visits represented the trait d'union

between the evaluation and the impact assessment, with a twofold objective. From a retroactive perspective, they aimed at testing the conclusions and recommendations stemming from the evaluation of the Directive as well as confirming the relevance of the identified problems and at fine-tuning the understanding of possible good practices identified within specific national contexts. From a forward-looking perspective, the virtual study visits aimed at preliminarily testing different identified policy options and solutions and at obtaining preliminary inputs on their impacts and costs, or savings linked to the adoption of new measures.

5. CONSULTATION PLANNING

5.1 Consultations focused on the impacts of identified policy options

5.1.1 Online questionnaire focused on costs

Once the policy options are defined together with a preliminary identification of their respective impacts, the Study Team will launch a second online questionnaire focused only on the expected costs stemming from the option implementation. The questionnaires will be addressed to the same stakeholders selected for the virtual study visits. The questionnaire is aimed at gathering information on the possible impacts over time, which might be challenging to retrieve based on the desktop research. This questionnaire will focus on both one-off and recurrent investments as well as on different types of costs, including e.g., the time needed to perform the different activities required by the measure, the number of FTEs involved in the implementation of such activities and related average salary. From an operational perspective, the questionnaire will be launched following the same approach already described for the online survey above (see Activity 3.2). However, the feedback period for this questionnaire will only be open for 1-2 weeks. In order to gather the highest number of responses possible, the Study Team will propose stakeholders who have difficulties in replying to the questionnaire to fill it in during an interview with the Study Team.

5.1.2 Case study Interviews

In addition to the online questionnaire, the Study Team will undertake case study interviews with the same national stakeholders who received the questionnaires focused on costs. These interviews have a twofold purpose: (i) to minimise possible data gaps in case the response rate of the online questionnaire is low and (ii) to collect in-depth information and data from selected Member States on the nature and extent of the impacts in light of the specific national policy and regulatory framework relevant to the fight against CSAE. Qualitative and quantitative data (including quantifiable costs/benefits) collected through the case study interviews will allow the Study Team to develop a better understanding of the concrete and practical consequences of each option, and thus to develop an impact assessment that will be more sensitive to national differences/specificities. In each selected Member State, the Study Team will perform up to five interviews with relevant national stakeholders concerned by the policy alternatives under assessment (as for the virtual study visits, these will likely include national competent authorities, national law enforcement authorities, judicial authorities, CSOs/hotlines). The interviews will last maximum 1.5 hour and will be performed either by phone or through online platforms (e.g. Microsoft Teams).

ANNEX 3: WHO IS AFFECTED AND HOW?

1. PRACTICAL IMPLICATIONS OF THE INITIATIVE

The revision of the Child Sexual Abuse Directive primarily affects the following actors/groups of persons: victims and their relatives, governments, the judicial system and victim support services.

For all preferred options, namely options A, B, and C as well as for the horizontal measures/instruments, the overall practical implications will be assessed for each actor/group of persons.

Victims and their relatives (and society as a whole)

- The legislative definitions related to the criminalisation of pornography depicting children, the criminalisation of offences committed in virtual reality, the criminalisation of physical reproductions of CSA, the criminalisation of sexual chatting with children under the age of consent, the creation of live-streaming as a stand-alone offence would reduce the incidence of the crime.
- Measures which improve efficiency in fighting child sexual abuse will most certainly produce positive social impacts, such as an increase in security and trust in authorities and interpersonal relations, as well as a lesser need for self-protecting measures, especially considering that sexual abuse and exploitation of children causes deep and long-lasting physical, psychological and social damage for the victim and people close to him or her.
- Reduce the harm suffered by victims.
- Ensure a higher level of safety of citizens against crime and fight impunity of criminals, as provisions would be encoded in law.
- Encompass positive measures for society, through measures entailing focusing both on the prevention and the assistance to victims' side, to identify clear benchmarks to assess the effectiveness of programmes.
- A more efficient system to fight and prevent crime deters more criminals and their rehabilitation would lead to fewer offences.
- Strengthen the protection of other fundamental rights enshrined in the EU Charter, including the right to human dignity (Article 1), the right to the integrity of the person (Article 3), the prohibition of inhuman or degrading treatment or punishment (Article 4), and the rights of the child (Article 24).

National authorities (including judicial and law enforcement authorities)

- Enhance the capacity of national authorities, as well as cooperation with the private sector in order to better prevent and fight against child sexual abuse.
- Improve the functioning of prevention mechanisms within the Member States and ensure better national coordination among assistance and support services. It would enhance the capacity of stakeholders likely to come into contact with victims of child sexual abuse, to identify victims at an early stage and refer them to adequate services.

- Compile and keep a new statistical database on child sexual abuse related-offences among the total number of police reports, investigations and court cases is a measure with a strong potential in terms of impact on society.
- Formalise mandatory cross-border disqualifications for sex offenders.
- Introduce stricter requirements to address issues related to professionals, judges and educators dealing with child abuse cases.
- Improve the capacity of law enforcement and judicial authorities to deprive any criminals from exploiting child sexual abuse for financial purposes, and to prevent child sexual exploitation from infiltrating the legal economy.
- Reduce costs, which are incurred by the crime for the society, in terms of coordination of investigations, prevention, specialised services, as well as law enforcement, health services and social protection.
- Stricter measures, e.g. to increase the level of penalties for certain crimes such as possession of child sexual abuse material or to criminalise as many forms of exploitation as possible, or to increase the efficiency of cross-border investigations to safeguard fundamental rights.
- Formalise the data collection on child sexual abuse and exploitation at the national level to collect data every year on the indicators specified in the Directive, as a minimum.

European Commission

- Support Member States, and monitor the transposition and implementation of the revised provisions of the Child Sexual Abuse Directive, in addition to continuing the monitoring of the implementation of the provisions, which remain unchanged.
- Organise meetings with the internet companies, in cooperation with the Member States and EU Agencies, within the EU Internet Forum.

2. SUMMARY OF COSTS AND BENEFITS

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Measures to improve prosecution and investigation of CSA and level of coherence of EU rules across Member States	No data is available. It is not possible to provide quantified estimates for the direct benefits brought about by criminalisation.	This effort will ensure the Directive is future-proof and includes new trends and phenomena concerning serious child sexual abuse offences not currently covered by EU legislation. Ambiguity in existing legal provisions, including the criminalisation of possession of CSAM in the context of reporting and on statute of limitations will be removed, making it easier for victims to be safeguarded from abuse and to

		extend the possibility for restitution for crimes committed against them. Law enforcement will be enabled to make the fullest possible use of existing tools at their disposal, facilitating investigations and prosecutions, including into the online dimension of these crimes. Policy measures relating to cross-border cooperation will enhance coordination among law enforcement, and judicial authorities, and between Measures aimed at strengthening the criminalisation of child sexual abuse and exploitation and increasing the level of harmonisation of EU rules across Member States will provide a stronger legal basis of the law enforcement and judicial response and as a result will reduce the incidence of the crime and number of victims, as well as the risks posed by perpetrators to children.
Introducing an obligation in the Directive for Member States to collect and report data on child sexual abuse and exploitation to the Commission every year	No data is available. It is not possible to provide quantified estimates for the direct benefits brought about through the collection of statistical data.	This measure is aimed at improving the collection of convictions related to CSAE crimes and monitoring of CSAE-related trends and threats. As a result, this will increase knowledge on child sexual abuse and exploitation supporting better informed and targeted policies and possible future funding and collaborative efforts. The yearly-data collection will contribute to more accurate and up-to-date reporting.
Indirect benefits		
Strengthen the fight against child sexual abuse and exploitation in the EU	The implementation of the initiative should therefore result in a reduction of the current estimated total cost of CSA in the EU of €13.8 billion, constituting an indirect benefit of the directive. Overall, reducing the number of victims of child sexual abuse, will contribute to a decrease in the costs of investigating and prosecuting these crimes and	The effects of CSA extend beyond the immediate act of harm and include risks for development of severe mental, physical and behavioural health disorders across victims' lives. Children who are already victims of sexual abuse are at higher risk of subsequent victimisation and criminal offending.

	safeguarding victims. Stopping children from becoming victims in the first place will decrease the stress on healthcare and broader support services both to would-be victims and their families. In the longer term this will also decrease the impact on the legal economy as there will be less productivity loss by victims and reliance on social services. No EU-wide cost estimate of this productivity loss by victims exists, however the economic impact study run in the UK in 2018-2019 indicated that the cost of healthcare, lost output and victim services amount to £59,300 (EUR 69,000) per victim across their lifetime, which should be expected to decrease if the measures are successful.	These measures will allow for a more comprehensive and coordinated response within and across EU Member States and swifter identification and safeguarding of child victims from all forms of child sexual abuse and exploitation. It is also expected that victims will have swifter access to more tailored care and support for both themselves and their families and a more efficient judicial response. This will in turn decrease the cost of the loss of quality of life for victims and have an overall positive social impact including by increasing security and trust in authorities and lessening the need for parental and/or self-protection measures.
Decrease in the demand for child sexual abuse brought about by effective prevention measures.	The implementation of prevention programs for offenders and programs that raise awareness and provide training on child sexual abuse has been sporadic throughout the EU Member States. No data is available to estimate the cost of setting up and running different categories of prevention interventions as well as the overall efficacy for prevention initiatives. The gathering or relevant statistical data is already set out above.	Availability and delivery of rigorously evaluated and effective prevention programmes for offenders and persons who fear they might offend, will in the longer term decrease the demand for child sexual abuse material and fresh abuse. Prevention programs targeting awareness raising of carers, persons in regular contact with children and children themselves will help children and their carers to avoid and/or mitigate risky situations, decreasing instances of child sexual abuse. Obligations for regular data collection will support in the longer-term evidence based policy making, including putting in place effective preventative and deterrence

		mechanisms to decrease the prevalence of child sexual abuse. Annual benefits from reduction of crime. Savings on administrative costs for public authorities, in particular through the anticipated compliance with harmonised law across Member States (the Proposed Violence against Women Directive and the Proposed Regulation to Prevent and Combat Child Sexual Abuse.
Assistance to victims – support programmes and access to compensation	Victims of child sexual abuse who seek support within the EU Member States are treated within the general physical and psychosocial healthcare systems and there are no statistics on the types, and duration of treatments and associated costs. However from studies carried out in the US we can infer that	Annual benefits from reduction of impact of crime on victims' long-term wellbeing. Savings on administrative costs for public authorities, in particular through the anticipated compliance with harmonised law across Member States (the Proposed Violence against Women Directive and the Proposed Regulation to Prevent and Combat Child Sexual Abuse.
Administrative cost savings related to the 'one in, one out' approach*		
The preferred option would generally contribute to strengthening the fight against child sexual abuse and exploitation and coordination across the EU Member States. It will reduce the costs incurred by the crime for the society, and in particular victims of child sexual abuse and decrease its prevalence.	N/A	N/A

The costs associated with the preferred option are presented in the Table below.

No costs are identified for citizens/consumers and businesses since the costs associated with the policy measures directly impact administrations at the national level.

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
legislative adjustments to clarify ambiguities including: a) Rules on offences concerning CSAM so that they apply when CSAM depicts a person appearing to be a child whose age cannot be determined; b) Clarifying that transmission of information on convictions between MSs is possible even without consent of the person concerned, if law of transmitting states allow it	Direct adjustment costs	N/A	N/A	N/A	N/A	Member States would have an obligation to explicitly address the legislative adjustments in their legislation, which will require some limited adjustments in national law.	a) Member States already investigate, prosecute and punish offences related to CSAM when the material clearly depicts a minor. However, this broadening to include depictions of persons who may appear to be children may lead to a possible increase in numbers of investigations and prosecutions. It is difficult to estimate in

c) Providing exemptions from criminalisation when CSAM is accessed or downloaded for reporting purposes d) Non-criminalisation of consensual sharing, possession or production of CSAM by children over the age of sexual consent when material is destined for private use of those children alone e) Exemption from criminalisation for victims for possession of materials depicting their abuse f) Ensuring victims have access to national compensation schemes for victims of crimes g) Clarifying that time-limit for prosecution of CSA related offences cannot start before victim is 18 and upwards.							concrete terms the extent of such an increase if any.
	Direct administrative costs	N/A	N/A	N/A	N/A	N/A	N/A
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
	Direct enforcement costs	N/A	N/A	N/A	N/A	N/A	N/A
	Indirect costs	N/A	N/A	N/A	N/A	N/A	

h) Ensuring coherence with other relevant EU legislative instruments							
Legislative amendments ensuring that the language and definitions on CSA related crimes are future proof with regards to potential new technological developments, trends and threats.	Direct adjustment cost	N/A	N/A	N/A	N/A	Member States would have an obligation to explicitly address the legislative adjustments in their legislation, which will require some limited adjustments in national law.	N/A
	Direct administrative costs	N/A	N/A	N/A	N/A	N/A	N/A
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
	Direct enforcement costs	N/A	N/A	N/A	N/A	N/A	N/A

	Indirect costs	N/A	N/A	N/A	N/A	N/A	N/A
Introduction of legislative amendments to prevent CSAE offences: a) Clear benchmarks to assess effectiveness of prevention programmes; b) Ensuring existence of dedicated prevention programmes for offenders inside and outside prison; c) Ensuring existence of dedicated prevention programmes for persons wo fear they might commit CSA related offences; d) Ensuring MSs can introduce cross-border disqualifications for sex offenders from certain jobs involving children; e) Encourage harmonisation of national law on transmission of	Direct adjustment cost	N/A	N/A	N/A	N/A	Member States would have an obligation to explicitly address the legislative adjustments in their legislation, which will require some limited adjustments in national law. Setting up of clear criteria by which to assess the effectiveness of prevention initiatives carries a one-off cost, however this benchmarking exercise should	N/A

information on previous offences without consent of person concerned						be carried out at the EU-level possibly by the Network on Prevention, that brings together experts in the field. In this way an EU-wide standard of efficacy for prevention prgrammes can be ensured.	
	Direct administrative costs	N/A	N/A	N/A	N/A	N/A	Under the current Directive, EU Member States are already obliged to set up prevention initiatives for persons who have offended and those who fear they might offend, however, in the process of evaluating the implementation of the EU Directive in

							practice it was noted that these prevention initiatives remain sporadic. Member States are expected to incur an initial cost to set up such initiatives and recurring costs to maintain them in the longer term. the types of programs can vary in content, mode of delivery and length. No average cost for setting up and running these initiatives is available.
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
	Direct enforcement costs	N/A	N/A	N/A	N/A	N/A	N/A
	Indirect costs	N/A	N/A	N/A	N/A	N/A	N/A

Measures enhancing investigation and prosecution: a) Enabling use of undercover agents for investigative purposes; b) Ensuring existing tools are full leveraged and used more effectively in this crime area	Direct adjustment cost	N/A	N/A	N/A	N/A	Member States will have the obligation to explicitly address both measures fully in national law, and will incur a one-off cost related to these updates.	
	Direct administrative costs	N/A	N/A	N/A	N/A		The use of undercover agents and other special investigative tools are in some Member States restricted for use on serious crimes which carry a specific penalty. The possibility to extend the use of these techniques and tools to all crimes of child sexual abuse and

							exploitation will entail a yearly recurrent direct cost to facilitate and maintain their use, as well as to train officers. With regards to the use of ECRIS and SIS, no additional costs are envisaged. All EU Member States should already have in place all the requisite infrastructure to link up to and query both systems. They also already are obliged to share convictions through ECRIS and have the functionality to put in place checks related to child sexual abuse and exploitation concerns.

	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
	Direct enforcement costs	N/A	N/A	N/A	N/A	N/A	N/A
	Indirect costs	N/A	N/A	N/A	N/A	N/A	N/A
Collection of statistics on child sexual abuse and exploitation and disaggregated data available for groups considered vulnerable	Direct adjustment cost	N/A	N/A	N/A	N/A		N/A
	Direct administrative costs	N/A	N/A	N/A	N/A	Member States will face a one-off direct cost to set up the infrastructure to be able to collect the statistical data fields that will be mandated within the Directive. There are	The collection of statistics will entail a yearly output. The independent study supporting this Impact Assessment estimates costs to be around EUR 2.4 mil. The figure collectively covers the cost generated by all police stations within the EU

						currently no obligations on EU Member States to collect statistics related to child sexual abuse and there is very limited information on the types of set-ups that Member States have in place. A variety of data collection architectures can be envisaged within national authorities. For these reasons it is difficult to provide a	Member States as a whole who are anticipated to take part in this exercise (62 250[208]). It is estimated that an action encompassing the collection, analysis and uploading/submission of data takes about 180 minutes, costing an average EUR 26 per hour (total EUR 78). Statistics will be collected formally every 2 years (0.5 times per year) from 62 250 police stations. This creates 31 125 'actions' (62 250 X 0.5) which amounts to EUR 2. 4

[208] The number of police stations/entities was calculated by identifying the number of policemen/women in the EU (1.6 million- Eurostat data) and dividing that by the average number of police officers managing a police station (25.7). As there are no numbers available for the EU in this regard, the US-based study by Hickman, Matthew & Reaves, Brian (2001). *Local police departments*, 1999. Available at: link., was utilised as a proxy.

						reasonable estimate of this one-off cost.	million a year (31 125 actions X EUR 78 per action) The above calculation assumes that there is currently no form of data gathering/information sharing set up within and among the EU Member States. However, the independent study, and informal interactions with Member States show that some infrastructure is already in place to collect similar statistics on other crime categories (e.g. THB) that could facilitate and possibly decrease the cost of the action. As it is not possible to foresee

							how Member States will choose to implement this action, such extrapolation has not been included in our calculation.
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A		
	Direct enforcement costs	N/A	N/A	N/A	N/A		
	Indirect costs	N/A	N/A	N/A	N/A		
Encouraging the setting-up of CSA contact points at the national level within the EU Member States	Direct adjustment cost	N/A	N/A	N/A	N/A	N/A	N/A
	Direct administrative costs	N/A	N/A	N/A	N/A	It is assumed that the architecture to	The fight against child sexual abuse requires a coordinated and multi-stakeholder

						which the national contact point on child sexual abuse is to be affiliated within the relevant structure e.g. a Ministry or national public administration body is already in place. Hence no one-off cost has been envisaged here.	response. At the national level several key players have a significant role in the prevention of CSA as well as provision of assistance and support to victims and the investigation and prosecution of these crimes. The setting up of a national contact point on CSA would help coordinate, streamline efforts, avoid duplication and ensure that all resources are fully exploited at the national level. This role would also serve as the single point of contact on all concerns related to CSA at the EU level. The cost was conservatively estimated to consist

							of the wage of the individual. This was extrapolated by multiplying the hourly labour costs by average number of hours worked in a year. This shall be further revised to refer specifically to the total labour costs of public administrators in accordance with the NACE code which quotes the average yearly EU salary as EUR 46 928[209]. This figure does not reflect the specific grade of the 'national contact point' as no information is

[209] Eurostat labour cost, wages and salaries, direct remuneration (excluding apprentices) by NACE Rev. 2 activity. Link.

							available on what level of seniority the contact point should have.
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
	Direct enforcement costs	N/A	N/A	N/A	N/A	N/A	N/A
	Direct regulatory fees and charges	N/A	N/A	N/A	N/A	N/A	N/A
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	N/A	N/A	N/A	N/A		
	Indirect adjustment costs	N/A	N/A	N/A	N/A		

	Administrative costs (for offsetting)	N/A	N/A	N/A	N/A		

(1) Estimates (gross values) to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (adjustment costs, administrative costs, regulatory charges, enforcement costs, indirect costs;). (4) Administrative costs for offsetting as explained in Tool #58 and #59 of the 'better regulation' toolbox. The total adjustment costs should equal the sum of the adjustment costs presented in the upper part of the table (whenever they are quantifiable and/or can be monetised). Measures taken with a view to compensate adjustment costs to the greatest extent possible are presented in the section of the impact assessment report presenting the preferred option.

3. RELEVANT SUSTAINABLE DEVELOPMENT GOALS

III. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	**Expected progress towards the Goal**	**Comments**
SDG no. 5.2. (eliminate all forms of violence against women and girls)	Strengthened fight against child sexual abuse and exploitation within the EU, in particular when it is facilitated by the use of technology, including live streaming, text and audio-based CSAM, virtual reality and augmented reality CSAM, child pornography deepfakes, the use of digital currencies, and metaverse developments. Create standard national mechanisms which measure the extent of crimes and monitor the effectiveness of the legislations they are implementing.	

	Ensuring effective prevention of child sexual abuse. Facilitating investigation and prosecution, including by facilitation the investigation and coordination of criminal proceedings, both on a national and EU scale, and on a global one as well. Effectively prosecute the crime of child sexual abuse by ensuring the criminalisation of all forms of child sexual abuse and exploitation in light of new technological developments and phenomena. Improving protection and support to victims of child sexual abuse Ensure the creation of effective prevention programmes and to provide support and promote access to intervention programmes and appropriate measures aimed at rehabilitating offenders who continue to be dangerous after release. Reduced demand that fosters all forms of sexual exploitation of children through awareness raising campaigns, prevention initiatives and enhanced cooperation with online platforms and services.	

SDG no. 16.2. (end abuse, exploitation, trafficking and all forms of violence against children)	Strengthened fight against child sexual abuse and exploitation within the EU, in particular when it is facilitated by the use of technology, including live streaming, text and audio-based CSAM, virtual reality and augmented reality CSAM, child pornography deepfakes, the use of digital currencies, and metaverse developments. Create standard national mechanisms which measure the extent of crimes and monitor the effectiveness of the legislations they are implementing. Ensuring effective prevention of child sexual abuse. Facilitating investigation and prosecution, including by facilitation the investigation and coordination of criminal proceedings, both on a national and EU scale, and on a global one as well. Effectively prosecute the crime of child sexual abuse by ensuring the criminalisation of all forms of child sexual abuse and exploitation in light of new technological developments and phenomena. Improving protection and support to victims of child sexual abuse	

	Ensure the creation of effective prevention programmes and to provide support and promote access to intervention programmes and appropriate measures aimed at rehabilitating offenders who continue to be dangerous after release. Reduced demand that fosters all forms of sexual exploitation of children through awareness raising campaigns, prevention initiatives and enhanced cooperation with online platforms and services.	
Other SDGs of particular relevance are those that address risk factors of CSA, such as **SDG 1 on poverty** (e.g. children forced by their parents to be sexually abused online), **SDG 3 on health** (e.g. given the short and long-term negative health consequences of CSA on children), **SDG 4 on education** (e.g. provisions on prevention mechanisms to raise awareness of CSA online risks), and **SDG 9 on industry, innovation and infrastructure** (e.g. as the initiative aims to support service providers efforts to fight against CSA online, including through definitions of online child sexual abuse and exploitation).		

ANNEX 4: ANALYTICAL METHODS

1.1. Evaluation questions

In accordance with the Terms of Reference drawn up by the European Commission, RAND Europe in collaboration with Ernst & Young (EY) conducted a study to support the evaluation of the Directive on combating the sexual abuse and sexual exploitation of children and child pornography and an impact assessment of the possible options for its amendment. (request for service No 28 - HOME/2020/ISFP/FW/EVA2/0068).

Its content has been structured following the requests of the Terms of Reference (ToR) and considering our technical proposal. The report is structured in the following chapters:

- Introduction, presenting the study objectives and scope (Chapter 1);
- Overview of the status of the project, describing the activities implemented so far and providing for a preliminary assessment of the data collection process (Chapter 2);
- Preliminary results of the analysis of CSAE in the EU: scale and scope of CSAE, the key feature of the phenomenon and its statistical magnitude (Chapter 3);
- The relevant policy context to the fight against CSAE at the EU and international level (Chapter 4);
- A detailed overview of the objectives of Directive 2011/93/EU, as well as its implementation state of play across Member States (Chapter 5)
- Evaluation results in relation to the evaluation questions (EQ) under each of the five evaluation criteria: effectiveness, efficiency, relevance, coherence, and EU added value (Chapter 0);
- Conclusions of the evaluation analysis, including some points of further discussion emerging from the analysis of the evaluation criteria (Chapter 7).

The methodological approach derived from a careful analysis of the **39 evaluation questions** presented below and the production of evaluation grids separated by each of the five evaluation criteria as they are stipulated by the Better Regulation Guidelines (effectiveness, efficiency, relevance, coherence and EU Added Value). Building on the evaluation questions, the evaluation grids included:

- **Judgment criteria:** statements that need to be confirmed or disconfirmed by the analysis.
- **Analytical approach:** the type of analysis used to answer the evaluation question. The proposed analysis informed the type of information collected.
- **Indicators:** quantitative and qualitative measures supporting the analysis and informing the judgement criteria.
- **Data sources:** quantitative and qualitative sources of indicator variables used in the analysis.

The evaluation grids have been treated as a 'live' document throughout the research process. This means they have undergone revisions throughout the early research process to ensure that the questions were phrased in a manner that supports the aims of the evaluation in best way possible.

In this report, the evaluation criteria are addressed according to the order of the Better Regulation Guidelines. The evaluation should look at the effectiveness, efficiency, relevance and coherence of the actions undertaken on the basis of the Directive, as well as the achieved EU added value of these actions. Where appropriate, each evaluation point must be applied to the key areas covered by the Directive i.e. prevention, investigation and prosecution of offences, and assistance to and protection of victims. The methodology on research under point 6.1 should be read together with the following indicative list of questions, which the Contractor should address in the analysis. The list of questions is non-exhaustive and should be discussed between the Contractor and Commission services, and further supplemented by the Contractor as needed.

Evaluation questions

Effectiveness

General:

1. A number of provisions of the Directive still remain to be fully implemented by the EU Member States (in particular with regard to prevention). What are the issues that have contributed to incomplete implementation?
2. To what extent is the progress/lack of progress towards this implementation linked to the provisions themselves?
3. What factors have hindered or facilitated the effectiveness of the implementation in practice of the Directive, and if so to which extent?
4. Has the implementation of the Directive resulted in a significant shift (increase/decrease) in sexual crimes set out in the Directive committed against children that were prosecuted?
5. To what extent has the implementation of the Directive in practice contributed (both quantitatively and qualitatively) to the prevention of CSAE, including through the measures addressing sharing of child sexual abuse material?

Investigation and prosecution of crimes:

6. How effective has the Directive been in imposing criminal penalties that are dissuasive?
7. How efficient has the Directive been in harmonising the offences of child pornography involving material described in Article 2(c)(iii) of the Directive?
8. To what extent has the implementation of the Directive facilitated in practice the investigation of offences and initiation of criminal proceedings regarding crimes of CSAE? In particular:
   8.1. To what extent has the implementation of the Directive ensured that law enforcement have access to the right tools and resources to initiate and take forward investigations relating to CSAE?
   8.2. To what extent has the implementation of the Directive ensured that prosecution for crimes set out in Article 15(2) of the Directive is enabled for a sufficient period of time after the victim has reached the age of majority and which commensurate with the gravity of the offence concerned?

8.3. To what extent has the Directive been effective in ensuring that international travel (carried out for the purpose of sexually abusing children) is not an obstacle to prosecuting abuse or exploitation committed abroad?
8.4. To what extent has the Directive been effective at removing obstacles to international cooperation and fostering the use of investigative tools?

Assistance and protection to victims:

9. To what extent has the Directive been effective in facilitating access by child victims to assistance and support, including legal remedies and appropriate specialist protection measures?
10. To what extent has the Directive ensured that victims of CSAE do not suffer additional trauma and harm from participating in criminal investigations and proceedings?
11. Are there areas where assistance to and protection of child victims is regarded as lacking?

Prevention:

12. To what extent was the Directive successful in promoting the setting up and access to intervention programmes to persons who fear they might offend and to offenders, as a means to prevent first-time and repeated offences against children?
13. To what extent was the Directive successful in promoting the adoption of measures to prevent or prohibit the dissemination of material advertising the opportunity to commit CSAE offences and the organisation of travel arrangements with the purpose to commit these offences?
14. To what extent was the Directive successful in promoting the adoption of measures to discourage and reduce the demand that fosters all forms of sexual exploitation of children?
15. To what extent was the Directive successful in promoting the taking of appropriate action aimed at raising awareness and reducing the risk of children becoming victims of sexual abuse and exploitation?
16. How effective has the Directive been in facilitating awareness-raising and other measures that encourage reporting?
17. To what extent has the Directive ensured that appropriate security measures are taken with regard to child sex offenders who continue to be at risk of re-offending, including stopping them from holding professional positions that bring them in regular and direct contact with children?
18. To what extent has, the Directive helped to disrupt and prevent the uploading, access to and dissemination of child sexual abuse material online?

Efficiency

Efficiency considers the relationship between the resources used due to the Directive and the changes generated by its application. Any areas in which there is potential to reduce inefficiencies, including regulatory and resource burdens, and for simplifying interventions should be clearly identified.

19. If identifiable, what are the costs and benefits (monetary and non-monetary) associated with compliance with the Directive in the Member States, in particular

to assist with investigations, prevention of CSAE and assistance and support to victims?

20. Can significant cost or benefit differences be identified between Member States as regards the achievements of the aims in question 19 above? And if so what causes them?
21. How are the costs and benefits distributed among different stakeholders at the national and EU level?

22. Have Member States prioritized funding to ensure the full implementation of the provisions of the Directive, also when such implementation is outsourced to private parties, external actors, non-governmental organisations etc…?
23. Can any costs be identified that are out of proportion with the benefits achieved?
24. Are the costs of compliance with the provisions of the Directive proportionate to the benefits brought about as regards the prevention of and combating CSAE?
25. Is there any evidence that the implementation of the Directive as regards the prevention and combating of CSAE caused unnecessary administrative burdens?
26. Are there opportunities to simplify the provisions of the Directive to reduce unnecessary costs without undermining the existing objectives set out by the provisions of the Directive?

Relevance

27. To what extent have the provisions of the Directive been appropriate to meet the objectives of combatting child sexual abuse and sexual exploitation in its online and offline form?
28. To what extent do the original provisions of the Directive still correspond to the present needs within the EU?
29. How well does the Directive cover the present and upcoming technological advancements in the digital world?
30. How relevant is the Directive to EU citizens and more specifically to children and affected stakeholders?
31. What are the key stakeholders' expectations for the role of the EU as regards the fight against child sexual abuse and sexual exploitation?

Coherence

No policy exists in a vacuum. In the evaluation of coherence, the Contractor is asked to look at the degree to which and how well the Directive interacts with other interventions and initiatives, both those listed below and beyond.

32. To what extent is the Directive coherent with the Directive 2012/29/EU on the protection of victims of crime[210], the Directive 2011/36/EU on trafficking in human beings[211], the European strategy for a better internet for children, and

[210] EU Directive 2012/29/EU on establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA OJ L315/57. 14.11.2012 p.57-73 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029)

[211] EU Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. *OJ L 101, 15.4.2011, p. 1–11* (https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036)

other EU relevant legislative frameworks that include measures that safeguard the fundamental rights of children?

33. To what extent is the Directive coherent with initiatives relating to the Rights of the child, and the Digital Services Act?
34.
35. How do these policies affect (positively or negatively) the implementation of the Directive?
36. Is there scope for further integration with other EU policy objectives?
37. To what extent is the Directive coherent with broader initiatives at the global level aimed at combatting child sexual abuse and sexual exploitation?

EU added value

EU added value looks for positive changes that can be reasonably attributed to the EU intervention (in this case the Directive) over any other factors that may have affected the fight against child sexual abuse and sexual exploitation. The Contractor should consider the findings in the other dimensions of the evaluation and present arguments on causality, drawing conclusions based on the evidence obtained. Questions to be considered include but are not limited to:

38. What is the additional value resulting from the implementation in practice of the Directive, compared to the situation prior to its entry into force in 2011?
39. What is the additional value resulting from the implementation in practice of the Directive, compared to efforts that Member States acting on their own initiative would have put in place at the national and/or regional level?

1.2. Impact assessment

Assessing the potential impact of policy options included the following stages.

1. Problem definition and assessment;
2. Analysis of the EU's right to act;
3. Identification of policy objectives and detailed formulation of retained policy options;
4. Assessment of the impact of policy options;
5. Ranking and comparison of policy options.

1.3. Description of data collection methods methodology

1.3.1. Evaluation

The evaluation of the Directive was informed by the collection and analysis of qualitative and quantitative data obtained through the following methods:

- **Mapping and analysis of transposition of the Directive into national law[212].** The desk analysis included multiple sources, for example the identification and analysis of the updated legislation of each Member State. Official reports (e.g. commentaries on the legislation, preparatory studies, documents accompanying reforms and amendments) were consulted, when available. Implementation monitoring reports of the Lanzarote Convention were also consulted when available. In addition, academic literature, and other relevant documents were consulted when available and necessary to address specific issues. Finally, in case of particularly complex or unclear issues, the study team reached out to experts from Member States through their network of academic and professional contacts.

- **Documentary review** of more than 100 sources. Key desk resources include (i) EU legislative and policy documents, (ii) relevant databases, and (iii) relevant studies and reports. The complete list of sources reviewed for the Staff Working Document on the evaluation is presented at the end of this Annex.

- Public consultation of EU citizens that ran from 20 April 2022 until 13 July 2022. A total of 49 contributions were received.

- Online survey that ran from 13 May 2022 to 1 June 2022. A total of 67 responses were received. Participants included civil society organisations (15) Member State government –led authorities, including Ministries (18), national LEAs (13), national judicial authorities (JAs) (11), and hotlines (10). At least one response from each Member State was received.

- **Interviews** with 27 stakeholders were performed. Stakeholders included representatives from CSOs (10), EU agencies (5), International bodies (5), prison, detention and restorative justice specialists (3), education institutions and teachers (2), EMPACT (1), and Representatives from ICT private companies (1).

- **Experts workshops (6)** organised by the Commission to gather info on challenges and emerging issues on the implementation of some aspects of the Directive, between 17 January 2018 and 6 September 2019.

- **Analysis of data on EU funding of CSA projects** under the Internal Security Fund - Police (ISF - P).

- **Feedback on the Roadmap/Inception Impact Assessment.** From 28 September 2021 to 26 October 2021, the EC sought feedback on the inception impact assessment underpinning this evaluation.[213] The 17 replies received from non-

[212] For the purpose of the transposition analysis, the research study team had a series of exchanges with the Commission's Unit responsible for EU Pilot and Infringement procedures in relation to the CSAE Directive, in particular to verify that the information collected was up to date.

[213] European Commission, Combatting child sexual abuse – review of EU rules, last accessed on 12.10. 2022. Available here.

governmental organisations (10), companies and business organisations (2), EU citizens (2), other entities (2) and business associations (1) were also analysed[214].

Further details on the data collection activities can be found in the synopsis report in Annex 2.

1.3.2. Impact assessment

- **Interviews with (4) EU agencies and (3) EU level civil society organisations** were performed. One additional interview with a senior advisor at a National Rapporteur's office was conducted. Interviews were aimed at collecting views on the nature and extent of the likely impacts and feasibility of the identified policy options for the stakeholder groups who might be affected.
- **Desktop research on Member States selected for the study visits (DE, IT, NL, RO).** The study visits aimed to provide in-depth analyses of the CSAE phenomenon and mechanisms in place to fight CSAE in selected Member States. The ECPAT country reports have acted as a common baseline for each of the study visits against which to view progress in the fight against CSAE since the implementation of the CSAE Directive. The findings from those reports[215] have been subsequently updated and expanded upon to understand how the CSAE phenomenon and the mechanisms in place to fight it have developed since the CSAE Directive came into effect in each of the Member States. The Member States were selected to give different regional and socio-economics contexts to this development. The case studies included group interviews with national authorities from the selected Member States on possible impacts of the identified policy measures.

1.4. Limitations

The data collected for the evaluation and impact assessment has several limitations that should be borne in mind when interpreting the findings. We summarise these limitations below, along with the mitigation measures taken to address them where possible.

1. **Measuring effectiveness with limited available data:** Given some of the data gaps, it was sometimes challenging to validate some of the expert judgements and stakeholder opinions, which made measuring the effectiveness challenging. For example, there was a lack of monitoring data on the effectiveness of prevention measures, such as awareness raising campaigns, research and information.

2. **Subjectivity of stakeholders' views:** Data collected from stakeholders, including through interviews, surveys, and workshops represents subjective views, rather than objective conclusions. To help mitigate this, the report relies on the triangulation of various data sources (as outlined in this Annex). In addition, stakeholders consulted as part of the evaluation and impact assessment for interviews, workshops, and the online survey included people with relevant expertise in the field of trafficking in human beings, who are used to giving

[214] Ibid.
[215] Available at https://ecpat.org/countries/.

evidence as part of their professional roles given the well-developed role of Member States' national rapporteurs in this field. While the experience in trafficking cannot be directly transferred to the specific situation of child sexual abuse, there is a certain degree of overlap in these related fields that allows to extrapolate to a limited extent.

3. **Selection bias of stakeholders:** There may be a certain degree of selection bias, especially regarding interviewees. Participants' views might not be representative of all stakeholders affected by the Directive. To help mitigate this, stakeholders at all levels were selected for participation (in consultation with DG HOME), including at the EU, national, international and civil society level. Through the consultations, in particular the online survey, it was possible to gather perspectives from all Member States.

4. **Attributing outcomes to the Directive:** attributing outcomes in the area of combatting child sexual abuse to the existence of the Directive can be challenging. The evaluation and impact assessment therefore can only assess the Directive's contribution to combatting child sexual abuse and exploitation and child pornography based on how the available evidence compares to the intervention logic.

5. **Assessing trends and statistics related to the phenomenon of CSA:** There are a number of gaps in the available data on CSA. In an effort to fill gaps as much as possible, this report relies on a variety of available data sets, including data gathered by related databases, studies and reports, and inputs provided by Member States in response to request for data from the European Commission. The consultation of several available data sources helped map important gaps.

1.5. List of sources

1.5.1 EU legislative and policy documents

Organisation	Year	Document
European Commission	2008	Framework Decision 2008/841/JHA on the fight against organised crime
European Commission	2013	DJ Just Guidance Document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.
European Commission	2022	European Commission (2022) Proposed Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse. COM/2022/209 final
European Commission	2022	Proposal on a Directive to combat violence against women (COM/2022/105 final).
European Commission	2004	Council framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography.

Organisation	Year	Document
European Commission	2006	Communication from the Commission - Towards an EU Strategy on the Rights of the Child.
European Commission	2007	Commission Decision 2007/116/EC on reserving the national numbering beginning with 116 for harmonised numbers for harmonised services of social value.
European Commission	2009	Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA.
European Commission	2010	Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA.
European Commission	2012	European Strategy for a Better Internet for Children.
European Commission	2018	JRC Publication - Fighting child sexual abuse: prevention policies for offenders.
European Commission	2020	EU Strategy on victims' rights.
European Commission	2020	EU strategy for a more effective fight against child sexual abuse.
European Commission	2020	EU Security Union Strategy.
European Commission	2020	EU Action Plan on Human Rights and Democracy 2020-2024.
European Commission	2020	Proposal for a Regulation on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC of 15 December 2020, COM/2020/825 final.
European Commission	2020	EU Gender Equality Strategy (2020-2025).
European Commission	2021	EU strategy on the rights of the child.
European Commission	2021	Commission Proposal for a Council Recommendation Establishing a European Child Guarantee
European Commission	2022	A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+)
European Commission	2022	Study supporting the evaluation and impact assessment of the EU Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment. Finalised on 30 November 2022
European Council	1997	Joint Action adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children (97/154/JHA).
European Council	2000	Council Decision 2000/375/JHA to combat child pornography on the internet.
European Council	2001	Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings.
European Council	2001	Council Framework Decision 2001/500/JHA on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime.

Organisation	Year	Document
European Council	2002	Council Framework Decision 2002/584/JHA on the European arrest warrant.
European Council	2005	Council Framework Decision 2005/212/JHA on Confiscation of Crime Related Proceeds, Instrumentalities and Property.
European Council	2009	Stockholm Programme — An Open and Secure Europe Serving and Protecting Citizens (2009).
European Council	2009	Council Framework Decision 2009/948/JHA on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.
European Council	2019	Council conclusions on combating the sexual abuse of children.
European Council	2021	Council conclusions setting the EU's priorities for the fight against serious and organised crime for EMPACT 2022 - 2025.
European Parliament	2019	European Parliament resolution of 26 November 2019 on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child (2019/2876(RSP)).
European Parliament	1996	Resolution on minors who are victims of violence. Published on: OJ No C 320, 28. 10. 1996. Pag. 190.
European Parliament	2017	Resolution of 14 December 2017 on the implementation of Directive 2011/93/EU.
European Parliament and Council	2000	Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').
European Parliament and Council	2002	Directive 2002/58 of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).
European Parliament and Council	2011	Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.
European Parliament and Council	2012	Directive (EU) 2012/29/EU on establishing minimum standards on the rights, support and protection of victims of crime.
European Parliament and Council	2016	Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC
European Parliament and Council	2016	Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.
European Parliament and Council	2016	Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.
European Parliament and Council	2017	Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and

Organisation	Year	Document
		Electronic Communications) COM/2017/010 final - 2017/03 (COD).
European Parliament and Council	2009	2Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, OJ L 337, 18.12.2009
European Parliament and Council	2020	Impact Assessment accompanying the Proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, SWD(2020) 348 final, December 2020
European Parliament and Council	2021	Regulation (EU) 2021/1232 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse
European Parliament and Council	2022	Proposed Regulation laying down rules to prevent and combat child sexual abuse
European Parliament and Council	2022	Impact assessment accompanying the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse, SWD/2022/209 final
European Union	1957	Treaty on the Functioning of the European Union.
European Union	2000	Charter of Fundamental Rights of the European Union.

1.5.2. Relevant databases

Organisation	Study	Data
ECPAT	Annual report	Legal frameworks for CSAE by country
EIU	Out of the Shadows	Environment
EUROSTAT	European Crime and Safety Survey (EU ICS)	Legal framework
INHOPE	Annual reports	Government commitment and capacity
INTERPOL	International Child Sexual Exploitation (ICSE) Database	Engagement of industry, civil society and media

IWF	Annual reports	Exposure to criminal offences including sexual assault (to be specified) over a given period
Lucy Faithfull Foundation	Interventions Database	Eradicating Child Sexual Abuse (ECSA)
NCMEC	Annual reports	Social and demographic information on victims
Project Arachind	Annual reports	Age of victims
UK Home Office	Child Abuse Image Database (CAID)	Gender of victims
UNICEF	Multiple Indicator Cluster Surveys (MICS)	Reporting patterns
UNICRI	International Crime Victims Survey (ICVS)	Site types
UNODC	United Nations Crime Trends Survey (UN-CTS)	Worldwide reporting

1.5.3. Relevant studies and reports

Organisation	Year	Document
American Psychological Association in Supreme Court case Marion R. Stogner v State of California		Amicus Curaie program
Bracket Foundation	2019	Artificial intelligence - Combatting online sexual abuse of children
Bundeskriminalamt (German Federal Criminal Police Office)	2011 - 2020	Police Crime Statistics
CEPOL	2022	EU Strategic Training needs assessment 2022-2025
Child Helpline International	2019	Child Helpline data for 2019. Voices of Children and young people in the EU
30Collin-Vézina, D., et al.,	2012	Lessons learned from child sexual abuse research: Prevalence, outcomes, and preventive strategies
Council of Europe	2017	The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)
Council of Europe	2017	Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse
Council of Europe	2018	Lanzarote Committee, 2nd implementation report. Protection of children against sexual abuse in the circle of trust: the strategies
Council of Europe	2021	Detailed Concept Note on sexual abuse of children in their circle of trust including recommendations by the

Organisation	Year	Document
		Lanzarote Committee as well as promising practices which can be easily replicated
Council of Europe		Reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse
Directorate-General for Communications Networks, Content and Technology (European Commission), Grimaldi Studio Legale , ICF, Wavestone	2020	Study on framework of best practices to tackle child sexual abuse material online
Directorate-General for Migration and Home Affairs (European Commission), Jane's	2017	Irregular migration and child sexual abuse
ECPAT International	2008	Private Sector Accountability in Combating the Commercial Sexual Exploitation of Children
ECPAT International	2016	Offenders on the Move. Global Study on the Sexual Exploitation of Children in Travel and Tourism
ECPAT International	2016	Power, Impunity and Anonymity. Understanding the Forces Driving the Demand for Sexual Exploitation of Children
ECPAT International	2016	Power, Impunity and Anonimity. Understanding the Forces Driving the Demand for Sexual Exploitation of Children
ECPAT International	2019	Sexual exploitation of children & Voluntourism
ECPAT International	2020	Sexual Exploitation of Children in Travel and Tourism. Regional report: Europe
ECPAT International	2020	Summary Paper on Child, Early and Forced Marriages as a Form of, or Pathway to Sexual Exploitation of Children
ECPAT International	2020	Summary Paper on Online Child Sexual Exploitation
ECPAT International	2020	Summary Paper on Sexual Exploitation of Children in Prostitution
ECPAT International	2020	Summary Paper on Sexual Exploitation on Children in Travel and Tourism
ECPAT International		ECPAT International, Reports on Country Overviews
ECPAT International and INTERPOL	2018	Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material - Technical Report
eNACSO	2016	A survey on the transposition of the Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography.

Organisation	Year	Document
Ernie Allen for ECPAT international	2018	The power of public private partnerships in eradicating child sexual exploitation
Eurochild and UNICEF	2019	The Europe Kids Want. Sharing the views of children and young people across Europe
European Commission	2009	Accompanying document to the Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA - Impact assessment {COM(2009) 135} {SEC(2009) 356}.
European Commission	2009	Commission staff working paper - Accompanying document to the proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA - Summary of the impact assessment {COM(2009) 135} {SEC(2009) 355}
European Commission	2011	Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.
European Commission	2016	Report assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.
European Commission	2016	Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU
European Commission	2016	Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography
European Commission	2016	Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU
European Commission	2018	Fighting Child Sexual Abuse: prevention policies for offenders
European Commission	2019	12th EU Forum on the rights of the child
European Commission	2020	13th EU Forum on the rights of the child
European Commission	2020	Inception impact assessment on a Proposed Regulation to combat the sexual abuse and sexual exploitation of children

Organisation	Year	Document
European Commission	2020	Study on framework of best practices to tackle child sexual abuse material online
European Commission	2020	Study on the economic, social and human costs of trafficking in human beings within the EU
European Commission	2021	Targeted survey of law enforcement authorities, 'Fighting child sexual abuse: detection, removal and reporting of illegal content online' (2021)
European Council	2017	Final report of the seventh round of mutual evaluations on "The practical implementation and operation of the European policies on prevention and combating cybercrime".
European Council	2017	Final report of the seventh round of mutual evaluations on "The practical implementation and operation of the European policies on prevention and combating cybercrime" pp.59-65.
European Parliament	2017	Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment
European Parliament	2018	Domestic Sexual Abuse of Girls
European Parliament	2019	Resolution of 26 November 2019 on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child
Europol	2019	EU IOCTA 2020
Europol	2020	Report on online child sexual abuse during the pandemic
Europol	2020	Report on Exploiting isolation: sexual predators increasingly targeting children during COVID pandemic
Europol	2021	EU SOCTA 2021
Facebook	2020	Content Restrictions report
M. Ferragut, M. Ortiz-Tallo, M. J Blanca	2021	Prevalence of Child Sexual Abuse in Spain: A Representative Sample Study. Journal of Interpersonal Violence
FRA	2015	Violence against children with disabilities: legislation, policies and programmes in the EU
FRA	2017	Child-friendly justice. Perspectives of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States
FRA	2021	Crime, safety and victims' rights – Fundamental Rights Survey
FRA	2021	Crime, Victims and Rights
Gewirtz-Meydan, A., Finkelhor, D.,	2019	Sexual Abuse and Assault in a Large National Sample of Children and Adolescents
Google	2021	Transparency Report
INHOPE Network	2020	Annual Report on Hotlines

Organisation	Year	Document
INHOPE Network	2020	Prevention Initiatives Report
	2011 - 2020	Italian Police Crime Statistics
IWF	2019	Annual Report 2019
IWF	2019	Combating child sexual abuse – review of EU rules
IWF	2019	IWF response to the European Commission's Roadmap- EU Strategy for a more effective fight against child sexual abuse
IWF	2019	Annual Report 2019
IWF	2020	Briefing for the LIBE Committee Hearing- Fighting Child Sexual Abuse Online
IWF	2020	Combatting the sexual abuse and exploitation of children
IWF	2020	IWF response to the European Commission's roadmap- Delivering for children: an EU strategy on the rights of the child
IWF	2021	IWF response to the European Commission's Roadmap- EU Strategy for a more effective fight against child sexual abuse
IWF	2021	Better Internet for Kids – Update
Joint Research Centre	2018	Fighting child sexual abuse: prevention policies for offenders
Lucy Faithfull Foundation		Reports and studies produced by Lucy Faithfull Foundation
McGinnis, Rachel E.	2016	Dignity journal: Sexual Victimization of Male Refugees and Migrants: Camps, Homelessness, and Survival sex
MDAC & Validity	2017	Innovating European Lawyers to Advance the Rights of Children with Disabilities
Merdian, H., Perkins, D., Webster, S. & McCashin, D.	2019	Transnational Child Sexual Abuse: Outcomes from a Roundtable Discussion. International Journal of Environmental Research and Public Health 16(2):243. DOI: 10.3390/ijerph16020243.
Missing Children Europe	2020	Feedback from Missing Children on the Regulation of the European Parliament and of the Council on the detection, removal and reporting of child sexual abuse online, and establishing the EU centre to prevent and counter child sexual abuse
National Center for Missing & Exploited Children	2017	The Online Enticement of Children: An In-Depth Analysis of CyberTipline Reports

Organisation	Year	Document
National Center for Missing & Exploited Children	2019	Reports by Electronic Service Providers (ESPs)
National Center for Missing & Exploited Children	2019	Captured on Film: Survivors of child sexual abuse material are stuck in a unique cycle of trauma
National Center for Missing & Exploited Children	2020	Key data on child sexual abuse
National Center for Missing & Exploited Children	2021	Online Enticement Reports Skyrocket in 2020
NetClean	2020	The NetClean Report – COVID-19 Impact
OECD	2021	Report on Family Violence.
Council of Europe	2010 - 2015	One in Five Campaign
OSCE	2021	Discouraging the demand that fosters trafficking for sexual exploitation
Redondo, S.	2006	Sirve el tratamiento para rehabilitar a los delincuentes sexuales?' in Revista Española de Investigación Criminológica, No 4
Romanian Ministry of Labour and Social Protection	2011 - 2019	Data from the Romanian Ministry of Labour and Social Protection
Protect Children Finland	2021	CSAM Users in the Dark Web: Protecting Children Through Prevention
M. Stoltenborgh, M.H. van IJzendoorn, E.M.Euser, M.J. Bakermans-Kranenburg	2011	A global perspective on child sexual abuse: Meta-analysis of prevalence around the world
Pereda N, Guilera G, Forns M, Gómez-Benito J	2009	The prevalence of child sexual abuse in community and student samples: a meta-analysis
TikTok	2021	Transparency Report
UK Government	2021	UK Government Tackling Child Sexual Abuse Strategy
UN		Concluding observations to the EU Member States UN Committee on the rights of the child
UN	2018	United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (2018 UN-CTS)
UN General Assembly	2009	U.N. General Assembly, Human Rights Council, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography

Organisation	Year	Document
UN Special Rapporteur	2017	Joint report on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; and trafficking in persons, especially women and children
UNICEF	2014	Preventing and Responding to Child Sexual Abuse and Exploitation: Evidence Review
UNICEF	2017	UNICEF: A child is a child – Protecting children on the move from violence, abuse and exploitation
UNICEF	2020	COVID-19 and its implications for protecting children online
UNICEF	2020	Encryption, Privacy and Children's Right to Protection from Harm
United States Sentencing Commission	2021	Federal Sentencing of Child Pornography (non-production offences)
Virtual Global Taskforce	2020	Combating Online Child Sexual Abuse
We Protect Global Alliance	2019	Global Threat Assessment 2019 Working together to end the sexual exploitation of children online
We Protect Global Alliance	2021	Economist Impact survey: Estimates of childhood exposure to online sexual harms and their risk factors
We Protect Global Alliance	2021	Global Threat Assessment 2021
WHO	2018	European Status Report on Preventing Child Maltreatment
WHO	2020	Fact Sheet on Child Maltreatment

ANNEX 5: EVALUATION OF DIRECTIVE 2011/93/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 13 DECEMBER 2011 ON COMBATING THE SEXUAL ABUSE AND SEXUAL EXPLOITATION OF CHILDREN AND CHILD PORNOGRAPHY, AND REPLACING COUNCIL FRAMEWORK DECISION 2004/68/JHA

1 INTRODUCTION

General introduction

On 13 December 2011, the Parliament and the Council of the European Union adopted Directive (EU) 2011/93 on combating child sexual abuse, sexual exploitation and child pornography[216] (hereafter "the Directive"). The Directive replaced Framework Decision 2004/68/JHA[217] (hereafter "the Framework Decision") and was adopted to strengthen the EU legal framework in this field. It brought about major changes in the legal framework on children's' rights in the Union.

The Directive is a comprehensive legal framework which covers investigation and prosecution of crimes, assistance to and protection of victims, and prevention. It approximates the definition of a number of offences, sets minimum levels for criminal penalties, and facilitates the reporting, investigation and prosecution of such crimes. It extends national jurisdiction to cover abuse perpetrated by EU nationals abroad, gives child victims easier access to legal remedies and also includes measures to prevent additional trauma from participation in criminal proceedings.

The Directive has a wide scope. It grants access to special intervention and risk assessment programmes for offenders and potential offenders, it facilitates the circulation of information on convictions and disqualifications among respective Police Forces, and makes the management of criminal records easier by allowing for more reliable checks and controls. The Directive prohibits advertising the possibility of abuse and organising child sex tourism. It provides for education, awareness raising and training of officials and society at large. Member States bound by the Directive[218] (hereafter "Member States") are obliged to implement and reflect its provisions in their national laws. The deadline for transposition of this Directive was December 13, 2013.

In December 2016, the Commission adopted two (2) reports assessing the extent to which the Member States have taken the necessary measures to comply with the Directive. One report looks at the implementation of all the provisions with the exception of Article 25[219]

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[216] Directive (EU) 2011/93 on combating child sexual abuse, sexual exploitation and child pornography
[217] Framework Decision 2004/68/JHA
[218] All EU Member States except Denmark
[219] Report From The Commission To The European Parliament And The Council assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography

which contains measures against websites containing or disseminating child pornography, whereas the second report focuses on the implementation of Article 25[220].

The reports provided an overview on the progress made and showed that the Directive had not yet reached its full potential through complete implementation by the EU countries. The transposition reports conclude that the Directive has led to substantive strengthening of the Member States' criminal justice approach to child sexual abuse, afforded better rights and support to victims of these crimes and facilitated the setting up of prevention efforts. As for the Directive not yet reaching its full potential through complete implementation, in 2019 the Commission was compelled to open infringements procedures against 23 EU countries for non-compliance with implementing the Directive. This evaluation aims to address possible gaps in the current laws, starting with a study to identify the remaining issues, as well as best practices and priority measures to tackle them.

On the 30th anniversary of the Convention on the Rights of the Child in 2019, the European Parliament adopted a Resolution[221] acknowledging that this crime remains an evolving phenomenon, and called for enhanced efforts in all the areas covered by the Directive. The Justice and Home Affairs (JHA) Ministers at the JHA Council of October 2019[222] invited the Commission to consider further prevention measures and ensure that the legislation on combating child sexual abuse is effective and fit for purpose.

Ensuring the full implementation of current legislation was also included as an initiative in the EU strategy for a more effective fight against child abuse[223]. The strategy aims to provide a framework for developing a strong and comprehensive response to child sexual abuse, both in its online and offline forms. The 2020-2025 strategy sets out a comprehensive response to the growing threat of child sexual abuse both offline and online, by improving prevention, investigation, and assistance to victims. It includes 8 initiatives to put in place a strong legal framework for the protection of children and facilitate a coordinated approach across the many actors involved in protecting and supporting children. Among these, it aimed to ensure a complete implementation of the Directive as a key action.

In September 2021 the Commission published a REFIT initiative to assess the implementation of the Directive 2011/93, identify legislative gaps, best practices and priority actions at EU level, and to prepare a proposal to review the Directive in 2023[224]. The Commission launched a public consultation on the evaluation roadmap, combined with an inception impact assessment, in the first quarter of 2022. The public consultation[225] informed the evaluation and revision of the EU Child Sexual Abuse Directive, and gave citizens and stakeholders the opportunity to provide their feedback on current and future

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[220] Report From The Commission To The European Parliament And The Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography

[221] European Parliament resolution of 26 November 2019 on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child (2019/2876(RSP))

[222] Council conclusions on combating the sexual abuse of children– Council conclusions (8 October 2019)

[223] EU strategy for a more effective fight against child sexual abuse, COM (2020) 607, 24 July 2020

[224] Review of EU rules to combat child sexual abuse

[225] *Ibid*

challenges in combatting child sexual abuse, sexual exploitation and child sexual abuse material and possible ways to reinforce, develop and update the existing framework.

In parallel, other pieces of EU legislation in the area of protection of children against sexual abuse and exploitation include particular attention to the dangers that the misuse of digital technology by child sex offenders can pose to children. On 10 September 2020, the Commission presented the Proposal for a Regulation on a temporary derogation from certain provisions of the e-Privacy Directive for the purpose of combating child sexual abuse online[226]. It allows online communication service providers to derogate from the privacy rules contained in the e-Privacy Directive, with the aim to enable them to continue to detect and report child sexual abuse content on a voluntary basis for a limited period of time until July 2024.

The interim Regulation was followed by a longer-term proposal on 11 May 2022, the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse. The Proposed Regulation is intended to replace the interim Regulation, by putting in place mandatory measures to detect and report child sexual abuse. To protect children in Europe and worldwide, the Commission proposed to set up a European centre to prevent and fight child sexual abuse and support victims.

Purpose and scope of the evaluation/fitness check

Those addressed by the Directive are the EU Member States' authorities, who need to ensure full transposition and implementation of the Directive in their national framework. The purpose of this evaluation is to assess whether the Directive has delivered the intended objectives – to effectively prosecute crime of child sexual abuse, to protect victims' rights and to prevent child sexual exploitation and abuse – in accordance with the Commission's Better Regulation Guidelines. The legal basis for recasting the existing Directive is the same relevant article as present in the existing Directive, therefore it includes Article 82(2) and 83(1) of the Treaty on the Functioning of the European Union (Judicial cooperation in criminal matters).

The evaluation comes eleven years after the adoption of the Directive. As such, it captures how the fight against Child Sexual Abuse would or would not have evolved had the Directive not be adopted. The evaluation covers the period when it started to apply until the end of 2022. The scope of the study therefore includes the impact of the COVID-19 pandemic in 2020 to 2022. The geographic scope of the evaluation covers 26 EU Member States with the exception of Denmark, as well as the UK.

This evaluation is built on the evaluation support study (hereafter "the support study") carried out by an external contractor and on regular guiding consultations with an Inter-Service Steering Group (ISSG) with representatives from the different Directorates-

[226] Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse

General of the European Commission[227]. A public consultation and specific stakeholder consultations were carried out to further explore the impacts of the options on all relevant stakeholders, as necessary, and ensure that those who would be affected by this initiative can provide their views and opinion. These consultations drew on the opportunities presented by existing dialogues, taking into account the variety of interests and stakeholders involved. Overall, the evaluation builds on existing data including but not limited to data collected from interactions with EU Member States and experts in combating child sexual abuse.

The evaluation aims to assess the actual performance of the Directive in terms of five criteria:

- **Effectiveness:** analysing the progress made towards achieving the objectives of the intervention, looking for evidence of why, whether or how these changes are linked to the EU intervention;

- **Efficiency:** looking closely at both the costs and benefits of the EU intervention as they accrue to different stakeholders, identifying what factors are driving these costs/benefits and how these factors relate to the EU intervention;

- **Relevance:** looking at the objectives of the EU intervention being evaluated and see how well they (still) match the (current) needs and problems;

- **Coherence:** looking at how well the intervention works: i) internally and ii) with other EU interventions and international obligations; and

- **EU added value:** considering arguments about the value resulting from EU interventions that is additional to the value that would have resulted from interventions initiated at regional or national levels by both public authorities and the private sector.

It is now appropriate to subject the Directive to a full evaluation to determine whether it has reached its intended purposes and whether it continues to be justified in terms of the five criteria listed above. The evaluation and impact assessment will be carried out back-to-back. The evaluation of the Directive will inform the impact assessment that will be elaborated to support the preparation of this initiative.

WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

The intervention and its objectives

Prior to the adoption of the Directive, the response to countering child sexual abuse in EU Member States was regulated by several EU and international legal instruments. National

[227] DG JUST, DG CNECT, JRC, DG NEAR, DG SANTE, DG EMPL, DG BUDG, EEAS, SJ, DG ECHO, DG GROW, DG EAC, SG and DG RTD.

legislation was not deemed to be strong or consistent enough to provide a vigorous social response to this disturbing phenomenon. At EU level, Council Framework Decision 2004/68/JHA[228], introduced a minimum of approximation of Member States' legislation to criminalise the most serious forms of child sexual abuse and exploitation, to extend domestic jurisdiction, and to provide for a minimum of assistance to victims. The Framework Decision had a number of shortcomings. It approximated legislation only on a limited number of offences, did not address new forms of abuse and exploitation using information technology, and obstacles to prosecuting offences outside national territory persist. As outlined in the impact assessment accompanying the Directive, the specific needs of child victims were not sufficiently addressed and measures to prevent offences were inadequate. Other EU initiatives in force or on the way at the time, had only partially addressed some problems which also affect child sexual offences.[229]

On a global scale, the main international standard was the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2000[230]. However, not all Member States had acceded to this Convention. At international level, the Council of Europe Convention against child sexual abuse adopted in 2007[231] constituted the highest international standard for protection of children against child sexual abuse. However, there was uncertainty that all Member States would ratify the Convention due to lengthy national procedures and a lack of timescale for ratification. A vigorous monitoring mechanism to ensure appropriate implementation was not provided for either.

The main problem, which led to the adoption of the Directive at the time, was the insufficiency, lack of coordination and unclear effectiveness of efforts to combat Child Sexual Abuse in Europe. Variations in national criminal law and procedures gave rise to differences in investigation and prosecution in various countries and convicted offenders continued to pose a high risk of recidivism after serving their sentences. Developments in information technology had made these problems more acute by facilitating production and distribution of child sexual abuse images while offering offenders anonymity and the star of possibilities to form like-minded communities where they could normalise these crimes and instigate further illegal action from members. Insufficient response by law enforcement mechanisms contributed to the prevalence of these phenomena, and difficulties were exacerbated by the transnational dimension of certain forms of offences. National legal systems needed to deal with high number of actors involved, with different degrees of responsibility and operating in different jurisdictions. On the side of the child

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[228] Council Framework Decision 2004/68/JHA

[229] This Included Council Decision 2000/375/JHA of 29 May 2000 to combat child pornography on the internet, Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems, Decision No 854/2005/EC of the European Parliament and of the Council of 11 May 2005 establishing a multiannual Community Programme on promoting safer use of the internet and new online technologies, and Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

[230] Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2000

[231] Council of Europe Convention against child sexual abuse

victims, the main cause of this phenomenon was vulnerability resulting from a variety of factors, with victims being reluctant to report abuse for shame or fear of the consequences.

Research has strongly suggested that this phenomenon is not decreasing over time[232], rather that certain forms of sexual violence are on the rise. Stakeholders argued forcefully for more effective and specific measures to counter child sexual abuse. The Directive sets out a comprehensive response, with those addressed by the Directive being the Member States' authorities, who needed to ensure full transposition and implementation of the Directive in their national framework.

At the time of the intervention, the lack of accurate and reliable statistics on the nature of the phenomenon, on the number of children involved, and on the profile of offenders did not allow a precise estimation of how child sexual abuse would evolve in the future. [233] In any case, child sexual abuse was already considered to be increasing, and the research in the impact assessment accompanying the Directive[234] suggested that a significant percentage of children in Europe could be sexually assaulted during their childhood. The research work done in 2011 could not have predicted the drastic increase of child sexual abuse worldwide, in part facilitated by increased technological developments and accessibility to the internet, nor the pivotal impact that the global pandemic could have had on the sexual abuse of children, with the Internet Watch Foundation noting a 65 % increase in reports of confirmed child sexual abuse in 2021 compared to the previous year.[235]

The expected impact of the Directive was to strengthen legislation in the areas covered by the current EU legislation on prosecution of the offenders and protection of child victims, and to increase the availability and quality of preventive measures, thus improving the protection of children in general. The financial cost was expected to be outweighed by the social and economic benefit of more efficient action against this crime.

Objectives of the Directive 2011/93

The general policy objective of the Directive, under Article 29 of the Treaty on the European Union, was to prevent and combat offences against children. Specific objectives to serve it were to effectively prosecute the crime, to protect victims' rights and to prevent child sexual exploitation and abuse, and to establish effective monitoring systems.

A. **Specific objective: to effectively prosecute the crime**
   I. To impose effective, proportionate and dissuasive criminal penalties on offenders who commit child sexual abuse or exploitation. This was especially important with regard to activities, which currently were not criminalised at all, or were not criminalised consistently throughout the EU, including new forms of child sexual abuse or exploitation committed using information technology.

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[232] Proposal for a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA
[233] *Ibid*
[234] *Ibid*
[235] Internet Watch Foundation (IWF), Annual Reports of 2016 to 2020.

II. To facilitate the investigation of offences and the initiation of criminal proceedings, especially in the absence of reporting or a complaint by the child victim at the time of the abuse.
III. To effectively prosecute abuse or exploitation committed abroad, thus ensuring that international travel was not an obstacle to fighting child sexual abuse and exploitation.
IV. To remove obstacles to international cooperation and to foster the use of investigative tools which were effective in organised crime and transnational cases.

B. **Specific objective: to protect victims' rights**
   I. To facilitate access by victims to legal remedies and appropriate specialist protection measures.
   II. To ensure that victims of child sexual abuse and exploitation suffer no harm from participating in criminal investigations and proceedings.

C. **Specific objective: to prevent child sexual exploitation and abuse**
   I. To promote access to intervention programmes and measures as a means to prevent repeated and first-time offences against children.
   II. To ensure that appropriate security measures are taken with regard to child sex offenders who continue to be dangerous after their release, and that they were effectively implemented throughout the EU.
   III. To technically prevent or make it more difficult to access and disseminate child pornography, especially on the internet.

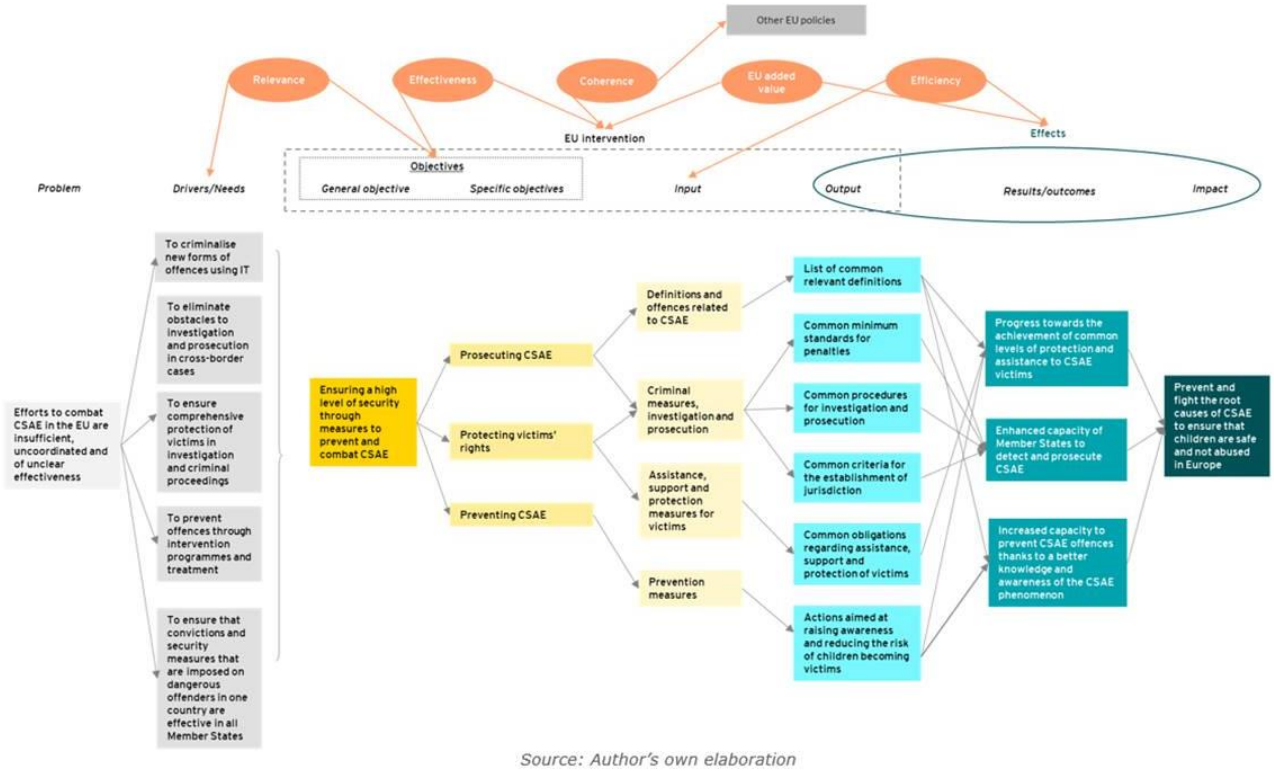
D. **Specific objective: to establish effective monitoring systems**
   I. To create harmonised national mechanisms to measure the extent of such crime and to monitor the effectiveness of policy to fight child sexual abuse and exploitation.

The Child Sexual Abuse (CSA) Directive's expected outcome was to harmonise minimum criminal law rules at EU level concerning the definitions of child sexual abuse and exploitation offences and corresponding sanctions and to require the establishment of prevention measures in this area. It also required Member States to ensure the provision of assistance and support to victims before, during and after the conclusion of criminal proceedings.

The Directive defined a minimum set of standards at EU level to define and sanction these crimes, prevent them and assist victims. The Directive set minimum levels for criminal penalties and facilitates reporting, investigations and prosecution of such crimes. Member States were required to comply with these minimum rules and may go beyond them if they consider it necessary. Similarly, the Directive defined the responsibilities of Member States but left it to national authorities to comply with those responsibilities in the way that suits best the national specificities. The Directive set out prevention measures, including awareness raising, and intervention programmes for offenders and persons who fear they might offend. It reinforced provision of support to victims including prevention of additional trauma caused by participating in criminal proceedings.

Table 1 shows the intervention logic (problem, drivers, objectives and options) that were described and analysed in the impact assessment leading to the adoption of Directive 2011/93:

Table 1: problem, problem drivers, objectives and options (intervention logic)



Source: Author's own elaboration

Point(s) of comparison

At the time of the adoption of the Directive, the Impact Assessment highlighted that victims of CSA did not always receive the tailored and comprehensive assistance required, such as support in trying to stop the sharing and distribution online of the images and videos depicting their abuse, which perpetuated the harm, re-victimising victims of this crime. There was little data on whether survivors had access to appropriate support, and research present in the Impact Assessment suggested that the level of satisfaction with support received is low. The existing initiatives at the time did not systematically make use of existing best practices and lessons learned in other Member States or globally. This translated into information gaps on help resources, gaps in specialised support, and overall inefficiency of efforts. There was room for improvement in the cooperation between public authorities and NGOs to ensure that victims were aware of the resources available to them. In addition, there was no cooperation between public authorities and hotlines or other NGOs to support victims at their request in searching and taking down the material depicting them.

In what concerns prevention efforts to decrease the likelihood that a child becomes a victim, awareness raising[236] and training were limited in availability, particularly to organisations and persons that come in regular and direct contact with children as part of their jobs or vocational activities, in addition to carers and parents. At the same time, those

[236] The Commission- funded network of Safer Internet Centres is a good example. It raises awareness on online safety and provides information, resources and assistance via helplines and hotlines on a wide range of digital safety topics including grooming and sexting

in regular and direct contact with children did not have the knowledge and tools to ensure that children do not become victims, given their proximity to the child. On prevention efforts to decrease the likelihood that a person offends, research into what motivates individuals to become offenders was scarce and fragmented. This lack of research made it difficult to put in place effective programmes before a person offends for the first time, in the course of or after criminal proceedings, both inside and outside prison. As a result, there were currently very few programmes in place[237.]

The study by the contractor found that various types of practitioners in this field did not communicate sufficiently with each other and with researchers on the effectiveness of the programmes, lessons learned and best practices, while language was a further barrier. Expertise and resources to establish and implement such initiatives were not evenly distributed in the EU, and successful programmes were mostly local endeavours. There were overlapping efforts in some areas, with Member States designing similar programmes and campaigns in parallel[238] , whereas other areas, such as reaching out to potential offenders, were not sufficiently addressed. The few programmes that existed were rarely evaluated to assess their effectiveness and usability[239]. A recent systematic review of the published empirical literature on child sexual abuse perpetration prevention interventions found at the time only five published evaluation studies, and these were methodologically limited (four examined the same intervention only on adults in Germany, and the other one focused only on children aged 5 to 12)[240.]

Inefficiencies in cooperation existed notably on prevention programmes for offenders and for persons who fear that they might offend. In some Member States, NGOs carried out these programmes with limited support from public authorities[241]. In addition, the coordination between public authorities and NGOs on the programmes they respectively offered at different stages was also limited (between the programmes that public authorities offer in prisons and the reintegration programmes that NGOs offer after the offender leaves prison) [242] .

As a result of Directive 2011/93/UE, the following impacts were expected: an enhanced detection and prosecution of offenders by Member States, progress towards achieving common levels of protection and assistance of victims, and a better capacity to prevent child sexual abuse. A positive impact on fundamental rights was expected, as the Directive

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[237] For an overview of prevention programmes in the EU and third countries, see Di Gioia R., Beslay, L. (2018) Fighting child sexual abuse: prevention policies for offenders – Inception Report, EUR 29344 EN,(2018) Fighting child sexual abuse: prevention policies for offenders – Inception Report, EUR 29344 EN,
doi: 10.2760/48791

[238] Di Gioia, R., Beslay, L., 'Fighting child sexual abuse-Prevention policies for offenders, 3 October 2018.

[239] *Ibid.*

[240] Seto, M.; Letourneau, E.; Overview of perpetrator prevention evidence and existing programmes, October 19, 2021.

[241] Di Gioia, R., Beslay, L., Fighting child sexual abuse - Prevention policies for offenders, October 2018.

[242] See for example the results of 2020 evaluation of Circles UK, and EU funded project CIRCLES4EU.

aimed to promote and advance the right to protection of children as laid down in Article 24 of the EU Charter of Fundamental Rights.

Regarding prosecution, the Directive approximated national criminal law to cover forms of child sexual abuse which were currently not covered by EU legislation, including conduct which had proliferated through the expansion of information technology (IT). It provided shared definitions of criminal law, with the aim of harmonising criminal law across Member States. Data sharing and international cooperation would have been facilitated throughout the harmonisation of criminal law. The Directive aimed to remove legal obstacles to enquiries and prosecutions by introducing amendments to criminal procedures. A positive social impact of fighting child sexual abuse and exploitation was expected, as more cases of abuse would have been punished in a more efficient way.

Regarding victim assistance, the Directive introduced free legal counselling and representation for children, as well as a non-punishment clause for child victims. The Directive aimed to facilitate the participation of victims in legal proceedings by reducing or eliminating harm they would suffer in the proceedings. A substantially positive social impact of fighting child sexual abuse and exploitation in general was expected, as better implementation and additional tools would have made victim protection more effective.

Regarding prevention, risk assessments would have been conducted for offenders to assess the possibility of recidivism, and they would be offered to participate in intervention programmes and projects which were suited to the risks and circumstances of the offenders to mitigate that risk. The programmes would have been opened only on a voluntary basis. The aims were to encourage less crime and fewer victims.

The significant improvement in protecting victims and, indirectly, preventing offences through deterrence was expected to lead to a significant positive economic impact of fighting child sexual abuse and exploitation in general.

Table 2 shows the intervention logic (needs, objectives and results) that will be described and analysed in this evaluation study:

Table 2: needs, objectives and results (intervention logic)

HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

Current state of play

The CSAE Directive contributed to making the fight against CSAE a key EU priority. This resulted in the allocation of European resources to projects aiming at improving the detection and investigation of CSAE as well its prevention. Another significant result was

the organisation of six expert workshops by the Commission, held to gather information on challenges and emerging issues on the implementation of certain articles of the Directive. Yet another main output was the gathering of experts working towards the harmonisation of prevention programmes for offenders and potential offenders across the EU.

Nonetheless, Member States faced delays in the implementation of the Directive into their national law. In order to ensure effective protection of children from sexual abuse and sexual exploitation, all countries had to fully comply with the provisions. In 2019 the Commission was compelled to open infringements procedures against 23 EU countries for non-compliance with implementing the Directive. The Commission is currently assessing the progress made by all Member States in the past 3 years and proceeding to the closure or delimitation of the scope of most of these infringement proceedings.

Since the adoption of the Directive in 2011, exchanges with Member States have brought to light issues that may not be addressed by the existing legal framework, as well as disparities between Member States' approaches that can hamper cooperation and an effective approach regarding such crimes.

With regards to definitions and prosecutions, some Member States in their implementation have broadened the original scope of the Directive with regard to the definition of child pornography, to cover not only realistic images but also fictitious material such as drawings, deep fake images or novels. In other instances, national criminal law was proposed to criminalise the production and distribution of child sex dolls going beyond the categories of criminalised acts set out in the Directive.

The Directive includes provisions on prevention, both to prevent the child from becoming a victim and to prevent the person from (re)offending against children. The report monitoring the implementation of the Directive showed that efforts to set out prevention initiatives are fragmented and insufficient and in many cases, where initiatives do exist, it is unclear whether they are effective.

Similarly, in a number of the targeted workshops that the Commission held with Member States, experts considered that further emphasis should be placed on efforts to provide support and assistance to victims. The current provisions do not explicitly refer to the need for tailor-made support to mitigate long-term trauma sustained because of the abuse, including through medical and psychosocial support. This has resulted in a mismatch of services and treatments available to victims across Member States.

The Directive has been in place for over nine years. In this time, the development of ICTs and the technological advancements that have taken place since the entry into force of the CSAE Directive, combined with the extensive use of web-enabled devices such as smartphones or tablets by children, have significantly increased the risks that children become victims of sexual offenders.[243]

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[243] European Parliament (2017). Combating sexual abuse of children Directive 2011/93/EU – European Implementation Assessment.

Indeed, in the past few years, the EU has registered a dramatic increase in reports of child sexual abuse online (from 23,000 in 2010 to more than 700,000 in 2021).[244] Broader Internet penetration and an expanding use of mobile devices make it possible for offenders to misuse technology to contact, groom and abuse children.[245] Additionally, the easy availability of encrypted messaging platforms, peer to peer networks, and easy access to the 'Darknet' make it easier for perpetrators to connect, cooperate, evade identification and share child sexual abuse and exploitation material. [246] Such phenomena, and their increasing importance, pose a threat to the fight against CSAE, and might hamper the relevance of the measures foreseen by the legislation in place. Technological developments affecting children in child sexual abuse are encompassing live streaming, text and audio-based CSAM, virtual reality and augmented reality CSAM, child pornography deep fakes, the use of digital currencies, and metaverse developments.

EVALUATION FINDINGS (ANALYTICAL PART)

To what extent was the intervention successful and why?

The intervention is deemed to be successful in the sense that without the existence and implementation of the Directive, certain forms of child sexual abuse would not have been criminalised coherently across all Member States, the current level of cooperation amongst authorities from different Member States would not have been achieved, and less initiatives would have been taken in relation to prevention and victims' assistance and support. Still, there are with difficulties stemming from reasons related to certain ambiguities in the text, the emergence of new phenomenon in the realm of child sexual abuse, and certain implementation issues linked to the increasingly cross-border nature of the crime, due to the spreading of information and communication technologies as well as to the ease of travel among Member States.

Effectiveness

Among the factors that facilitated the implementation of the CSAE Directive, EU funding opportunities appear to have contributed to the implementation of several EU-level and national level projects and initiatives to prevent and fight against CSAE. The funding for projects fighting child sexual abuse was issued through regular calls for proposals under the Internal Security Fund- Police (ISF-PP) and Horizon Europe framework programme for research and innovation.

However, the implementation of the CSAE Directive is hindered by a variety of factors, related to prevention (e.g. insufficiency of prevention initiatives targeting potential offenders), assistance and protection for CSAE victims (e.g. limited psychological support), investigation and prosecution (e.g. limited resources available to law enforcement agencies to investigate large amounts of referrals and limitations to investigative tools available in certain Member States), and reporting (e.g. underreporting of victims of CSAE). In addition, some of the terminology used in the CSAE Directive

[244] NCMEC Cybertipline report 2021
[245] Europol Report 2019, Online Child Sexual Abuse During Covid-19
[246] Europol Organised Crime Threat Assessment 2020

appears to be problematic, hindering its consistent implementation across Member States. A range of factors appear to have hindered the CSAE Directive's implementation at the national level, including a lack of resources allocated to prevention initiatives, low reporting rates among victims, different practices among Member States, challenges associated to tackling online CSAE, and insufficient background checks for professionals having contact with children

Fighting child sexual abuse

The Directive **has encouraged Member States to adopt measures that promote reporting of child sexual abuse by the victims themselves**, professionals working in close contact with children, and society at large. Although all EU Member States have helplines in place that are dedicated to children who seek assistance, research shows that their nature, organisation and available resources varies greatly, creating discrepancies in the help and assistance among children across the EU.[247]

The CSAE Directive **has facilitated the establishment of mechanisms designed to ensure the prompt removal of CSAM online**. These measures, which include hotlines and networks, can enhance knowledge exchange, collaboration, and efficiency.To this end, implementation methods include helplines, hotlines, mandatory reporting, and awareness-raising and training campaigns. In particular, awareness raising campaigns and training of health staff have improved detection and implementation of CSAM, according to the stakeholders consulted in the contractor's study.

The Directive's impact on child sexual abuse is difficult to assess, though **its implementation contributed to raising awareness about CSAE** and thus contributed to improved reporting and prosecution of offences. Other factors might have also contributed to the increase in child sexual abuse, such as an increase in levels of reporting, increase in resources dedicated to prosecution, or the increase in the online dimension of the crimes.

The CSAE Directive has contributed toward fostering and enhancing Member States' cooperation within the EU and with international organisations for the investigation and prosecution of criminal offences concerning CSAE. However, **challenges persist, particularly when cooperating with third countries to tackle online CSAE**. Challenges include jurisdiction issues, lack of trust towards data protection regimes in third countries, lack of hotlines in third countries, and cumbersome legal procedures, such as Mutual Legal Assistance (MLA).

As for issues with the Directive, **factors that limit reporting include a lack of coordination between actors, legal uncertainty**, a lack of support to victims and the reporters, and a lack of funding for these mechanisms. In addition, evidence suggests that children who are abused in their family appear to be less likely to disclose the abuse than those abused by someone outside the family. To address this, some Member States have implemented campaigns specifically targeting children that aim at increasing their resilience.

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[247] European Parliament (2017). Combating sexual abuse of children Directive 2011/93/EU – European Implementation Assessment.

However, a large margin of discretion left by the CSAE Directive regarding the operations of these systems leads to a series of self or co-regulatory measures that vary considerably in scope, methodology, and legal certainty.[248] To ensure the prompt removal of web pages, **Member States have implemented notice and take down procedures through national hotlines**, where Internet users can report CSAM that they find online.[249] The optional nature of Article 25 (2) has meant that its implementation by Member States has been inconsistent and varied.

Divergences in the criminalisation of offences across the Member States resulted from differences in the interpretation of the provisions of the CSAE Directive. Consulted experts stressed that there are **differences in the classification of the offences across Member States** (i.e. some are considered misdemeanours and not felonies, especially in cases of possession of child sexual abuse material), which may result in lower prioritisation of action and restrict the availability of tools for LEAs. [250] Prosecution levels for CSAE are low or not consistent with the minimum penalties.[251] Whilst data on prosecution rates is scarce, some stakeholders suggest that judges ultimately attribute less harsh sentences to perpetrators than those prescribed by national legislation.[252]
Penalty levels for some crimes, such as possession of child sexual abuse material (CSAM), might be too low to act as a deterrent for perpetrators. [253]

The CSAE Directive's implementation has **not consistently ensured that prosecution for crimes set out in Article 15(2) of the Directive, is enabled for a sufficient period of time** after the victim has reached the age of majority and which are commensurate with the gravity of the offence concerned. Whilst consulted stakeholders in the contractor's study acknowledged the CSAE Directive's contribution in this area, other evidence highlights that the period of time permitted by Member States vary, which prevents victims from having a guarantee that the crimes will be prosecuted if they report the offence when they are older

At this stage, evidence on the implementation of Article 21 appears to be limited. Most interventions in the travel and tourism sector are focused on reporting mechanisms and industry standards by companies, neither of which seem to be particularly effective due to their broad scope and dependence on self-regulation. The study results provide that **most interventions have focused on stopping child sex tourism, rather than preventing it**.[254]

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[248] European Commission (2017), Study on Framework of best practices to tackle child sexual abuse material online.

[249] European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

[250] Commission meeting report (2019), Expert Workshop on current and future challenges in the fight against child sexual abuse.

[251] Targeted interviews with one representative from one CSO (#18); feedback provided two respondents to survey question #4.5 (See Annex I.1.1).

[252] Based on feedback provided two respondents to survey question #4.5 (See Annex I.1.1).

[253] Commission workshop report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse; targeted interviews with one representative from one CSO (#11); feedback provided by one respondent to survey question #4.5 (See Annex I.1.1).

[254] ECPAT (2016), Sexual exploitation of children in travel and tourism: regional report Europe.

Prevention

Overall, the assessment suggests that the CSAE Directive's implementation has had a limited impact in promoting interventions for persons who fear they might offend. Member States have rolled out a limited number of intervention programmes or measures, and, where those exist, it is difficult to evaluate their effectiveness. Certain good practices have gained grounds following the adoption of the Directive, and the subsequent interactions between Member States and the Commission, such as some Member States establishing rehabilitation programmes in prison. However, there are still implementation gaps and difficulties in terms of cost and coordination among different actors at the national level.

Certain **relevant national initiatives** targeting potential offenders include national Helplines providing help to potential offenders, in particular by offering confidential advice/information, and support to anyone with concerns about their sexual thoughts, feelings, or behaviour towards children. Relevant initiatives at Member State level have been put in place also thanks to the input of the Daphne funding programme.[255] Some Member States have measures in place to assess the dangerousness and possible risks of repetition of the offences, which mirrors Article 24(4) of the CSAE Directive.[256] For instance, some Member States developed specific risk assessment tools for this end.

The CSAE Directive appears to have slightly contributed towards encouraging Member States to implement **preventative initiatives to raise awareness on CSAE targeting the society at large** (including children and parents), but relevant stakeholders in the contractor's study suggest that there is room for improvement to raise awareness around CSAE. Indeed, experts believe that initiatives targeting all aspects of prevention remain limited and are not equally prioritised across Member States. Specifically, stakeholders agree that more educational initiatives (e.g. sex education, understanding CSAE, and the risks associated to CSAE) should be carried out, as well as regular awareness-raising campaigns targeting a broader audience.

Although almost all Member States have **implemented background checks for preventing previous child sex offenders** from coming into contact with children, their conduction is not always ensured. Whilst the European Criminal Records Information System (ECRIS) is a useful tool for exchanging information on criminal records across Member States, criminal records may not contain information about child sexual abuse offences. However, consulted experts revealed that criminal records may not contain information about child sexual abuse offences for different reasons (e.g. the low level of penalty imposed, or because only in case of recidivism they may appear).[257] In addition, with there being no compulsory exchange of information on the conviction of sexual offenders, and no common register, there are gaps in the Directive itself.

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[255] The Daphne programme aims to contribute to the protection of children, young people and women against all forms of violence and contribute to the prevention of sexual exploitation and trafficking of human beings. European Commission, DAPHNE III Funding Programme.

[256] Council of Europe, Lanzarote Committee (2018), 2nd implementation report. Protection of children against sexual abuse in the circle of trust: the strategies.

[257] Commission conclusions paper (2018), Expert Workshop on the Implementation of the CSAE Directive with regard to Background checks and the Use of ECRIS.

Nevertheless, the CSAE Directive seems to have had a **limited effect in encouraging Member States to set up measures for previous offenders**, since it appears that several Member States do not have these measures in place, and their content vary considerably across them.[258] In addition, where these exist, it is difficult to evaluate the effectiveness of these intervention programmes or measures. It is challenging to determine the extent to which the CSAE Directive's implementation contributed to the identified programmes.

Consulted experts also stressed that initiatives targeting all aspects of prevention remain limited and they **are not equally prioritised across EU Member States**.[259] Most members of the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse[260] also confirm that they have no specific measures, programmes, or services for potential CSAE offenders.[261] In addition, the CSAE Directive does not specify that prevention initiatives should take into consideration the specific needs of vulnerable children, and consulted experts agree that more attention should be given to vulnerable children. The reviewed evidence suggests that Member States do not usually provide prevention initiatives which specifically target boys or girls.

Assistance to victims

Overall, there has been an increase in effectiveness in victim protection, with more uniform criminalisation across Member States, adoption all throughout Member States of at least certain assistance and support measures, and the introduction in all legal systems of certain procedural safeguards for CSA victims. Still, there are differences and issues to be addressed, such as a divergent interpretation of certain provisions of the directive, notably on exceptions for criminalisation for consensual production, and access and possession of paedopornographic material. There are differences as to age of consent and a limited implementation of victim protection measures, especially beyond criminal proceedings.

The CSAE Directive has been effective in ensuring that victims of CSAE do not suffer additional trauma or harm from participating in criminal investigations and proceedings. However, some challenges remain. For instance, **audio-recording of interviews is not always ensured,** and CSAE victims are not always interviewed in a child-friendly manner. This is also in contrast to the Victims' Right Directive, Article 24, which holds that child victims' testimony should be audiovisually recorded to prevent them testifying multiple times.[262]

Concerning the requirement provided in Article 20(5), in almost all Member States, the **possibility exists to hear the child victim in closed court without the presence of the**

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[258] European Parliament (2017). Combating sexual abuse of children Directive 2011/93/EU – European Implementation Assessment.

[259] Commission meeting report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse.

[260] The Lanzarote Committee (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention.

[261] Council of Europe, Lanzarote Committee (2018), 2nd implementation report. Protection of children against sexual abuse in the circle of trust: the strategies.

[262] FRA (2017), Child-friendly justice: perspectives of children involved in judicial proceedings as victims, witnesses, or parties in nine EU Member States.

public or in the judge's chambers.[263] All Member States have set up a range of measures to protect the privacy, identity and image of a victim (Article 20(6)), though some national legislations emphasise certain protections more than others.[264] Nevertheless, some challenges related to the appointment of a special representative for victims during criminal proceedings have been identified:[265]

Although the CSAE Directive's requirements, aiming to avoid additional trauma in criminal proceedings, have proved to be effective (e.g. use of blue rooms, avoiding unnecessary repetition and multiple hearings of children), it appears that **criminal court proceedings can be lengthy, cumbersome, time-consuming, and cause additional trauma and re-victimisation.**[266] For instance, while video-recordings and child-friendly approaches (e.g. help the child prepare for the hearing, language adapted to age and maturity, absence of defendant or other parties)[267] are essential for the purposes of avoiding additional trauma for CSAE victims, it appears that these measures are not systematically ensured across Member States.

The Directive has contributed to **an increase in the training of professionals likely to come into contact with victims of CSAE**, including LEAs, the judiciary, and social workers. Based on research and feedback from consulted stakeholders, evidence suggests that the implementation of training has been effective, although it could be improved through more training and resources. As of 2016, most Member States had transposed this provision.[268] More than 10 Member States had, trained officials (police officers or judges) who were required to conduct interviews with child victims.

However, as for the issues concerning assistance to victims especially after the proceedings, in some Member States law enforcement authorities are obliged to refer victims to assistance and support services, however evidence from the contractor's study suggests that there is a **lack of coordination between the judicial system and health sectors**, which hampers victims' access to these services. In addition, **psychological assistance for child victims is not always ensured**, with consulted experts highlight that medical and psychological support for CSAE victims is limited.[269] In many cases, where support services exist, resources are limited, and victims must face long waiting times. Further, support may be limited in time and not include all the necessary healthcare.

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[263] Missing Children Europe, ECPAT, eNASCO (2016), A survey on the Transposition of Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography.

[264] *Ibid.*

[265] *Ibid.*

[266] Commission Meeting report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse.

[267] FRA (2017), Child-friendly justice: perspectives of children involved in judicial proceedings as victims, witnesses, or parties in nine EU Member States.

[268] European Commission (2016), Report from the Commission to the European Parliament and the Council assessing the extent to which the Member states have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

[269] Commission Meeting report (2019), Expert workshop on current and future challenges in the fight against child sexual abuse; targeted interview with one CSO (#11).

Although support services are offered in most Member States, there is a shared perception that more should be done.[270]

Concerning compensation, all Member States **recognise the victims' right to claim compensation for damages** caused by sexual offenders, though the exercise of this right differs among them. Participants at the 2019 workshop on current and future challenges in the fight against CSAE underlined the lack of robust compensation mechanisms for victims of CSAE.[271] Overall, the reviewed evidence and the insights from consulted stakeholders reveal that there are some gaps in ensuring assistance and protection measures for CSAE victims.

With regard to **CSAE cases occurring within the victim's family, evidence suggests that there is limited ad hoc legislation** to deal with these cases. In some Member States the national legislation gives the option of removing either the alleged perpetrator or the victim, and, under certain circumstances, allows the Court to make an order for the parental care of the victim. In other cases, the procedure is to remove the victim from the family while in a minority of Member States the police may force the perpetrator to temporarily leave the house.

Relevant research reveals that most Member States do not explicitly codify into their national legislation that assistance and support measures cannot be conditional on the cooperation of child victims in criminal procedures, and that most Member States seem to fulfil this obligation simply because there is no legislation contrary to the article in question.[272] Nevertheless, it is **unclear whether Member States offer unconditional assistance and support for child victims without a residence permit**, such as in cases of child trafficking, and children in migration whose asylum application has not been processed yet.

Evidence reviewed reveals that it remains **unclear how the specific and individual needs are assessed across Member States**.[273] Although most Member States have stated that an individual needs assessment of child victims is undertaken, only a few have provided information on the procedures of the individual needs assessment

Efficiency

Costs and benefits linked to the implementation of the Directive

The overall cost of implementation is not particularly high as the Directive largely relies on pre-existing structures, be it the criminal justice system, health system, or social

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[270] FRA (2017), Child-friendly justice: perspectives of children involved in judicial proceedings as victims, witnesses, or parties in nine EU Member States.

[271] Commission meeting report (2019) Expert workshop on current and future challenges in the fight against child sexual abuse.

[272] Missing Children Europe, ECPAT, eNASCO (2016), A survey on the Transposition of Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography. Available at: link.

[273] *Ibid.*

workers, thereby obtaining substantial benefits. However, financial and administrative costs arise from the Member State implementation of the Directive. Nevertheless, the long-term societal benefits and gains deriving from an effective fight against child sexual abuse will be significant and the benefits will be proportionate to the costs. If child sexual abuse is not prevented or addressed in terms of effective and timely support to the victim, the consequences will be notable due to the life/long detrimental effects on victims and society at large. With regard to benefits, the previous impact assessment of the Directive had assumed that meeting children's needs would, in terms of benefits, considerably mitigate the costs associated with children's victimisation and considerably reduce the total costs of crime.

In the stakeholder consultations conducted by the Contractor's Sutdy, the level of costs to comply with the Directive to achieve these benefits have not been identified as being disproportionate. This is both based on consultations via interviews as well as findings from the online survey. However, it can be noted that whereas certain countries indicated that costs have increased in their countries over time, at the same time, several of these countries still face a medium to high level of the problem in terms of the number of victims.

Whilst there is no adequate evidence available to conclude whether this means that certain measures have not produced sufficient "value for money", it shows that still more needs to be done in order to address and fight this very crucial problem. There are differences in the development of costs for the implementation of the various provisions of the Directive between the Member States and with regard to individual activities. The differences between the Member States do not, however, allow any universal conclusions to be made. Table 3 shows the overview of costs and budget allocations per Member State, before and after the adoption of Directive 2011/93:

Table 3*: overview of costs and budget allocations per Member State*

Overview of costs and budget allocations per Member State before and after the implementation of the Directive

Legend

No response
Significant decrease
Decrease
Slight decrease
No change
Slight increase
Increase
Significant increase

#	Budget allocated to…	Member States																									
		AT	BE	BG	CY	CZ	DE	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK
	Investigation Measures																										
5	Legal counselling of children																										
6	Salaries of interviewers of children in criminal proceedings																										
7	Salaries of special representatives of children in criminal proceedings																										
8	Outsourced to external actors to implement protection initiatives																										
	Prevention Measures																										
1	Budget allocated to ICT private companies to implement preventive initiatives (e.g. prompt removal of web pages containing or disseminating child pornography, etc.)																										
2	Budget allocated to intervention programmes targeted at children to prevent them from becoming victims of abuse																										
3	Budget allocated to intervention programmes targeted at offenders (to prevent repeated offences																										
4	Budget allocated to intervention programmes targeted at potential offenders (to prevent first time offences																										
5	Budget outsourced to external actors to implement preventive initiatives (e.g. information and awareness raising campaigns, education programmes, etc.)																										
6	Budget outsourced to civil society organisations to implement preventive initiatives (e.g. information and awareness raising campaigns, etc.)																										

#	Budget allocated to…	Member States																								
		AT	BE	BG	CY	CZ	DE	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK
7	Training of front-line police officers likely to come into contact with child victims																										
8	Budget allocated to the training of legal counsellors																										
9	Budget allocated to the training of professionals in charge of interviewing children during criminal proceedings																										
10	Budget allocated to the training of social workers																										
11	Budget allocated to the training of teachers																										
12	Budget allocated to train the judiciary in the specifics of adjudicating cases of child sexual abuse and exploitation																										

Costs for investigations and prosecutions

Most Member States have reported no changes in budget allocations to investigative tools, IT equipment, salaries of judicial authorities and law enforcement authorities, as well as interviewers of children in criminal proceedings or special representatives of children in criminal proceedings. Most reported that the budget available in their country for the purpose of implementing investigation measures are sufficient only to a small extent.

Five countries stand out for having reported an overall (significant) increase in investigative costs. Only one country reported a significant decrease in budget outsourced to external actors to implement protection initiatives (e.g. child's houses, etc.).

For implementation of measures such as investigative tools or IT equipment a few Member States reported that the budget available in their countries is not at all sufficient. A couple of Member States reported that they do not have sufficient budget available in their country for the legal counselling of children, salaries of interviewers or special representatives of children in criminal proceedings, or external actors to implement protection initiatives. With regard to the budget allocated to salaries of law enforcement authorities, five Member States reported insufficient budgets made available in their country.

Costs for prevention and assistance to victim measures

Most countries reported no change in costs for prevention measures, such as training for officials, intervention programmes or preventive initiatives. In contrast to expenses for investigation measures, where Member States solely reported increases or no changes, for

expenses in prevention measures some countries even reported significant decreases. Stakeholders from the Netherlands, for example, reported significant decreases of budget allocated to training of front-line police officers likely to come into contact with child victims and professionals in charge of interviewing children during criminal proceedings. Additionally, two Member States reported decreases in budgets allocated to ICT private companies to implement preventive initiatives (e.g. prompt removal of web pages containing child pornography). Finally, two other Member States both reported that less budget was outsourced to civil society organisations to implement preventive initiatives. For most of the country examples, evidence shows that the budget available is not at all or only to a small extent sufficient to implement these prevention measures in the respective Member State.

Possible costs savings

Overall, costs for both prevention and investigation measures either increased or, for most of the Member States, remained unchanged over the past years. In the area of investigation budget was allocated to investigative tools, IT equipment or salaries of judicial authorities as well as law enforcement authorities. In the area of prevention, Member States have incurred costs for measures, such as intervention programmes, training of professionals and front-line police officers likely to come into contact with child victims, or for prompt removal of webpages containing disseminating child pornography.

The various provisions of the CSAE Directive leave much room for interpretation for Member States for implementing measures to be compliant - and conversely, the measures implemented in the Member States can in a number of cases be assigned to more than one of the Directive's provisions. Therefore, it is very difficult to make a statement in the context of efficiency about what the Member States are doing to be compliant with the Directive, and is a matter of interpretation in each individual case whether a measure has been implemented within the framework of the Directive or not.

As for proposed actions concerning cost savings, combating child sexual abuse can be rendered more effective via the use of existing structures, or on the potential new creation of the EU Centre to Counter and Prevent Child Sexual Abuse, as provided for in the proposed Regulation on preventing and combating child sexual abuse, within the limits of the tasks attributed to the EU Centre in that proposal. This would ensure that combating child sexual abuse can be performed more strongly and without any additional costs, further improving the efficiency of the Directive as a legislative instrument.

Coherence

There are a multitude of EU legislative instruments with which the Directive must ensure coherence. Some were already in place at the time of adoption, such as the Victims Directive and the Human Trafficking Directive, which are however now currently under revision and revised. Others were adopted in the meantime, such as the Gender Equality Strategy[274], and the New European Strategy for Better Internet for Kids. Certain

[274] European Commission (2020), A Union of Equality: Gender Equality Strategy 2020-2025.

instruments are in the process of being adopted, such as the Digital Services Act[275], the Proposed Violence against Women Directive[276], and the Proposed Regulation to Prevent and Counter Child Sexual Abuse.

As for the instruments that were already in place once the Directive was adopted, a fundamental aspect was that they were implemented in synergy with the Directive. In the context of a criminal trial, the measures between the Directive and the Victims Directive largely overlapped with regards to the protection of victims, including those affected by human trafficking based on the Human Trafficking Directive and its revision. Now, coherence needs to be ensured with the multitude of upcoming instruments as well, which are able to tackle more recent issues as opposed to the 2011 Directive.

Coherence with EU instruments in place at the time of the adoption

The Victims Rights' Directive

Both Directives provide that the child's best interest shall be a primary consideration when providing assistance and support to child victims and that the presumption of childhood should apply in order to provide assistance.

The Victims Rights' Directive provides for the same definition of 'child' included in the Directive, i.e. any person aged below 18 years old. Moreover, the Victims Rights' Directive includes the definitions of 'victim of crime' and 'restorative justice'.

Also, both Directives, which recognise children as vulnerable victims, provide that assistance and support shall be based on child victim's individual assessment and shall be extended to the family of child victims. Moreover, as concerns children protection during criminal proceedings, the two initiatives acknowledge the right of the children to avoid contact with the offender, as a way to avoid them to suffer additional trauma.

The Directive explicitly requires Member States to respect the rights of the children included in the Victims Rights' Directive, hence further contributing towards full consistency between the two measures. As concerns prevention measures, both the initiatives provide for raising awareness campaigns and training of officials likely to come into contact with CSAE victims.

Regarding protection of CSAE victims during criminal investigations and proceedings, the same measures are provided for by both Directives, including the appointment of a special representative; access to legal aid and compensation; minimum standards of protection of child victims during criminal investigations and proceedings; right to protection of privacy.

[275] Commission (2020). Proposal for a Regulation on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC (COM/2020/825 final).

[276] European Commission (2022), Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence.

The Human Trafficking Directive and its Revision

The definitions of 'child' and 'legal person' are identical in the two Directives. In addition, the Human Trafficking Directive provides for a definition of 'position of vulnerability' of victims.[277] In the CSAE Directive, a unique definition of vulnerability is missing.

Although vulnerable situations included in the CSAE Directive proved to be consistent with the Human Trafficking Directive, the latter considers the gender dimension of vulnerability (Recital 12), which is instead totally absent in the CSAE Directive.

As concerns investigation and prosecution of CSAE, both the CSAE Directive and the Human Trafficking Directive cover the offence of sexual exploitation. However, while the CSAE Directive clarifies that sexual exploitation consists of pornographic performances and prostitution, the Human Trafficking Directive generally refers to "the prostitution of others or other forms of sexual exploitation", without further specifying such "other forms".

Overall, the two Directives proved to be consistent as child victims of human trafficking for the purpose of sexual exploitation targeted by the Human Trafficking Directive can receive similar levels of assistance and support granted to victims of child sexual exploitation under the CSAE Directive.

Moreover, Directive 2011/36/EU provides for the appointment of a guardian or a representative as well as for safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services. Such measures are not covered through specific provisions in the CSAE Directive.

As to prevention measures, both initiatives provide for include education and training programmes for (potential) offenders, research and awareness-raising campaigns addressed at children, regular training of officials likely to come into contact with (potential) victims of sexual exploitation.

Moving to protection of CSAE victims, similar measures are contained in both the CSAE Directive and the Human Trafficking Directive, including the appointment of a special representative, free legal counselling and legal representation, as well as right to compensation, and minimum standards of protection of child victims during criminal investigations and proceedings. Also, the two initiatives provide for the prevention of secondary victimisation through the protection of victims' privacy and private life.

[277] Pursuant to Article 2(2) of Directive 2011/36/EU, "a position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved". Moreover, Recital 12 of Directive 2011/36/EU states that "particularly vulnerable persons should include at least all children. Other factors that could be taken into account when assessing the vulnerability of a victim include, for example, gender, pregnancy, state of health and disability".

Coherence with EU instruments adopted after the Directive

Digital Services Act

To ensure a safe, predictable and trusted online environment, the DSA Proposal[278] regulates content moderation activities, including removing or disabling access to illegal content online. The two measures have the common objective of taking down illegal content, including CSAM, from public websites.

These measures prove complementary to the Directive: while the latter targets Member States, the DSA Proposal already targets intermediary services in the internal market. The involvement of service providers in online content moderation activities as pursued by the DSA will impact positively the goal pursued by Article 25 of the CSAE Directive, guaranteeing the prompt removal or blocking of access to CSAM.

Proposal for a Violence against Women Directive

The Directive does not provide for a specific gender-based dimension, both in terms of offences and specific prevention, assistance, support and protection of victims. Thus, the Proposal proved to be complementary in this respect, since it provides for new measures and standards that enhance the rights of victims of gender-based violence, including gender-based victims of CSAE.

As for definitions, the Directive proved to be coherent with the Proposal as to the definitions of 'child' and 'age of sexual consent' (i.e. "the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child"). Moreover, Article 4 of the Proposal includes the following other definitions, which are instead not included in the CSAE Directive, yet relevant to the fight against CSAE: a definition of cyber violence, and of information and communication technologies.

Furthermore, the Proposal already broadens the scope of Article 3 of the CSAE Directive. Precisely, Article 45 adds that engaging with a child – or causing a child to engage with another person - in the offences amounting to sexual abuse, will lead to a maximum term of imprisonment of at least 12 years as a punishment for offences to child below the age of sexual consent, and 10 years for the ones above the age of sexual consent. In addition, Article 45 introduces the notion of non-consensual act.

With respect to investigation and prosecution of CSAE, the CSAE Directive proved to be coherent with the Proposal as relates to offences therein. Moreover, both the initiatives criminalise the incitement, aiding and abetting, as well as attempting to commit crime addressed therein. As for assistance, and support and protection of CSA victims, the Proposal provides for some measures not included in the Directive. These include guidelines for law enforcement and judicial authorities concerning how to treat children in a child sensitive-manner, a targeted support for victims with specific needs and groups at risk, and a strong role of national bodies to carry out assistance to victims.

[278] Commission (2020). Proposal for a Regulation on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC (COM/2020/825 final).

With respect to measures to ensure prevention and coordination in the fight against crimes covered therein, the Proposal provides for some measures which are instead not covered in the Directive, yet still relevant to the fight against CSAE. The Proposal provides for training on coordinated multi-agency co-operation to allow for an appropriate handling of referrals, and for specific prevention actions based on children's vulnerabilities. While the Directive only encourages Member States to develop mechanisms for data collection, at the national or local levels and in collaboration with civil society, with the purpose of evaluating the efforts made to combat CSAE, the Proposal set the collection, development, production and dissemination of statistics on violence as mandatory. The Proposal calls Member States to support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.

How did the EU intervention make a difference?

The Directive has proven to be paramount in making the fight against child sexual abuse a key EU priority. Considering that child sexual abuse is a cross border crime, and has increasingly become so with the growth of the online dimension, it would have been impossible to address the phenomenon without a certain level of harmonisation of definitions and penalties.

The Directive was a significant incentive for the establishment of prevention programmes and the adoption of victims' support and assistance measures across Member States. The prioritisation of this policy area has also resulted in the allocation of EU resources to projects aiming at improving the detection and investigation of child abuse. Another added value of EU action was the gathering of experts working towards the harmonisation of prevention programmes for offenders and potential offenders across the EU. The existence of the Directive manifested itself with respect to specific needs in countering child sexual abuse, such as in the fields of professional disqualifications and translational child sexual offences.

Fight against CSA in the EU political agenda

The Directive has contributed to bringing out the fight against child abuse as a key EU priority. Within the Commission's DG HOME, actions in the area of internal security play a pivotal role in promoting the protection of children's rights, including protection from sexual violence both online and offline. Stakeholders consulted during the study agreed that the Directive has be pivotal towards prioritisation of child abuse at the EU level. Also, the Directive has inspired the organisation of six expert workshops by the Commission, which were held to gather info on challenges and emerging issues on the implementation of some aspects of the Directive. The workshops offered an arena to discuss key issues regarding the implementation of the Directive as well as its relevance in light of new and emerging issues that affect the intra-EU effort to fight against child abuse. Also, the Directive has inspired the organisation of six expert workshops by the Commission, which were held to gather info on challenges and emerging issues on the implementation of some aspects of the Directive. The workshops offered an arena to discuss key issues regarding the implementation of the Directive as well as its relevance in light of new and emerging issues that affect the intra-EU effort to fight against child abuse.

Establishment of common minimum rules, definitions and standards

The CSAE Directive paved the way towards the harmonisation of national laws and practices regulating these three dimensions across the EU. The added value of the CSAE Directive is twofold. Firstly, the binding nature of the legislative act allows for the setting of mandatory standards to be observed in the fight against CSAE. The same results in terms of measures adopted at the national level to comply with the rules of the three dimensions of the fight against CSAE, would have hardly been achieved, had the Directive been a non-binding instrument.

Secondly and consequently, by imposing common standards across the EU, the Directive allowed for higher harmonisation of measures to fight against CSAE, as well as definitions of CSAE offences. This harmonisation would not have happened if a common legal framework had not been adopted. Indeed, different cultural backgrounds, history, and attitudes towards certain aspects of CSAE would have driven Member States' legislation in divergent directions.

Prevention programmes for offenders

The CSAE Directive harmonises preventive measures across the Member States in relation to prevention activities such as education, awareness-raising and training of officials, as well as intervention programmes for convicted offenders and individuals who fear they may offend. The CSAE Directive provides for common minimum standards related to the implementation of prevention measures aimed at reducing the risks of recidivism of persons convicted or prosecuted for CSAE-related offences.

To support these actions, the Commission has set up a network of practitioners and researchers, aimed at encouraging research and the exchange of good practices, as well as supporting Member States in the organisation of prevention programmes, and raising awareness campaigns. In May 2021, the Commission, represented by the Joint Research Centre and the Directorate-General Home Affairs and Migration's Security for the Digital Age unit, organised a Thematic Workshop involving experts to support the identification of criteria for classifying prevention programmes covered by Articles 22 and 24 of the CSAE Directive.[279]

Investigation and prosecution

The Directive provides for a common set of about 20 online and offline offences divided into four categories (i.e. sexual abuse, sexual exploitation, child pornography and the solicitation of children for online sexual purposes) and establishes that the incitement, aiding, abetting, and attempt to commit a CSAE offence shall be punishable too.
By introducing common definitions for several CSAE offences, the Directive has allowed a larger number of cases to be brought into light under the proper label of CSAE offence. Indeed, the CSAE Directive provides for criminal offences that did not exist in the Criminal Code of some Member States.

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[279] Di Gioia, R., Beslay, L., Cassar, A. and Pawula, A., Classification criteria for child sexual abuse and exploitation prevention programmes, EUR 30973 EN, Publications Office of the European Union, Luxembourg, 2022, ISBN 978-92-76-46993-3, doi:10.2760/725913, JRC127262 p. 4.

Another added value of the Directive is the introduction of minimum penalties for CSAE crimes – whether they are committed by physical or legal persons – and a list of aggravating circumstances. The Directive also grants that the prosecution of the most serious offences is enabled for a sufficient period of time after victims reach the age of majority. Lastly, the Directive lays down rules for the establishment of Members States' jurisdiction over offences. This allows Member States to try their citizens for offences committed abroad, as well as to extend their jurisdiction to offences committed abroad when the offender of the crime regularly resides in their territory, or if the offence has been committed on behalf of a legal person established in their territory.

Among others, the common minimum rules provided by the Directive has contributed towards the development of investigative tools and victim identification methods. More precisely, the Directive prescribes that Member States must enable investigative units to the identification of CSAE victims. Nowadays, a growing number of Member States are dedicating resources to expanding capabilities focused on victim identification, such as specialised staff, high-tech forensic tools and the establishment of national databases of CSAM, which optimised police investigations allowing them to dedicate more resources to victims' identification.

Another added value of the Directive is to ensure that effective investigative tools are available to investigation and prosecution units. Specifically, they claim that modern and special tools to detect and gather intelligence and evidence, as well as tools for victim identification, are crucial for LEAs.

Assistance and support to victims

Stakeholders interviewed in the course of the contractor's study confirmed that the CSAE Directive establishes standards for child-friendly justice that ensure that children provide the best evidence and do not experience further trauma during criminal proceedings.

The legal framework provided by the CSAE Directive as regards child assistance, support and protection is believed to have set the ground for the development of Children's houses, e.g. the Barnahus model, which aims at offering assistance and protection adapted to the special needs of the child according to a holistic approach involving social services, law enforcement and medical professionals.280

Moreover, the CSAE Directive has contributed to the establishment of a reporting mechanism, including standards and harmonisation of hotlines. The CSAE Directive encourages the reporting of CSAE by individuals or professionals likely to come into contact with victims and establishes rules to ensure confidentiality of reporting by professionals. The CSAE Directive acknowledges the role of hotlines as valuable settings to report CSAE, allowing for anonymous complaints.. Also, by forwarding reports and preliminary evaluations of the type of material reported to LEAs, hotlines support their

[280] The Lanzarote Convention identified the Icelandic Barnahus model as a good practice example for a child-friendly multiagency and integrated response. Council of Europe. Protection of Children against Sexual Exploitation and Abuse. Child-friendly, multidisciplinary and interagency response inspired by the Barnahus model.

work.[281] Safe Line, a Greek reporting hotline, stated that from 2011-2018 the number of reported online CSAM increased at an average annual rate of 2.3% per year.[282]

International cooperation

The common minimum rules provided by the CSAE Directive set the ground for cooperation to fight against CSAE at the national, EU and international levels. Cooperation among Member States, as well as between Member States and third countries was successfully promoted in order to ensure the removal of online CSAM, as established in Recital 46. According to two European CSOs, the CSAE Directive has allowed cross-border cooperation for the taking down of CSAM in a way that wouldn't have happened without the Directive.[283]

With a view to combating child sex tourism, the CSAE Directive spurs dialogue and cooperation between Member States and third countries and international organisations, as described in Recital 29. An example of such cooperation is the exchange of information on convicted offenders between national authorities. Article 10 of the CSAE Directive aims at ensuring that professionals working with children convicted of any CSAE crime are temporarily or permanently prevented from exercising professional activities involving contact with children.

To this end, Member States make use of the European Criminal Records Information System (ECRIS)[284], a decentralised system established in April 2012 in order to facilitate the exchange of information on previous criminal convictions throughout Member States. The CSAE Directive's measures related to the promotion of international cooperation brought to the intensification of intelligence sharing among national authorities across the EU, hence they contributed to detecting a greater number of victims[285].

Is the intervention still relevant?

In 2011, the Directive attempted to capture the phenomenon of online child sexual abuse. However, technological progress coupled with a behavioural shift accentuated by the pandemic, has outpaced the Directive. A number of technological developments facilitate the commitment of CSAE in a number of ways. This includes perpetrators hiding their

[281] Commission (2016). Report to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, COM(2016) 872 final.

[282] ECPAT International (2019). ECPAT Country Overview: Greece (Bangkok: ECPAT International), p. 10.

[283] Targeted interviews with two CSOs (#6 and #7).

[284] More information on ECRIS is available at http://ec.europa.eu/justice/criminal/european-e-justice/ecris/index_en.htm.

[285] As anecdotical evidence, between the end of 2012 to April 2015, the number of identified victims reported in the INTERPOL's ICSE database increased from 2,891 to 6,301. Global Alliance Against Child Sexual Abuse Online. 2015 Report, p. 11.

identity through encryption, access to CSAM self-generated by children through smartphones and commitment of the crime at distance through live streaming.

New realities such as grooming on gaming platforms, and child sexual abuse in virtual reality environment, could not have been predicted when the Directive was adopted. Such developments hinder the activities of LEAs and pose new challenges. It is also essential to ensure full legislative coherence with upcoming legislative instruments such as the Violence Against Women Directive, the Digital Services Act, and the Proposed Regulation to Counter and Prevent Child Sexual Abuse.

Increasing online trends

The presence of children on the Internet has sharply increased in the last 10 years, as 60% of children in Europe are online all the time.[286] This implies higher risks for them to be exposed to dangerous behaviours, especially when unsupervised, leading to phenomena such as sexual harassment, enticement, solicitation and 'online grooming. According to Europol,[287] there has been a peak in online grooming cases in recent years, especially on social media and gaming platforms. The recent developments in terms of possibilities offered by the Internet and the evolving trends in its use by children create the conditions for a number of challenges.

Concerning new trends and developments related to technology, the Directive includes specific provisions to cover the use of new technologies. Nevertheless, stakeholders consulted through the contractor study[288] are concerned that the CSAE Directive, and the fight against CSAE in general, are not able to address the changes happening in the technology field at an increasing speed.

The rise of self-generated content

"Sexting" behaviour makes adolescents especially vulnerable to abuse. Around 15-40% of young people engage in sexting, using smartphones, messaging apps and lives-streaming technology to explore their sexuality in an increasingly risky online environment.[289]

The Directive explicitly mentions accessing CSAM material through ICT, in order to fight phenomena such as the unwanted circulation/commodification of self-generated sexual content. However, such provision does not include any compulsory requirement for the Member States. Indeed, Member States may decide not to criminalise the production, acquisition or possession of material involving children if such content is possessed with the consent of children who have reached the age of consent to enter into sexual activities, making the fight against sextortion more difficult. In fact, as the age of sexual consent

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[286] UNICEF and Eurochild (2019). Europe Kids Want – Sharing the views of children and young people across Europe.

[287] Europol (2021). Internet Organised Crime Threat Assessment (IOCTA) 2021. Publications Office of the European Union, Luxembourg.

[288] Based on the feedback provided by 51 stakeholders responding to survey question #9.4 (See Annex I.1).

[289] Bracket Foundation (2019). Artificial Intelligence – Combating Online Sexual Abuse of Children.

differs, an activity that is consensual in a Member State might not be in another. As the situation might differ from country to country, it might hinder a response to crimes, especially if there is a cross-border dimension.

Web streaming possibilities

New web streaming possibilities create new practices for offenders**,** such as live streaming of child sexual abuse. The last stream of relevant developments is the increased use of smartphones and webcams by children themselves, which has led to the production of what is now referred to as self-generated sexual content and material. Article 4 is focused on pornographic performances and, as such, it is also intended to contrast the live streaming of child sexual activities. It is very difficult to accurately measure the growing magnitude of the problem given the inability to detect the faint and temporary digital traces that live-streamed abuse leaves behind.

Grooming throughout virtual realities

Article 6 aims to punish the use of information and communication technology to organise meetings with children or soliciting them, targeting online grooming. Nevertheless, the criminalisation of solicitation through new technological developments could be problematic to enforce. Grooming a children in the Metaverse to perform sexual activities through its avatar would be a grey area.

Indeed, an emerging trend that needs to be monitored is the use of entertainment tools based on virtual reality technology to contact children for the purpose of sexual exploitation. Child sexual abuse through virtual reality technology has already been documented, but its future developments, implications and impact on children are yet to be fully understood.

Facilitated settings for offenders

Another alarming trend is the increasing popularity of darknets and other environments offering a high degree of anonymity, which are used by child sex offenders and producers to spread, sell and exchange CSAM. Groups facilitating the exchange of CSAM on the dark web keep proliferating and are a persistent threat.[290] Moreover, the growing use of cryptocurrencies (such as Bitcoin) as an alternative payment method ensures anonymity in payment transactions and facilitates offences related to child sexual abuse committed for financial gain.

Another important technological development is the increase of distributed networks, such as peer-to-peer (p2p), which facilitate file sharing among users. The CSAE Directive explicitly includes online pornographic performances on public and private p2p networks. These platforms enable anonymous access to massive collections including millions of images, making it possible to share large volumes of material among like-minded perpetrators at no cost.

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[290] *Ibid.*

Still, lower costs have led to a spike in volume and profitability of the crime; although sex trafficking represents only 20% of global human trafficking victims, it makes up 66% of the profits, with victims generating a return on investment between 100% and 1,000% for traffickers.[291]

WHAT ARE THE CONCLUSIONS AND LESSONS LEARNED?

Conclusions

While the CSAE Directive has been largely transposed by Member States, some provisions still remain to be fully implemented in practice. The study identifies some barriers to the CSAE Directive's implementation, which include some of the provisions' misleading or vague terminology.

With regards to **effectiveness,** the evaluation shows that the Directive has had a generally positive impact on preventing child sexual abuse, on fighting against the crime and prosecuting it, and on access to victim assistance measures. EU intervention was necessary and needed because of the cross-border dimension of the crimes. Nonetheless, several challenges are identified, which are described in detail in the following section on lessons learned.

When it comes to **relevance**, the evaluation study shows that the Directive in general remains relevant. Due to the persistent threat constituted by child sexual abuse and the alarmingly growing rate of the crime, there is persistent relevance of the Directive. Nonetheless, several limitations have been identified which affect its ability to be considered fit for purpose, ranging from the Directive's definitions to its scope. The Directive may not adequately address the needs of potential victims where new technology is an enabling factor.

State of the art research and technological developments show that there is room for improvement on the role of new forms of criminalisation. The Directive has not yet captured the full reality of the online phenomenon of child sexual abuse, which has developed into deep fakes, online paedophile handbooks, online sexual chatting, graphical representations of children, and live-streaming.

With regards to **efficiency**, Member States and different stakeholders reported increased budgets allocated to both, prevention and investigation measures provided by the Directive. It is, in particular, the law enforcement authorities and civil society organisations that increased their expenses for investigation tools and IT equipment (both of which are part of the intervention measures), and prevention programmes. Evidence shows that Member States have implemented the Directive in different manners and with different costs. This is due to varied national laws and practices on where to focus most attention to: the areas of prevention, prosecution, or victim assistance.

[291] Bracket Foundation (2019). Artificial Intelligence – Combating Online Sexual Abuse of Children.

Certain limitations, such as the lack of specific reporting and clear frameworks, affected the assessment of the efficiency. By the time of the publication of the Evaluation Study, not all Member States provided the Commission with precise details on the implementation of the Directive, or on data and statistics related to child sexual abuse or on the nature of prevention programmes against offenders, as there is no legal obligation on them to do so and, especially in federal states, there appears to be a lack of comprehensive overview on the existence and extent of such programmes. The under-funding of the system for prevention programmes from public budget and the lack of interest in such across certain Member States were identified as a potential cause of inefficiency of prevention programmes. In certain cases, the added value of the Directive was limited by a lack of specificity of some provisions. In addition, the assessment of this criterion varies across Member States, with some having strong national legislation on prevention programmes and assistance to victims projects existing prior to the Directive, while others recognising this would not be prioritised without EU impetus.

However, it remains difficult to directly link the costs to the development of number of victims and, thus, evaluate the efficiency of the Directive in this context. These may on the one hand be a result of an increased number of offences, but may also show the effects of successful measures in terms of raising awareness on reporting possibilities and options.

There are challenges across different Member States related to the prevention of child sexual abuse, with limited programmes being used and little research being conducted. There is a lack of training of judges and educators dealing with victims of child sexual abuse. On assistance to victims, there must be greater clarity in relation to what is expected from statues of limitations and on compensation for damages suffered, including damages deriving from online dissemination of child sexual abuse material.

Although it is difficult to be quantified, the evaluation of the Directive confirms that it has broadly generated the expected benefits. In particular, it has brought professionals, law enforcement and experts together to work on shared solutions in preventing and combating child sexual abuse, and in assisting victims of this crime. Member States have started to pay more attention to conducting efficient criminal investigations and proceedings and in prosecuting the crime in a cross-border scenario. In general, the Directive has enhanced the safety of children and ensured that offenders are criminalised accordingly, thereby safeguarding key EU interests in protecting its citizens and combating crime.

The evaluation shows that the Directive is internally and externally coherent to a satisfactory level. When it comes to **internal coherence**, potential inconsistencies were identified in relation to definitions. The term “consensual sexual activities” was not correctly interpreted as applying only to material produced and possessed between children, rather than between a child over the age of sexual consent and an adult. With regard to **external coherence**, there are no major inconsistencies between the Directive and national legislation. Some observed challenges can be attributed to the fact that some provisions of the Directive remain vague.. The broad definition of “solicitation of children for sexual purposes” led some Member States to draft legislation criminalising this in more specificity and detail than other Member States. The Evaluation finds that the Directive is overall coherent with sectorial legislation on the Anti-trafficking Directive, the Victims Right Directive, and the Violence against Women Directive. Nevertheless in order to

ensure full coherence, certain points must be clarified in order to adapt definitions and penalty levels for offenses.

Nevertheless, the Directive has generated added value by prompting further action and investments in countering child sexual abuse and introducing new key elements. It contributed towards the establishment of a common set of offences and related sanctions to be established by the Member States, contributing towards higher harmonisation of national criminal laws. As also confirmed by the stakeholders consulted throughout the study, the current level of harmonisation of measures to fight against CSAE, would have hardly been achieved across the EU without a binding value instrument imposing determined criteria and standards to achieve the purpose. The harmonisation of measures allowed for the development of holistic models of support, assistance and protection for child victims, increasing number of reported CSAE as well as cross-border cooperation among national authorities.

Lessons Learned

Lessons learned and some possible measures are set out below. They should not be understood as exhaustive. These recommendations should be understood as food for thought based on the findings of this evaluation and should not prejudge any decision to review the Directive. There is an overall need to fully address child sexual abuse in both its technological developments and expanding nature. Better support must be given to Member States in terms of assistance to victims and prevention strategies, as they require administrative efforts and high level of coordination between different actors. Information exchanges must be improved, and there has to be greater coherence in terms of criminalisation, investigation and prosecution. There must be consistency with recent legislative instruments.

Investigation and prosecution

The number of crimes prosecuted related to child abuse cases has significantly increased over the past ten years. Some stakeholders suggest that the Directive's implementation contributed to raising awareness about child sexual abuse, and thus improving reporting and prosecution of offences. In addition, some stakeholders consider the Directive contributed toward fostering and enhancing Member States' cooperation within the EU and with international organisations for the investigation and prosecution of criminal offences concerning child abuse. Further, consulted stakeholders suggested that, overall, the sanctions foreseen by the Directive are dissuasive, effective, and proportionate.

Nevertheless, the Directive's direct contribution to facilitate investigation and prosecution is difficult to assess, and the effectiveness assessment performed in this study revealed several that several challenges related to investigation and prosecution of CSAE cases exist. Those challenges relate to substantive and procedural law (including penalty levels, and investigative tools for law enforcement), as well as cooperation with third countries.

Challenges to address:

- Divergences in the criminalisation of offences across Member States;
- Low penalty levels for some crimes, especially possession of CSAM
- Low prosecution levels targeting offenders;
- Lack of a common definition of the "age of sexual consent" across Member States;
- Difficulties to extradite into the EU citizens from the EU who have committed;
- Limited collaboration with third countries and cumbersome MLA processes;
- Jurisdiction issues, lack of trust towards data protection regimes in third countries, lack of hotlines in third countries;
- The criminal records stores in the European Criminal Records Information System (ECRIS) do not always contain information about child sexual abuse offences;
- Limited resources available to law enforcement agencies to investigate large amounts of referrals

Possible actions:

- The Directive could adapt the language and definitions in the Directive to more broadly encompass technological developments. It could ensure that the language and definitions in the Directive are future proof with regards to potentially new technological developments
- Ensure that knowingly obtaining access, acquiring and possessing CSAM for the sole purpose of reporting is not criminalised. Criminalise sexual chatting between adults and children below 16. Criminalise live-streaming as a stand-alone offense.
- Ensure that the transmission of information on convictions between Member States is possible even when there is no consent of the person concerned, if the law of the transmitting states allow it
- Assess the possibility of having a common register of sex offenders. Introduce a requirement to sex offenders to notify their travels. Foster interoperability between national sex offender registers.

Assistance and support

The Directive provides specific rights concerning assistance and protection for CSAE victims, which are detailed from Article 18 to Article 20. Nevertheless, Member States

have not consistently ensured that these assistance and protection measures are provided to all child victims and their families. In addition, the study found that the CSAE Directive was not particularly effective in considering the specific needs of vulnerable groups of children.

However, evidence suggests that the Directive's implementation appears to have ensured that victims of child abuse do no suffer additional trauma during investigations and proceedings thanks to the setting up of ad hoc rooms in several Member States. Further, several stakeholders identified the Barnahus model (that has been implemented in several Member States and enables an adapted response to the special needs of the child) as a best practice that should be further implemented.

Challenges to address:

- Lack of coordination between the judicial system and the health sector, hampering CSAE victims' access to these services;
- Lack of ad hoc legislation regulating CSAE cases occurring in the victim' circle of trust;
- Criminal court proceedings can be lengthy, cumbersome, time-consuming, thus leading to additional trauma to CSAE victims. Interviews are not always conducted in a child-friendly manner;
- Limited medical and psychological support available for CSA victims;
- Uncertainty and differences across Member States around the statute of limitation;
- Assistance and protection measures for vulnerable children (e.g. children with disabilities, young girls, children in migration) is scarce;
- Lack of robust compensation mechanisms for CSAE victims.

Possible actions

- Clarify compensation claims and ensure that victims can obtain compensation claims from the online dissemination of child abuse material;
- Introduce requirements to address issues related to the lack of training of professionals, judges and educators dealing with child abuse cases;
- Create Anti-Child Sexual Abuse Coordinators.
- Introduce requirements and definitions that clarify statute of limitations for crimes.

Prevention

The study found that the Directive's implementation has had a limited effect in contributing towards the prevention of child abuse in the offline and online environment. Although stakeholders agree that some EU funding opportunities associated with the Directive's implementation have facilitated the setting up of national initiatives to preventing child abuse, several challenges have been identified. The Directive's contribution to prevention is difficult to establish in the absence of robust evaluative data.

Challenges to address:

- Initiatives targeting all aspects of prevention remain limited and are not equally prioritized across Member States;
- Awareness-raising campaigns around CSAE, educational programmes, and sex education in schools appear to be scarce;
- Lack of preventative measures targeting people who fear they might offend;
- Intervention programmes for previous sex offenders are not always available across Member States, and, when thy exist, it is difficult to evaluate their effectiveness;
- Background checks for preventing previous child sex offenders from coming into contact with children are not always ensured.

Possible actions

- Ensure that employers are entitled to refuse hiring an offender;
- Introduce stricter measures to ensure the creation of prevention programmes and their monitoring;
- Identify specific cases of vulnerable children and establish a higher threshold of protection to vulnerable children.

Reporting

The study found that the Directive's implementation has contributed towards encouraging reporting of child abuse cases by the society at large, professionals working with children, and the victims themselves, though several challenges remain.

Challenges to address:

- Limited reporting channels for professionals having regular and direct contact with children;
- Reporting procedures are not always adequate, and considerably vary across Member States;

- Hotlines struggle with funding and with national legislation restricting their activity;
- High underreporting rates by CSAE victims due to a variety of reasons (e.g. Lack of understanding of CSAE or relationship with the perpetrator), especially from children with disabilities (e.g. most reporting systems in place are often inaccessible to deaf children).

Possible actions:

- Design a clearer legal framework for hotlines;

- Ensure that Member States compile a statistical database on child sexual abuse offences;

- Allow Member States to support undercover investigations and investigations in the dark web.

ANNEX I: PROCEDURAL INFORMATION

1. Lead DG, Decide reference and, if relevant, Work Programme reference

The Directorate-General for Migrations and Home Affairs ("DG HOME") is the lead DG for the evaluation of the Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

2. Organisation and timing

The evaluation of the Directive 2011/93/EU was prepared in line with the procedural steps set forth under the Commission's Better Regulation Guidelines. The evaluation roadmap together with the context, the purpose and the scope of the evaluation and impact assessment was published for public consultation from 28 September 2021 to 26 October 2021, followed by a further public consultation from 20 April 2022 to 13 July 2022.

The evaluation of the Directive 2011/93/EU was performed in cooperation with other interested Commission services coordinated under the Inter-Service Steering Group ("ISSG"), which was established early in the evaluation process for that purposed. The ISSG consist of representatives from DG JUST, DG CNECT, JRC, DG NEAR, DG SANTE, DG EMPL, DG BUDG, EEAS, SJ, DG ECHO, DG GROW, DG EAC, SG and DG RTD.

Insert table to describe evaluation phase

3. Exceptions to the better regulation guidelines

None.

4. Evidence, sources and quality

The assessment takes account of the Directive impact from when it started to apply in 2011 until the end of 2021. The scope of the study also includes the impact of the COVID-19 pandemic in 2020 and 2021.

The evaluation findings mainly rely on an external evaluation study carried out by the external contractor Steer which develops through the analysis of the following evaluation criteria: effectiveness, efficiency, relevance, coherence, and EU added value of the Directive.

The evaluation was completed by additional information gathered by the European Commission. The methodology used to address the objectives of the evaluation consist of a mix of tools, including *inter alia* stakeholder consultation, desktop research, case studies, a workshop and a cost-benefit analysis.

ANNEX II. METHODOLOGY AND ANALYTICAL MODELS USED

The consultation aims to ensure that citizens and stakeholders, including those who will be directly affected by this initiative, can provide their views and input. This will also improve the evidence base underpinning the initiative. The consultation targets all relevant stakeholders: including but not

limited to law enforcement agencies and other public authorities concerned with combating child sexual abuse, civil society both those dealing with child rights and more broadly, and also citizens. This will comprise a 12-week public consultation, expected to be launched in the first quarter of 2022 in all EU official languages. Replies will be possible in all official EU languages. The public consultation will be accessible via the Commission's public consultations page “Have your say”. Targeted consultations with law enforcement agencies, child welfare/protection entities, researchers active in this field and other key stakeholders to collect information and data. Regarding the current practices and legal framework, anticipated developments and needs and on the impact of the possible measures will be used as needed. At the end of this consultation process, an overall synopsis report will be drawn up covering the results of the different consultations. This report will be annexed to the impact assessment.

On the impact assessment

The evaluation of the Directive will inform the impact assessment that will be elaborated to support the preparation of this initiative. It will look at the potential economic, social and environmental impacts of this initiative as well as its potential impacts on fundamental rights. The assessment will support the preparation of this initiative and inform the Commission's decision on possible future efforts in this area. According to a tentative planning, the impact assessment should be completed in the fourth quarter of 2022.

ANNEX III. EVALUATION MATRIX AND, WHERE RELEVANT, DETAILS ON ANSWERS TO THE EVALUATION QUESTIONS (BY CRITERION)

Evaluation matrix

In accordance with the Terms of Reference (ToR) (p. 7), the evaluation questions considered for this study aim to assess the Directive's effectiveness (in terms of its results and impacts), efficiency (in terms of costs and potential for cost saving), relevance to EU needs, coherence with other EU, national and international policy interventions, and demonstrated EU added value.

The evaluation matrix developed to steer the analysis relating all questions and sub-questions includes:

- Judgment criteria, intended as statements that need to be confirmed by the analysis;
- Indicators and descriptors, i.e. quantitative, and qualitative data that support the analysis;
- Primary and secondary sources to feed the indicators.

The tables below present the evaluation questions and related matrix designed for this study.

1. Effectiveness

Question	Sub-questions	Judgment criteria	Indicators	Sources
General				
1 A number of provisions of the Directive still remain to be fully implemented by the EU Member States (in particular with regard to prevention). What are the issues that have contributed to incomplete implementation?	1.1: To what extent is the progress/lack of progress towards this implementation linked to the provisions themselves?	The Directive's provisions themselves have affected the Directive's implementation at the Member State level.	Extent to which Member States have implemented the Directive's provisions in national legislation. Extent to which the Directive's provisions have hampered or facilitated the Directive's implementation at the Member State level.	**Secondary sources** Directive 2011/93/EU Country overview reports produces by EPCAT European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Directive 2011/93/EU - European Implementation Assessment. Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Concluding observations published by the Committee on the Rights of the Child on the periodic reports of State Parties to the UN Convention on the Rights of the Child Academic/research literature **Primary sources** Online survey Targeted interviews
	1.2: What factors have hindered or facilitated the effectiveness of the implementation in practice of the Directive, and if so to which extent?	There are specific factors that hindered or facilitated the Directive's effective implementation.	Extent to which Member States have implemented the Directive's provisions in national legislation. Extent to which specific factors have hampered or facilitated the	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT

Question	Sub-questions	Judgment criteria	Indicators	Sources
			implementation of the Directive.	European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment. Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse **Primary sources** Online survey Targeted interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Virtual study visits interviews
Investigation and prosecution of crimes				
2 What is the number / share of cases?[292]	2.1: How are the cases distributed across different Member States? 2.2: How has the number of cases developed over the past years? 2.3: How is the number of cases expected to develop in the future?	*These EQs are rather descriptive than judgmental. Therefore, no criteria are needed.* *Description of:* Trends Drivers Outliers	If available, number of cases reported, investigations, and prosecutions, if possible, differentiating between: Different forms of crime covered by the Directive (Art. 3-9) including online vs. offline Purely domestic cases and cases with a cross-border element	**<u>Primary sources</u>** Online survey Targeted written outreach to specific stakeholders[293] Targeted interviews **<u>Secondary sources</u>** **Statistical databases:**[294] Eurostat data and data available at national statistical offices UNODC Database **Policy reports:**
3 How many victims and offenders are in scope of the Directive?	3.1: How are these numbers distributed across different Member States?		If available, number of victims, if possible, differentiating between:	

[292] Questions 2 and 3 are not included in the ToR. However, the Study Team would suggest considering them as they would allow to gather evidence and information necessary towards a thorough understanding of key figures and trends related to CSAE cases.
[293] This would be a fallback in case statistical databases (e.g. Eurostat, UNODC) are not available or limited in the scope.
[294] There is a risk that very limited data will be available to analyse as these data are neither systematically collected by Member States nor centralised in a common database. The Study Team will try to retrieve as much data as possible from relevant databases/national authorities during the Data Collection Phase. Hence, the statistical analysis will be conditional to the availability of relevant statistics. This applies to all instances where statistical databases are mentioned.

Question	Sub-questions	Judgment criteria	Indicators	Sources
	3.2: How have these numbers of cases developed over the past years? 3.3: How are these numbers expected to develop in the future?		Different forms of crime covered by the Directive (Art. 3-9) including online vs. offline Purely domestic cases and cases with a cross-border element Cases reported and cases investigated If available, number of offenders, if possible, differentiating between: Different forms of crime covered by the Directive (Art. 3-9) Purely domestic cases and cases with a cross-border element Cases reported and cases investigated First time offenders and persons reoffending	Country overview reports produced by ECPAT European Commission Reports to the Member States, the Parliament, and the Council Council of Europe's Lanzarote Committee reports

Question	Sub-questions	Judgment criteria	Indicators	Sources
			Age groups of offenders (including children) Gender of offenders	
4 Has the implementation of the Directive resulted in a significant shift (increase/decrease) in the number of sexual crimes prosecuted as covered by the Directive's provisions?	--	The Directive's implementation has resulted in a shift in the number of sexual crimes prosecuted as covered by the Directive's provisions.	If available, trends in the number of prosecuted sexual crimes - as covered by the Directive's provision – that are investigated and/or prosecuted at the national level since the Directive's implementation.	**Secondary sources** UNODC Database **Primary sources** Online survey Targeted interviews Virtual study visits interviews
5 How effective has the Directive been in imposing criminal penalties that are dissuasive?	--	The criminal penalties established by the Member States to tackle CSAE (as a result of the Directive's implementation) have had a deterrent effect.	Extent to which CSAE offences and related criminal penalties have changed since the Directive's implementation Extent to which observed changes can be linked to the Directive. Extent to which national penalties have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Data provided by national competent authorities and Eurojust **Primary sources** Online survey Targeted interviews Virtual study visits interviews
6 How effective has the Directive been in harmonising the offences of child pornography involving material described in Article 2(c)(iii) of the Directive?	--	The Directive's implementation has contributed to the harmonisation of offences in national legislation relating to child pornography as defined in Article 2(c) of the Directive.	Extent to which Member States' legislations in the area of child pornography are harmonised, including the type of material covered therein.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Academic/research literature **Primary sources** Online survey Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
7 To what extent has the implementation of the Directive facilitated in practice the investigation of offences and initiation of criminal proceedings regarding crimes of CSAE?	7.1: To what extent has the implementation of the Directive ensured that law enforcement have access to the right tools and resources to initiate and take forward investigations relating to CSAE?	The Directive's implementation has contributed to enhancing national law enforcement's access to appropriate tools and resources to initiate and pursue investigations relating to CSAE.	Extent to which the use of investigative tools to initiate and take forward investigations related to CSAE has changed since the Directive's implementation, with particular regard to: Interception of communications Covert surveillance including electronic surveillance Monitoring of bank accounts or other financial investigations Concealed identity on the internet. Extent to which resources available to national law enforcement authorities to initiate and take forward investigations related to CSAE has changed since the Directive's implementation.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment. Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention

Question	Sub-questions	Judgment criteria	Indicators	Sources
			Extent to which available tools and resources have proved successful in reaching their objectives.	on the protection of children against sexual exploitation and sexual abuse Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews
	7.2: To what extent has the implementation of the Directive ensured that prosecution for crimes set out in Article 15(2) of the	At the Member State level, there is (or there is not) sufficient time after the victim has reached the age of	Extent to which Member States implemented the necessary measures for crimes to be prosecuted for a sufficient period of time	**Secondary sources** National legislations transposing the Directive in the Member States

Question	Sub-questions	Judgment criteria	Indicators	Sources
	Directive is enabled for a sufficient period of time after the victim has reached the age of majority and which commensurate with the gravity of the offence concerned?	majority to prosecute crimes – as set in Article 15(2) of the Directive – and the time period to prosecute is (or is not) commensurate with the gravity of the offence concerned.	after the victim has reached the age of majority – as set out in Article 15(2) of the Directive. Extent to which the definition of "sufficient period of time" is consistent across the Member States. Extent to which consulted stakeholders agree that the timeframe set out by national legislations is appropriate.	Country overview reports produced by ECPAT Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews
	7.3: To what extent has the Directive been effective in ensuring that international travel (carried out for the purpose of sexually abusing children) is not an obstacle to prosecuting abuse or exploitation committed abroad?	The Directive's implementation has contributed to remove international travel (carried out for the purpose of sexually abusing children) as an obstacle to prosecuting abuse or exploitation committed abroad.	Extent to which Member States' provisions to ensure that international travel is not an obstacle to prosecute CSAE are harmonised. Extent to which identified measures have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Academic/research literature **Primary sources** Online survey

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Targeted interviews Virtual study visits interviews
	7.4: To what extent has the Directive fostered and enhanced international/regional cooperation in investigation and prosecution of criminal offences concerning the sexual abuse and sexual exploitation of children and child pornography?	The Directive's implementation has contributed to enhancing and fostering international/regional cooperation in investigation and prosecution of criminal offences concerning CSAE.	Extent to which Member States cooperate with other Member States and Third Countries to investigate and prosecute CSAE related crimes. Extent to which consulted stakeholders agree that international/regional cooperation to fight against CSAE increased as a result of the Directive's implementation.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
8 To what extent has the Directive taken into account gender specific needs as well as the specific needs of vulnerable groups of children during investigations and prosecutions of crimes?	--	The Directive has taken into account gender specific needs of children during the investigation and prosecution of crimes. The Directive has taken into account the specific needs of vulnerable groups of children during the investigation and prosecution of crimes.	Extent to which identified gender specific needs of children during investigations and prosecutions are reflected in (i) the Directive's provisions and (ii) national provisions. Extent to which identified needs of vulnerable children during investigations and prosecutions are reflected in (i) the Directive's provisions and (ii) national provisions. Extent to which identified measures have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews
Assistance and protection to victims				
9 To what extent has the Directive contributed towards enhancing the assistance, support, and	9.1: To what extent has the Directive been effective in facilitating access by child victims to assistance and support, including legal remedies and appropriate	Child victims' access to assistance and support, including legal remedies and appropriate specialist protection measures	Extent to which Member States have implemented measures to ensure that child victims of CSAE	**Secondary sources** National legislations transposing the Directive in the Member States

Question	Sub-questions	Judgment criteria	Indicators	Sources
protection of victims of CSAE?	specialist protection measures?	has been facilitated by the Directive.	have access to support, assistance, and protection. Extent to which child victims have access to assistance and protection. Extent to which identified measures have proved successful in reaching their objectives.	Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Reports produced by Eurochild and UNICEF EU Strategy for a more effective fight against child sexual abuse (2020) Reports of the 2019 and 2020 EU Forum on the rights of the child Reports of EU Forum on the rights of the child EU Strategy on victims' rights (2020-2025) **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
	9.2: To what extent has the Directive ensured that victims of CSAE do not suffer additional trauma and harm from participating in criminal investigations and proceedings?	The Directive's implementation has helped ensure that victims of CSAE do not suffer additional trauma and harm from participating in criminal investigations and proceedings.	Extent to which Member States have implemented measures to ensure that CSAE victims are supported/protected when participating in criminal investigations and prosecutions. Extent to which identified measures have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Combating sexual abuse of Children Directive 2011/93/EU, European Implementation Assessment, April 2017, Reports produced by Eurochild and UNICEF EU Strategy for a more effective fight against child sexual abuse (2020) Reports of the 2019 and 2020 EU Forum on the rights of the child EU Strategy on victims' rights (2020-2025)

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Primary sources Online survey Targeted interviews Virtual study visits interviews
	9.3: How effective is the Directive in protecting specific groups of children (children with specific gender needs, children with disabilities, children in situations of vulnerability, etc.)?	The Directive's implementation has helped in protecting specific groups of children.	Extent to which Member States have implemented measures implemented across Member States to enhance the protection of children against CSAE, since the Directive's implementation. In particular:	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the

Question	Sub-questions	Judgment criteria	Indicators	Sources
			Measures targeting children with specific gender needs Measures targeting children with disabilities Measures targeting children in institutional care Measures targeting children in migration Measures targeting children victims of trafficking for the purpose of sexual exploitation Extent to which identified needs of vulnerable children in terms of assistance and protection are reflected in (i) the Directive's provisions and (ii) national provisions. Extent to which identified measures have proved successful in reaching their objectives.	monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Directive 2011/93/EU, European Implementation Assessment, April 2017, Reports produced by Eurochild and UNICEF EU Strategy for a more effective fight against child sexual abuse (2020) Reports of the 2019 and 2020 EU Forum on the rights of the child Reports of EU Forum on the rights of the child EU Strategy on victims' rights (2020-2025) **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
	9.4: Are there areas where assistance to and protection of child victims is regarded as lacking?	There are gaps in terms of the assistance and protection provided to children victims of CSAE.	Extent to which there are areas/needs for which additional protection measures are needed.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse International and EU policy documents (WHO Fact Sheet on Child Maltreatment, OECD Report on Family Violence, UK Government Tackling Child Sexual Abuse Strategy, Combating sexual abuse of Children Directive 2011/93/EU, European Implementation Assessment, April 2017, The Internet Watch Foundation Annual Report) Reports and studies produced by Lucy Faithfull Foundation Reports produced by Eurochild and UNICEF

Question	Sub-questions	Judgment criteria	Indicators	Sources
				EU Strategy for a more effective fight against child sexual abuse (2020) Reports of the 2019 and 2020 EU Forum on the rights of the child Annual reports by the EU co-funded by INHOPE network of hotlines Reports of EU Forum on the rights of the child EU Strategy on victims' rights (2020-2025) **Primary sources** Online survey Targeted interviews Virtual study visits interviews
10 To what extent were law enforcement and justice professionals trained to increase their awareness, knowledge and skills required to implement the Directive's objectives with	--	The Directive directly contributed to increasing have increased awareness, knowledge and skills of law enforcement authorities and justice professionals operating at the national level	Extent to which Member States have implemented trainings aimed at raising awareness, increasing knowledge, and building capacity of law enforcement and justice	**Secondary sources** Country overview reports produced by ECPAT Directive 2011/93/EU, European Implementation Assessment, April 2017

Question	Sub-questions	Judgment criteria	Indicators	Sources
regard to assistance to victims?		with regard to assistance to victims of CSAE.	professionals about assisting victims of CSAE. Trend in the number of law enforcement and judicial authorities that attended CEPOL trainings aimed at raising awareness, increasing knowledge, and building capacity of law enforcement and justice professionals about assisting victims of CSAE since the Directive's implementation. Extent to which the identified training measures and programmes have been effective in achieving their objectives.	**Primary sources** Online survey Targeted interviews Virtual study visits interviews
Prevention				
11 To what extent has the implementation of the Directive in practice contributed (both quantitatively and qualitatively) to the prevention of CSAE in the	11.1: To what extent was the Directive successful in promoting the setting up and access to intervention programmes to persons who fear they might offend, as a means to	The Directive's implementation has contributed to promoting the setting up and access to intervention programmes for	Extent to which Member States have implemented measures aimed at preventing people who fear they might offend from	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT

Question	Sub-questions	Judgment criteria	Indicators	Sources
offline environment (e.g. through education and training programmes)?	prevent first-time offences against children?	persons who fear they might offend, as a means to prevent first-time offences against children.	committing a first-time offence against children. Extent to which the identified programmes have proved successful in reaching their objectives.	Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews
	11.2: To what extent was the Directive successful in promoting the setting up and access to intervention programmes or measures to offenders who continue to be at risk of re-offending, as a means to prevent repeated offences against children (e.g. stopping them from holding professional positions that bring them in regular and direct contact with children?)	The Directive's implementation has contributed to promoting the setting up and access to intervention programmes for offenders, as a means to prevent repeated offences against children The Directive's implementation has contributed to promoting specific	Extent to which Member States have implemented measures targeting child sex offenders who continue to be at risk of re-offending. Extent to which Member States have implemented measures aimed at stopping child sex offenders from holding professional positions that bring them in regular and direct contact with children.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Academic/research literature

Question	Sub-questions	Judgment criteria	Indicators	Sources
		measures aimed at stopping offenders from holding professional positions that bring them in regular and direct contact with children.	Extent to which identified measures have proved successful in reaching their objectives.	**Primary sources** Online survey Targeted interviews Virtual study visits interviews
	11.3: To what extent has the Directive been successful in promoting the setting up of prevention initiatives that take into consideration gender specific needs of children as well as the specific needs of vulnerable groups of children to prevent that they become victims)?	The Directive's implementation has contributed to encouraging Member States to set up prevention initiatives that take into consideration gender specific needs of children the specific needs of vulnerable groups of children.	Extent to which Member States have implemented intervention programmes specifically targeted at gender specific needs. Extent to which Member States have implemented intervention programmes specifically targeted at the specific needs of vulnerable groups of children.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
	11.4: To what extent has the Directive been successful in promoting the setting up of prevention initiatives targeted at specific categories of professionals dealing with children as well as at the society at large (e.g. families of children)?	The Directive's implementation contributed to encouraging Member States to take appropriate action aimed at raising awareness of professionals dealing with children as well as at the society at large, including measures targeted at the families of children.	Extent to which Member States have implemented prevention actions aimed at raising awareness of professionals dealing with children as well as at the society at large, including measures targeted at the families of children. Extent to which the identified programmes have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment. Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention

Question	Sub-questions	Judgment criteria	Indicators	Sources
				on the protection of children against sexual exploitation and sexual abuse **Primary sources** Online survey Targeted interviews Virtual study visits interviews
12 To what extent has the implementation of the Directive in practice contributed (both quantitatively and qualitatively) to the prevention of CSAE in the *online* environment?	12.1: To what extent has the Directive prompted Member States to take the necessary measures to ensure the prompt removal of web pages containing or disseminating CSAM?	The Directive's introduction and implementation prompted Member States to take measures to ensure the prompt removal of web pages containing or disseminating CSAM.	Extent to which Member States have implemented measures to ensure the prompt removal of web pages containing or disseminating CSAM. Extent to which Member States collaborate with Third Countries, international organisations, and internet providers to remove web pages containing or disseminating CSAM. Extent to which identified measures have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT and WeProtect Global Alliance Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Annual Report of hotlines produced by the INHOPE Network UNODC Database

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Primary sources Online survey Targeted interviews Virtual study visits interviews
	12.2: To what extent has the Directive helped disrupt and prevent the uploading, access to and dissemination of CSAM (e.g. block access?)?	The Directive's implementation has contributed to disrupting and preventing the uploading, access to and dissemination of child sexual abuse material online.	Extent to which Member States have implemented measures to ensure the disruption of upload, access, and dissemination of CSAM. Extent to which Member States collaborate with Third Countries, international organisations, and Internet providers to prevent the uploading, access, or dissemination of CSAM. Extent to which identified measures have proved successful in reaching their objectives.	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Data provided by private companies **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
13 To what extent was the Directive successful in promoting the adoption of measures to prevent or prohibit the dissemination of material advertising the opportunity to commit CSAE offences and the organisation of travel arrangements with the purpose to commit these offences?	--	The Directive's implementation has contributed to promoting the adoption of measures to prevent or prohibit the dissemination of material advertising the opportunity to commit CSAE offences.	Extent to which Member States have implemented measures aimed at preventing or prohibiting the dissemination of material advertising the opportunity to commit CSAE offences. Extent to which identified measures have proved successful in reaching their objectives. Extent to which Member States collaborate with Third Countries, international organisations, and Internet providers to prevent or prohibit the dissemination of material advertising the opportunity to commit CSAE offences. Extent to which Member States have implemented prevention measures aimed at preventing or prohibiting the organisation of travel arrangements with the purpose to commit these	**Secondary sources** National legislations transposing the Directive in the Member States • Country overview reports produced by ECPAT European Commission (2016), Report assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment. Academic/research literature **Primary sources**

Question	Sub-questions	Judgment criteria	Indicators	Sources
			offences (e.g. drawing up and reinforcement of a code of conduct and self-regulatory mechanisms in the tourism industry, the setting-up of a code of ethics or 'quality labels' for tourist organisations combating child sex tourism, or establishing an explicit policy to tackle child sex tourism) Extent to which identified measures have proved successful in reaching their objectives.	Online survey Targeted interviews Virtual study visits interviews
14 How effective has the Directive been in facilitating awareness-raising and other measures that encourage reporting?	--	The Directive's implementation contributed to raising awareness and implementing measures to encourage reporting.	Extent to which Member States have implemented measures to raise awareness about and facilitate the reporting of sexual abuse and sexual exploitation of children and help children in need. Extent to which Member States have introduced specific reporting obligations and categories	**Secondary sources** National legislations transposing the Directive in the Member States Country overview reports produced by ECPAT European Commission (2016), Report assessing the extent to which the Member States have taken the

Question	Sub-questions	Judgment criteria	Indicators	Sources
			of stakeholders addressed (e.g. education professionals, healthcare professionals, social workers, etc.). Number of Member States that have introduced hotlines to facilitate the reporting of sexual abuse and sexual exploitation of children and help children in need. Extent to which the identified programmes have proved successful in reaching their objectives. Number of Member States that have taken the necessary measures to ensure the confidentiality rules imposed by national law on certain professionals whose main duty is to work with children do not constitute an obstacle to the possibility of reporting.	necessary measures in order to comply with Directive 2011/93/EU European Commission (2016), Report from the EU Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU European Parliament (2017), Combating sexual abuse of children Directive 2011/93/EU - European Implementation Assessment. Council of Europe's Lanzarote Committee reports from the monitoring rounds on the Convention on the protection of children against sexual exploitation and sexual abuse Academic/research literature **Primary sources** Online survey Targeted interviews Virtual study visits interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
			Extent to which identified measures have proved successful in reaching their objectives.	

2. Efficiency

Question	Sub-questions	Judgment criteria	Indicators	Sources
15 If identifiable, what are the costs and benefits (monetary and non-monetary) associated with compliance with the Directive in the Member States, in particular to assist with investigations, prevention of CSAE and assistance and support to victims?	15.1: What activities do the relevant stakeholders[295] undertake to comply with the various provisions of the Directive? 15.2: What types of costs to these stakeholders incur to implement these activities and what is the magnitude of these costs? 15.3: How have these different types of costs developed over the past years? How are they expected to develop in the future?	*These EQ are rather descriptive than judgmental. Therefore, no criteria are needed.*	Costs and benefits should be assessed with regard to: <u>Monetary costs:</u> Substantial compliance costs Administrative burden <u>Non-monetary costs:</u> Challenges concerning transparency and data protection Emotional costs	**<u>Secondary sources</u>** See the secondary sources identified above including: Statistical databases Policy reports **<u>Primary sources</u>** Targeted written outreach to specific stakeholders[296] Targeted interviews Virtual study visits interviews

[295] See the preliminary remarks at the beginning of this table.
[296] This would be a fallback in case statistical database (e.g. Eurostat, UNODC) are not available or limited in the scope.

Question	Sub-questions	Judgment criteria	Indicators	Sources
	15.4: What types of monetary benefits does the compliance with Directive provide for (e.g. cost reductions? 15.5: How have these different types of benefits developed over the past years? How are they expected to develop in the future?		<u>Monetary benefits:</u> Reduction of the societal costs of crime Reduction of costs for investigation and prosecution, assistance, support, and protection, as well as prevention compared to before the Directive was established <u>Non-monetary benefits:</u> Increased safety and security Increased trust and confidence Reduced risk of committing an offence	
16 Can significant cost or benefit differences be identified between Member States as regards the achievement of the	16.1: To what extent do costs and benefits with regard to the compliance with the Directive differ between (groups of) Member States?	Costs and benefits with regard to the compliance with the Directive vary between (groups of)	Monetary costs Non-monetary costs Monetary benefits	**<u>Secondary sources</u>** See the secondary sources identified above including:

Question	Sub-questions	Judgment criteria	Indicators	Sources
aims in the question above? And if so, what causes them?	16.2: How do these costs differ between the various provisions of the Directive? 16.3: How have these differences developed over the past years? How are they expected to develop in the future?	Member States to a significant extent.	Non-monetary benefits	Statistical databases Policy reports **Primary sources** Online survey Targeted written outreach to specific stakeholders[297] Targeted interviews Virtual study visits interviews
17 How are the costs and benefits distributed among different stakeholders at the national and EU level?	17.1: To what extent do costs and benefits with regard to the compliance with the Directive differ between (groups of) stakeholders in the Member States and at EU level? 17.2: How do these costs differ between the various provisions of the Directive?	Costs and benefits with regard to the compliance with the Directive vary between (groups of) stakeholders to a remarkable extent.	Monetary costs Non-monetary costs Monetary benefits Non-monetary benefits	**Secondary sources** See the secondary sources identified above including: Statistical databases Policy reports **Primary sources**

[297] Ibid.

Question	Sub-questions	Judgment criteria	Indicators	Sources
	17.3: How have these differences developed over the past years? 17.4: What are the root causes for these differences?			Online survey Targeted written outreach to specific stakeholders[298] Targeted interviews Virtual study visits interviews
18 Are the costs of compliance with the provisions of the Directive proportionate to the benefits brought about as regards the prevention of and combating CSAE? Can any costs be identified that are out of proportion with the benefits achieved?	18.1: To what extent are the costs to comply with the Directive proportionate in view of the overall benefits of the Directive (e.g. the extent to which it achieves the objectives)? 18.2: How have these costs (and the extent to which they are proportionate) developed over the past years?	The costs are considered by stakeholders to be proportionate in view of the effects of the Directive, as well as in view of the effects it would have if the Directive would not have been implemented / implanted differently. *These EQ are rather descriptive than judgmental. Therefore, no criteria are needed.*	Monetary costs Non-monetary costs Monetary benefits Non-monetary benefits	**Secondary sources** See the secondary sources identified above including: Statistical databases Policy reports **Primary sources** Targeted written outreach to specific stakeholders[299] Targeted interviews Virtual study visits interviews

[298] Ibid.
[299] Ibid.

Question	Sub-questions	Judgment criteria	Indicators	Sources
	18.3: To what extent are there certain types of costs that can be considered out of proportion in view of the overall benefits of the Directive (e.g. the extent to which it achieves the objectives)?	The costs are considered by stakeholders to be unproportionate in view of the effects of the Directive, as well as in view of the effects it would have if the Directive would not have been implemented / implanted differently.		
	18.4: Which (groups of) stakeholders incur these disproportionate costs and what the root causes for this?	*These EQ are rather descriptive than judgmental. Therefore, no criteria are needed.*		
	18.5: How have these costs (and the extent to which they are disproportionate) developed over the past years?			
19 Is there any evidence that the implementation of the Directive as regards the prevention and combating of CSAE caused unnecessary administrative burdens?	19.1: To what extent are specific aspects of the provisions causing administrative burden and what does it cost?	*These EQ are rather descriptive than judgmental. Therefore, no criteria are needed.*	Monetary costs Non-monetary costs Monetary benefits Non-monetary benefits	**<u>Secondary sources</u>** See the secondary sources identified above including: Statistical databases
	19.2: How has the administrative burden			

Question	Sub-questions	Judgment criteria	Indicators	Sources
	developed over the past years and how is it expected to develop in the future?			Policy reports **Primary sources** Online survey Targeted written outreach to specific stakeholders[300] Targeted interviews Virtual study visits interviews
20 Have Member States prioritized funding to ensure the full implementation of the provisions of the Directive, also when such implementation is outsourced to private parties, external actors, non-governmental organisations etc.?	20.1: How much funding and to whom do the Member State provide funding to ensure the implementation of the Directive's provisions?	*These EQ are rather descriptive than judgmental. Therefore, no criteria are needed.*	Monetary costs Non-monetary costs Monetary benefits Non-monetary benefits	**Secondary sources** See the secondary sources identified above including: Statistical databases Policy reports **Primary sources** Online survey Targeted written outreach to specific stakeholders[301]
	20.2: How has the provision of funding developed over the past years?			
	20.3: To what extent is the level of funding and its development to comply with the Directive appropriate in view of the actual	The Member States have devoted sufficient funding to ensure the full		

[300] Ibid.
[301] Ibid.

Question	Sub-questions	Judgment criteria	Indicators	Sources
	needs (of victims, stakeholders) and the prevalence of crime?	implementation of the Directive.		Targeted interviews Virtual study visits interviews
21 Are there opportunities to simplify the provisions of the Directive to reduce unnecessary costs without undermining the existing objectives set out by the provisions of the Directive?	21.1: To what extent can the Directive be simplified in order to reduce unnecessary costs?	Possible existing policy measures that may contribute to substantially reduce compliance costs and / or administrative burden for various stakeholders.	Monetary costs Non-monetary costs Monetary benefits Non-monetary benefits	**Secondary sources** See the secondary sources identified above including: Statistical databases Policy reports **Primary sources** Online survey Targeted interviews Virtual study visits interviews

3. Relevance

Question	Sub-questions	Judgment criteria	Indicators	Sources
22 How well does the Directive cover the present and upcoming technological advancements in the digital world?	--	The Directive is no longer (fully) appropriate to cover present and upcoming technological advancements in the digital world.	Level of "flexibility" of the Directive to cover technological changes in the digital world. Number and type of observed or expected technological advancements in the digital world with a possible (direct or indirect) impact on CSAE. Extent to which the Directive effectively covers present and upcoming technological advancements in the digital world.	**<u>Secondary Sources</u>** EU policy and legislative documents: Directive 2011/93 EU Strategies: Better Internet for Children (2012) Relevant studies and reports: Bracket Foundation paper on Artificial intelligence combating online sexual abuse of children, ECPAT Thematic Paper on private sector Accountability in combating the sexual Exploitation of Children IWF Annual reports INHOPE 2020 Annual reports of hotlines Transparency reports from Facebook, Google, Instagram, TikTok Primary Sources

Question	Sub-questions	Judgment criteria	Indicators	Sources
				Online survey Targeted interviews
23 How relevant is the Directive to EU citizens and more specifically to children and affected stakeholders?	23.1: To what extent do the original provisions of the Directive still correspond to the present needs of children within the EU?	The EU landscape relevant to the fight against CSAE has evolved since the entry into force of the Directive and such changes reflect in new needs of children.	Extent of change in the EU policy context since the entry into force of the Directive. Extent of change in the observed needs of children.	**Secondary Sources** EU policy documents: EU Strategies: Victims' rights (2020); fight against child sexual abuse (2020); Security Union (2020); Gender Equality (2020-2025); rights of the child (2021). Proposal for a "Digital Services Act" (2020)
	23.2: To what extent do the original provisions of the Directive still correspond to the present needs of law enforcement and	The EU landscape relevant to the fight against CSAE has evolved since the entry into force of the Directive and such changes reflect in new	Extent of change in the EU policy context since the entry into force of the Directive.	

Question	Sub-questions	Judgment criteria	Indicators	Sources
	judicial authorities within the EU?	needs of law enforcement and judicial authorities.	Extent of change in the observed needs of law enforcement and judicial authorities.	EU Action Plan on Human Rights and Democracy 2020-2024 Conclusions on combating CSAE (2019) AND setting the EU's priorities for EMPACT 2022 - 2025 Relevant studies and reports: EP (2017) Combating CSA Directive 2011/93/EU - European Implementation Assessment ECPAT International reports on country overviews INHOPE Annual reports of hotlines IWF Annual Reports WHO (2020), Fact Sheet on Child Maltreatment **Primary Sources** Online survey Targeted interviews

Question	Sub-questions	Judgment criteria	Indicators	Sources
	23.3: To what extent have the observed changes, if any, affected the relevance of the Directive?	The Directive is no longer (fully) relevant vis-à-vis (i) the evolution of the policy context and (ii) the changes in the nature of online and offline CSAE in the EU.	Extent to which the Directive is able to respond to the new needs emerged. Number and type of needs that are not covered by the Directive.	**Secondary sources** Directive 2011/93 **Primary Sources** Online survey Targeted interviews

4. Coherence

Question	Sub-questions	Judgment criteria	Indicators	Data sources
24 To what extent is the Directive coherent with other EU relevant legislative frameworks, including measures that safeguard the fundamental rights of children?	24.1: To what extent is the Directive coherent with Directive 2012/29/EU on the protection of victims of crime, Directive 2011/36/EU on trafficking in human beings, the European strategy for a Better Internet for Children, the Gender Equality Strategy 2020-2025, the proposed Digital Services Act?	The Directive is coherent with other EU measures that safeguard the fundamental rights of children.	Extent to which there is coherence/consistency as to (i) objectives and provisions, (ii) definitions, (iii) stakeholders concerned.	**Secondary sources** EU policy and legislative documents: Directive 2012/29/EU Directive 2011/36/EU EU strategies: Better Internet for Children, Gender Equality (2020-2025) Proposed Digital Services Act **Primary sources**

Question	Sub-questions	Judgment criteria	Indicators	Data sources
				Targeted interviews Online survey Virtual study visits interviews
	24.2: To what extent is the Directive coherent with initiatives relating to the Rights of the child, such as the EU strategy on the rights of the child and the European Child Guarantee?	The Directive is coherent with other initiatives relating to the Rights of the child.	Extent to which there is coherence/consistency as to (i) objectives and provisions, (ii) definitions, (iii) stakeholders concerned.	**Secondary sources** EU policy and legislative documents: EU strategy on the rights of the child European Child Guarantee **Primary sources** Targeted interviews Online survey Virtual study visits interviews
	24.3: To what extent is the Directive coherent with other criminal law instruments in the related areas?	The Directive is coherent with other criminal law instruments in the related area.	Extent to which there is coherence/consistency as to (i) objectives and provisions, (ii) definitions, (iii) stakeholders concerned.	**Secondary sources** EU policy and legislative documents:

Question	Sub-questions	Judgment criteria	Indicators	Data sources
				Council Framework Decisions: 2005/212/JHA, 2008/841/JHA, 2009/948/JHA **Primary sources** Targeted interviews Online survey Virtual study visits interviews
25 How do these policies and legislation affect (positively or negatively) the implementation of the Directive? Is there scope for further integration with other EU policy objectives?	--	The complementarities between the Directive and other policies and legislation contribute to an effective implementation of the Directive.	Extent to which other key actions directly contribute to the implementation of the Directive (e.g. the availability of EU funding to improve investigative training and tools would contribute to the implementation of Article 15(2) of the Directive).	**Secondary sources** EU policy and legislative documents: Directives: 2011/36/EU and 2012/29/EU Council Framework Decisions: 2001/220/JH, 2001/500/JHA, 2004/68/JHA, 2005/212/JHA, 2009/948/JHA EU Strategies: Better Internet for Children, Gender Equality (2020-2025), rights of the child Proposed Digital Service Act
		The Directive can be further integrated with other EU policy objectives.	Extent to which further integration of Directive's objectives with other policy objectives is possible.	

Question	Sub-questions	Judgment criteria	Indicators	Data sources
				European Child Guarantee
26 To what extent is the Directive coherent with broader initiatives at regional and the global level aimed at combating child sexual abuse and sexual exploitation (e.g. Lanzarote Convention)?	--	The Directive is coherent with other broader initiatives at regional and the global level aimed at combating child sexual abuse and sexual exploitation.	Extent to which there is coherence/consistency as to (i) objectives and provisions, (ii) definitions, (iii) stakeholders concerned.	**Secondary sources:** International initiatives: UN Convention on the Rights of Child (1989) and Optional Protocol on the sale of children, child prostitution and child pornography (2000) CoE Lanzarote Convention (2007) **Primary sources** Targeted interviews Online survey Virtual study visits interviews
27 Are there any existing or forthcoming legislative developments that may be relevant for the purpose of achieving the objectives laid down by the Directive and what is the impact	--	Existing or forthcoming legislative developments are/may be relevant for the purpose of (i) better identifying and punishing offences related to CSAE, (ii) better protecting CSAE	Degree of consistency and possible synergy between the objectives of the Directive and the identified legislative developments. Extent to which the identified legislative developments impact	**Secondary sources** EU policy and legislative documents: EU Strategies: on victims' rights (2020-2025); for a more effective fight against child sexual abuse

Question	Sub-questions	Judgment criteria	Indicators	Data sources
of those on the objective pursued?		victims, (iii) preventing cases of CSAE.	the objectives pursued by the Directive.	(2020); on gender equality (2020-2025) Relevant studies and reports: Reports of the 2019 and 2020 EU Forum on the rights of the child Proposal on a Directive to combat violence against women

5. Added value

Question	Sub-questions	Judgment criteria	Indicators	Sources
28 What is the additional value resulting from the implementation in practice of the Directive, compared to the situation prior to its entry into force in 2011?	--	Compared to the situation prior to its entry into force, the Directive contributed to (i) enhance the legislative frameworks of the Member States regarding the fight against CSAE, and (ii) strengthen the fight against CSAE across Europe.	Level of harmonisation of the national regulatory frameworks in the Member States since the entry into force of the Directive. Extent to the implementation of the Directive enhanced cross-border cooperation in the fight against CSAE compared to the situation in the EU prior to its entry into force.	**Secondary sources** Relevant studies and reports: EP (2017), Combating sexual abuse of Children Directive 2011/93/EU, European Implementation Assessment **Primary sources** Online survey Targeted interviews
29 What is the additional value resulting from the	--	The implementation of the Directive provided	Level of harmonisation of the national regulatory frameworks in	**Secondary sources**

Question	Sub-questions	Judgment criteria	Indicators	Sources
implementation in practice of the Directive, compared to efforts that Member States acting on their own initiative would have put in place at the national and/or regional level?		additional value to the one that would have been created by Member States alone in the fight against CSAE.	the Member States since the entry into force of the Directive. Number and type of areas identified as specific value added by the Directive's implementation	Relevant studies and reports: Country overview reports produced by ECPAT EP (2017), Combating sexual abuse of Children Directive 2011/93/EU, European Implementation Assessment INHOPE Annual reports of hotlines **Primary sources** Online survey Targeted interviews

ANNEX IV. OVERVIEW OF BENEFITS AND COSTS [AND, WHERE RELEVANT, TABLE ON SIMPLIFICATION AND BURDEN REDUCTION]

Table 1. Overview of costs and benefits identified in the evaluation[302]									
		Citizens/Consumers		Businesses		Administrations		[Other…] _ specify	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
[Cost or Benefit description]:									
Mark the type of cost/benefit, each on a separate line: **Costs:** **Direct compliance costs** (adjustment costs, administrative costs, regulatory charges) **Enforcement costs:** (costs associated with activities linked to the implementation of an	**Type:** Choose **one-off or recurrent**	Provide the monetary value	Where no quantification is possible, please provide ranges or explain the reasons why	Provide the monetary value	Where no quantification is possible, please provide ranges or explain the reasons why	Provide the monetary value	Where no quantification is possible, please provide ranges or explain the reasons why	Provide the monetary value	Where no quantification is possible, please provide ranges or explain the reasons why

[302] Where there is a prior impact assessment, the table should contain as a minimum the costs/benefits identified in the IA with the information gathered on the actual cost/benefit. As available, the table should include the monetisation (€) of the costs/benefits based on any quantitative translation of the data (time taken, person days, number of records/equipment/staff etc. affected or involved represented in monetary value – see Standard cost model, for example). For all information presented, it should be included in the comments section whether it relates to all Member States or is drawn from a subset. An indication of the robustness of the data should be provided in Annex II on Methodology and analytical models used.

initiative such as monitoring, inspections and adjudication/litigation) **Indirect costs** (indirect compliance costs or other indirect costs such as transaction costs) **Benefits:** **Direct benefits** (such as improved well being: changes in pollution levels, safety, health, employment; market efficiency) **Indirect benefits** (such as wider economic benefits, macroeconomic benefits, social impacts, environmental impacts)									

TABLE 2: Simplification and burden reduction (savings already achieved) *Report any simplification, burden reduction and cost savings* ***achieved already*** *by the intervention evaluated, including the points of comparison/ where available (e.g. REFIT savings predicted in the IA or other sources).*								
	Citizens/Consumers/Workers		Businesses		Administrations		[Other…] _ specify	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Title[303] *[Select among: (i) direct compliance cost savings (for example adjustment cost savings, administrative cost savings, savings from regulatory charges); (ii) enforcement cost savings (for example cost savings associated with activities linked to the implementation of an initiative such as monitoring, inspections and adjudication/litigation); (iii) indirect cost savings (if possible - for example indirect compliance cost savings or other indirect cost savings such as transaction cost savings).*								
Type: One-off / recurrent (select)	Provide the estimated monetary and quantitative value (point value or range)	If no monetisation/quantification is possible, please explain here the reasons. Qualitative analysis on simplification benefits provides important information and should be inserted here.						

PART II: II <u>Potential</u> simplification and burden reduction (savings) *Identify further potential simplification and savings* ***that could be achieved*** *with a view to make the initiative more effective and efficient without prejudice to its policy objectives*[304]*.*								
	Citizens/Consumers/Workers		Businesses		Administrations		[Other…] _ specify	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Description:…								
Type: One-off / recurrent (select)								

303 Each simplification/saving should be included on a separate line.
304 This assessment is without prejudice to a possible future Impact Assessment.

ANNEX V. STAKEHOLDERS CONSULTATION - SYNOPSIS REPORT

This annex presents the consultations activities undertaken as part of the 'Study supporting the evaluation and impact assessment of the European Union (EU) Directive 2011/93 of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and the impact assessment of the possible options for its amendment'. It includes information concerning objectives of the different consultations, the stakeholders involved, the consultation methods and tools used, as well as the results achieved.

CONSULTATION METHODS AND STAKEHOLDERS CONSULTED

As part of this study, various consultations, both with key stakeholders and the public at large, were carried out. The aim of these consultations was to inform the study with factual evidence concerning possible problems and additional measures necessary at the EU level in the area of child sexual abuse and exploitation (CSAE). A wide range of stakeholders operating at the international, EU and the national levels were consulted, using a combination of different consultation tools.

1. Scoping interview

During the kick-off meeting (KoM), the Directorate-General for Migration and Home Affairs (DG HOME) indicated that the stakeholders proposed in the technical offer for these interviews may have been not in a position to provide meaningful inputs. Hence, it was agreed with DG HOME to conduct one scoping interview with the DG HOME Team in charge of the study.

2. Online survey

An **online survey** was deployed using the EUSurvey tool. The survey targeted National Competent Authorities, law enforcement and judicial authorities, hotlines and civil society organisations (CSOs) in the 26 Member States where the CSAE Directive applies. The survey focused on the extent to which the Member States (MS) have implemented the Directive, on the national measures and practices in place that go beyond the Directive, the identification of any problems/gaps, as well as any best practices in the fight against child sexual abuse and exploitation. The survey ran for five weeks, from 28 April 2022 to 2 June 2022. In total, 67 responses were received from 22 Member States: 18 from National Competent Authorities, 15 from CSOs, 13 from law enforcement authorities, 11 from judicial authorities, 10 from hotlines.

The results of the online survey are presented in section 3.2. of Annex II (Stakeholders consultation – synopsis report) of the Study.

The table below provides an overview of the stakeholders involved in the online survey.

Table 1 – List of respondents to the online survey

MS	NCA	Judicial authorities	Law enforcement authorities	CSO	Hotlines
AT	1	0	0	0	1
BE	0	0	1	1	1
BG	1	0	1	2	1
CY	1	0	1	0	0
DE	2	0	0	0	1
EE	0	0	1	1	0
EL	0	0	1	1	1
ES	0	0	0	1	0
FI	0	0	1	1	1
FR	0	0	0	0	1
HR	2	0	0	1	0
HU	2	0	1	0	0
IE	0	0	0	0	1
LT	0	0	0	0	1
LU	1	2	1	1	0
LV	0	1	0	1	0
NL	0	0	0	2	0
PL	1	0	0	0	0
PT	0	0	1	1	0
RO	3	7	3	1	0

MS	NCA	Judicial authorities	Law enforcement authorities	CSO	Hotlines
SE	1	0	0	1	0
SI	2	1	1	1	1

Source: Author's own elaboration

3. Targeted interviews

In total, 35 individual **interviews** were conducted during both the evaluation and the impact assessment phases of the study. The table below provides an overview of the stakeholders interviewed.

Table 2 – List of stakeholders consulted

Category	Evaluation phase	Impact assessment phase
EU bodies/agencies	5	1
International bodies	4	0
EU-level CSOs	4	0
International-level CSOs	7	1
Interviews with EMPACT actors	1	0
Third-country organisations	2	2
Academia	1	1
Prison, detention and restorative justice specialists	3	0
Education institutions and teachers	2	0
Information and communications technologies (ICT) industry	1	0

Source: Author's own elaboration

The interviewees were selected in agreement with the Commission. The interviews were conducted online, for most part via Teams. The interviews focused on the features of the fight against CSAE at the European and international level, current and future needs and challenges, main policy developments, synergies and overlaps between relevant EU initiatives, good practices, as well as recommendations and suggestions for future EU policy intervention.

The results of the interviews are presented in section 3.3 of Annex II (Stakeholders consultation – synopsis report) of the Study.

4. Case study interviews

N/A

5. Workshop

Performed after the submission of this report.

6. Public Consultation

In the context of the study, a PC in all EU official languages concerning the evaluation of the CSAE Directive and a preliminary discussion on the objectives of a policy intervention to review it was carried out via the Commission's tool EU Survey.[305] The PC ran between 20 April 2022 and 13 July 2022. Overall, 50 responses were received from stakeholders in 23 countries, including 18 Member States (AT, BE, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IT, MT, NL, PT, SE and SI) and five third countries (Canada, Iran, Thailand, UK and US).

Regarding the profile of the respondents, 20 answered the survey as individuals (19 EU citizens and one non-EU citizen), while the remaining 30 respondents answered on behalf of an organisation (seven public authorities, two business association, one company/business organisation, 20 non-governmental organisations - NGOs). The size of the concerned organisations was the following: seven large (250 or more employees), seven medium (50 to 249 employees), six small (10 to 49 employees) and 10 micro (1 to 9 employees) organisation.

In addition to the replies to the PC questionnaire, 20 written contributions were received, including eleven contributions from CSOs, three from representatives of business organisations, four from ICT companies, one from a legal expert and one from an EU citizen.

The results of the PC have informed the study and are presented in section 3.6 of Annex II (Stakeholders consultation – synopsis report) of the Study.

[305] Public Consultation "Combating child sexual abuse - review of EU rules". Available at: link.