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**NOTE**

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| From:    | General Secretariat of the Council                                                                                                                                                                                                                                                                |
| To:      | Delegations                                                                                                                                                                                                                                                                                       |
| Subject: | Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast)<br>- Opinion of the European Economic and Social Committee |

Delegations will find attached in the Annex to this note the Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast).



# OPINION

European Economic and Social Committee

## Combating child sexual abuse

**Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast) (COM(2024) 60 final – 2024/0035 (COD))**

**SOC/804**

Rapporteur: **Christian BÄUMLER**

Co-rapporteur: **Diana INDJOVA**

|                                              |                                                                    |
|----------------------------------------------|--------------------------------------------------------------------|
| Advisor                                      | Ivan KARAGYOZOV (advisor to the co-rapporteur, Group III)          |
| Referral                                     | Council, 24/04/2024<br>European Commission, 27/3/2024              |
| Legal basis                                  | Article 304 of the Treaty on the Functioning of the European Union |
| Section responsible                          | Section for Employment, Social Affairs and Citizenship             |
| Adopted in section                           | 25/6/2024                                                          |
| Adopted at plenary session                   | 10/7/2024                                                          |
| Plenary session No                           | 589                                                                |
| Outcome of vote<br>(for/against/abstentions) | 204/0/1                                                            |

## **1. Conclusions and recommendations**

- 1.1 The European Economic and Social Committee (EESC) supports the European Commission's strategy for a more effective fight against the sexual abuse and sexual exploitation of children, which aims to criminalise all forms of such acts, including those enabled or facilitated by technological developments.
- 1.2 The EESC also supports the obligation that the proposal places on Member States to set up national authorities to coordinate efforts to prevent and combat the sexual abuse and sexual exploitation of children, and calls for a central authority in each Member State responsible for national and international coordination and training of police authorities.
- 1.3 It calls for common minimum standards for the definitions of criminal offences and for the level of sanctions to be imposed.
- 1.4 The EESC supports the proposal to expand the definition of the term 'image' to effectively combat the misuse of artificial intelligence in creating virtual reality environments.
- 1.5 It calls for the criminalisation of 'paedophile manuals' and of solicitation with a view to committing child abuse in all Member States.
- 1.6 The EESC supports the criminalisation of dark web structures that enable or facilitate sexual abuse and exploitation.
- 1.7 It endorses the proposed increase in minimum penalties and in the length of statutes of limitations, which must not start until the victim has reached the age of majority.
- 1.8 The EESC supports mandatory risk assessments and associated interventions to prevent recidivism.
- 1.9 It likewise supports the proposed reporting obligation regarding child sexual abuse indicators and the disclosure obligation for staff in institutions and organisations who are in contact with children.
- 1.10 The EESC endorses the proposal to strengthen the position of victims of child sexual abuse and sexual exploitation, including by improving the opportunities for claiming compensation. Treatments for victims must be offered free of charge.
- 1.11 It calls for parents, educators, teachers and staff of child protection organisations who come into contact with child pornography in the performance of their specific tasks to be exempted from prosecution. Law enforcement officers and people in contact with children need to receive continuous training so that they can fulfil their duties.
- 1.12 The EESC also calls for the international exchange of data relating to child sexual abuse and exploitation to be specifically regulated and for the possibilities for data retention to be expanded in all Member States with the development of an EU Research Centre.

- 1.13 It calls for the EU to use expert panels to support the swift and full implementation of the strategy to combat child sexual abuse and exploitation.
- 1.14 The EESC likewise calls for civil society to be involved both in combating the sexual abuse and sexual exploitation of children, and in prevention and victim support.
- 1.15 The EESC emphasises a focus on the particularly vulnerable group of children with disabilities, who can become easy victims of sexual abuse and sexual exploitation and cybercrimes. There is a higher risk for children with mental disabilities, including intellectual and psychosocial disabilities, and those at risk staying in social institutions. The EESC calls for a comprehensive monitoring network and an emergency alert system to counter these risks.
- 1.16 The EESC supports a united system for an effective monitoring mechanism with the possibility of sharing good practices in order to safeguard and protect children, with all resourcing and training efforts to be better placed to deal with reports of sexual abuse and exploitation of children. Civil society organisations need to be educated and prompted to put safeguarding practices in place to protect their children from risky activity, as it escalates their vulnerability to sexual exploitation.

## **2. Background to the proposal**

- 2.1 In 2004 the Council Framework Decision on *Combating the sexual exploitation of children and child pornography* was created. The European Parliament and Council Directive 2011/93/EU on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography had replaced Council Framework Decision 2004/68/JHA for preventing the sexual abuse of children as regards criminal liability for deliberate access to child pornography using information or communication technologies. In 2016, two reports by the European Commission assessed the extent to which EU Member States had taken new measures to comply with the directive and then presented the 2020 EU strategy.
- 2.2 In July 2020, the European Commission presented an EU strategy for a more effective fight against child sexual abuse. This strategy set out eight initiatives to ensure full implementation and, where necessary, further development of the legal framework to combat child sexual abuse and sexual exploitation. At the same time, it aimed to strengthen law enforcement authorities and promote the efforts of various stakeholders as regards prevention, investigation and assistance to victims and survivors.
- 2.3 In particular, the strategy recognised the need to assess whether the current EU criminal law framework, namely Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, was fit for purpose, considering the societal and technological changes over the past decade. The directive lays down minimum standards for preventing and fighting these particularly serious forms of crime, which are directed against children, namely victims that have a right to special protection and care. It sets out minimum rules for the definition of criminal offences and sanctions in the area of sexual exploitation of

children, as well as minimum standards for effective investigation and prosecution, assistance to and support for victims, and the prevention of child sexual abuse and exploitation.

- 2.4 In 2022, the European Commission conducted an evaluation to assess implementation of the directive, including possible legislative gaps, best practices and priority actions at EU level. The study showed that there was scope for improvement to the text, highlighting the ambiguity of certain definitions in the directive and the challenges entailed in investigating and prosecuting offenders. It raised concerns about the exponential growth of online sharing of child sexual abuse material and the growing possibilities for perpetrators to conceal their identity, especially online, thereby escaping investigation and prosecution. In conclusion, the study found that both the growing online presence of children and the latest technological developments posed challenges for law enforcement, while creating new possibilities for abuse that were not fully covered by the current directive.

### **3. General comments**

- 3.1 The EESC supports the proposal's objective to ensure that all forms of sexual abuse and sexual exploitation of children, including those enabled or facilitated by technological developments, are criminalised.
- 3.2 It endorses the proposal's objective to ensure that national investigation and prosecution rules provide for an effective fight against child sexual abuse and exploitation by taking into account the latest technological developments.
- 3.3 The EESC supports the aim of making improvements to prevention and assistance to victims of sexual exploitation and abuse, as envisaged in the proposal. The EESC considers the involvement of civil society to be crucial to the success of this strategy.
- 3.4 It welcomes the steps to strengthen the position of victims and survivors of child sexual abuse by improving the opportunities for them to obtain compensation. The proposal extends these rights to damages to include harm caused by the online dissemination of abuse material.
- 3.5 The EESC supports better coordination in preventing and combating child sexual abuse across Member States and at national level, as the European Commission is proposing. It supports the proposed obligation on Member States to establish national authorities in charge of such coordination. Each Member State must have an authority to act as the contact point for international cooperation and coordination at national level. Civil society must be involved in coordinating these measures.
- 3.6 The EESC points out that this proposal further develops the existing provisions of the directive under the EU's 2020 strategy for a more effective fight against child sexual abuse and complements the regulatory framework for digital services.
- 3.7 It highlights the fact that the proposal complements other EU initiatives that address, directly or indirectly, aspects of the challenges entailed in tackling child sexual abuse and exploitation offences. The proposal should make use of the general EU framework for protection of rights of

victims of all crimes, including the EU strategy on victims' rights and the proposal for a revision of the victims' rights directive. It is of the utmost importance that the aforementioned directive is horizontal and applies to all victims. As indicated in opinion SOC/780, it is important to provide comprehensive victims' rights support and services that address the diversity of victims. It has also specific provisions strengthening the rights of marginalised groups.

- 3.8 The EESC stresses that the cross-border nature of sexual abuse offences has grown even more over the last decade. There has been an uptick in the use of online technologies that enable and amplify the impact of such crimes across borders. Continuous training is needed both for law enforcement officers and for anyone in contact with children. Such services must also be available for parents.
- 3.9 It underlines that prosecuting offenders effectively and ensuring the protection of victims across the EU requires common minimum standards for the definition of criminal offences and the severity of related penalties. In particular, definitions of criminal offences need to be adapted at EU level to combat child sexual abuse and exploitation effectively.
- 3.10 The EESC supports the proposal to expand the definition of the term 'image' to effectively combat the misuse of artificial intelligence in creating virtual reality environments. The proposal correctly takes into account the fact that access to child sexual abuse material is often the first step towards 'hands-on' abuse.
- 3.11 The EESC supports the clarification in the proposal that solicitation with a view to committing online child abuse must be criminalised in all Member States.
- 3.12 It endorses the criminalisation of 'paedophile manuals'. Manuals describing how children can be found and abused and how to avoid being prosecuted for these crimes cannot be tolerated.
- 3.13 The EESC supports the proposal to address the role of the dark web in creating communities of offenders aimed at sexual abuse and exploitation and in disseminating child sexual abuse material. Online structures that enable this must be made criminal offences.
- 3.14 It endorses the proposal to increase the severity of minimum penalties for child abuse and sexual exploitation. Care must be taken to ensure that parents, educators, teachers and staff of child protection organisations are not targeted by law enforcement authorities when they come into contact with child pornography in the context of their specific tasks.
- 3.15 It also supports the European Commission's proposal to subject sex offenders to a risk assessment and to link them to intervention programmes in order to prevent recidivism. Access to intervention programmes on a voluntary basis should be facilitated.
- 3.16 The EESC welcomes the fact that the proposal is taking action to reduce the risk of relevant offenders having access to children through employment or voluntary activities. Institutions or organisations in which there is close contact with children must seek information about people

who wish to become involved in their spheres of activity. Member States must be obliged to provide such information.

- 3.17 The EESC endorses the idea set out in the proposal, according to which statutes of limitations for sexual abuse and exploitation do not start to run until the victim reaches the age of majority. The proposed minimum statutes of limitations are necessary to enable victims to seek justice. The victims concerned are often unable to report these crimes for years.
- 3.18 The EESC supports the proposed introduction of a reporting obligation regarding child sexual abuse indicators. The reporting obligation provides legal certainty, in particular for educators and healthcare providers.
- 3.19 The EESC points out that EU law enforcement agencies rely on cooperation with the National Center for Missing and Exploited Children (NCMEC) in the United States to prosecute online sexual abuse and exploitation. The EESC calls for comparable institutions and instruments to be established in the EU to secure online sexual abuse material for use as evidence, and stresses the need for a concrete legal basis for data transfers from the United States to the EU.
- 3.20 The EESC believes that swift and full implementation of the EU strategy is crucial to combating the sexual abuse and sexual exploitation of children. The EU therefore needs to support the implementation of the strategy in the Member States by means of expert panels.

#### **4. Specific comments**

- 4.1 All the instruments at the level of the European Union militate for the human dignity and best interest of the child, as fundamental values to be promoted, with no discrimination, by all Member States. The legal instruments refer to important matters regarding the protection of children against sexual abuse: protection of and assistance measures for child victims and their families, establishment of intervention programmes, common procedural rules regarding investigating, tracking and judging people who have committed crimes, treatment of sexual offenders, creation of a data base allowing the registration and storing of information on offenders, measures for international cooperation to prevent and fight crimes, and also the establishment of a monitoring mechanism on the way in which the provisions are implemented by other state bodies. At present, at European Union level, there is no homogenous legislative framework to which the Member States can relate in the fight against the different forms of sexual exploitation and sexual abuse of children.
- 4.2 Sexual abuse and sexual exploitation of children can cover many factual ways, both offline, by practising sexual activities with a child or making the child take part in child prostitution acts, and online, the offenders using different strategies, more and more often by means of the internet. Hence, the different forms of sexual abuse and sexual exploitation are extremely diversified; they suppose a wide range of practical methods, meant to have an impact on the physical and mental health of children.
- 4.3 Use of the internet, of information technology and of communications has become a concern at world level, not only for children, but also for offenders, with an increase in sexual abuse cases.

The online and offline protection of children is seriously threatened, which makes it an EU priority. The online and offline sexual abuse and sexual exploitation of children represent one of the most serious crimes, being able to cause irremediable trauma in terms of long-term physical, mental and social consequences.

- 4.4 Hence, the different forms of sexual abuse and sexual exploitation are extremely diversified; they suppose a wide range of practical methods, meant to have an impact on the physical and mental health of children. Risk factors for online and offline safety are social isolation, lack of peer and mentor support, increased time online, anxiety, stress and disability.
- 4.5 While online sexual exploitation can affect any child anywhere, other forms of sexual exploitation appear to be associated with cohorts of children and young people whose life experiences make them vulnerable; this includes being in care, going ‘missing’ or running away from home or a care placement, intellectual or physical disability, prior sexual abuse or neglect, alcohol or drug abuse, disengagement in education, low self-esteem, and peer introduction to exploitative older men.
- 4.6 Sexual abuse and sexual exploitation of children can also occur within families, which poses serious difficulties for law enforcement authorities, as families have the right to refuse to testify in criminal proceedings. An emergency alert system could both improve prevention and facilitate law enforcement.
- 4.7 There are strong indications that there has been an increase in the number of cases of child sexual abuse, particularly in relation to material accessed and distributed on the surface web and in peer-to-peer networks, but also relating to activities on dark web forums.
- 4.8 Child sexual abuse in cybercrime is considered to be at high risk of crime detection. One of the most threatened social groups, due to insufficient social experience, high levels of communicative activity and widely available information and communication technologies (ICT), are children, and especially children with disabilities.
- 4.9 Factors determining child sexual abuse are social and technological. The growth in child pornography is supported by a number of conditions, rapid technological development, anonymity provided by cyber space and the low cost of consumed resources. The factors are global factors (mega-environment), macro-environmental factors (mainly characteristic of the national level of the macro-environment) and micro-environmental factors which are characteristic of the specific subjects whose rights are violated.
- 4.10 Virtual child pornography refers to computer-generated imagery (CGI), drawings, paintings and cartoons portraying a sexual representation of children. It should be noted that ‘virtual child pornography’ and ‘pseudo-photographs’, also called ‘morphed images’, are not the same thing.
- 4.11 The removal of child pornography content from their source is often impossible if the original materials are not in EU countries and it is essential to take proactive measures to remove such content and to apprehend those responsible for making, distributing and downloading images of child sexual abuse.

- 4.12 At highest risk of sexual exploitation are children in residential care and children with disabilities. Children with disabilities, in particular those with mental disabilities, including intellectual and psychosocial disabilities, may have a limited understanding of social cues and social interaction, thereby making them more vulnerable to grooming and sexual exploitation. A comprehensive monitoring network is needed to counter these risks.

Brussels, 10 July 2024.

*The president of the the European Economic and Social Committee*  
Oliver RÖPKE

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