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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Directive on combating sexual abuse and sexual exploitation of children and child sexual abuse material (recast) - Preparation for the trilogue

In document ST 10103/26 INIT:

On page 25, the text of Article 6(2):

2. Member States shall take the necessary measures to ensure that **the** ~~intentional~~ **conduct, committed by an adult, of soliciting a child, who has not reached the age of sexual consent,** ~~an attempt,~~ by means of information and communication technology, **to** ~~for in Article 5(2) and (3) by an adult soliciting a~~ **produce or share** child ~~to provide child~~ sexual abuse material **depicting that child or a child having a close personal relationship with that child** is punishable **by a maximum term of imprisonment of at least 6 months. Such conduct shall be punishable by a maximum term of imprisonment of at least 1 year where use is made of coercion, force or threats.**

Where the child has reached the age of sexual consent, the conduct referred to in the first subparagraph shall be punishable by a maximum term of imprisonment of at least 6 months where use is made of coercion or threats, or where the offender falsely represented themselves as a peer.

should read as follows:

2. Member States shall take the necessary measures to ensure that **the intentional conduct, committed by an adult, of soliciting a child, who has not reached the age of sexual consent,** ~~an attempt,~~ by means of information and communication technology, **to** ~~for in Article 5(2) and (3) by an adult soliciting a~~ **produce or share** child ~~to provide child~~ sexual abuse material **depicting that child or a child having a close personal relationship with that child** is punishable **by a maximum term of imprisonment of at least 6 months. Such conduct shall be punishable by a maximum term of imprisonment of at least 1 year where use is made of coercion,** ~~force~~ **or threats.**

Where the child has reached the age of sexual consent, the conduct referred to in the first subparagraph of paragraph 2 shall be punishable by a maximum term of imprisonment of at least 6 months where use is made of coercion or threats, or where the offender falsely represented themselves as a peer.

On page 44, the text of Article 16a(2):

2. The period referred to in paragraph 1 shall be:

a) at least 15 years from the date the victim has reached the age of majority for the offences punishable under Articles ~~3(4a),~~ 4(7) for children above the age sexual consent and 5(6) of this Directive.

b) at least 20 years from the date the victim has reached the age of majority for the offences punishable under Articles 3(4), **3(4a),** 3(5), 4(2) for children below the age of sexual consent, 4(3), 4(5), 4(6) for children above the age of sexual consent, 4(7) for children below the age of sexual consent, of this Directive.

c) at least 32 years from the date the victim has reached the age of majority for the offences punishable under Article 3 paragraph 6 and 7 and under Article 4 paragraph 6 for children below the age of sexual consent, of this Directive.

c) at least 32 years from the date the victim has reached the age of majority for the offences punishable under Article 3 paragraph 6 and 7 and under Article 4 paragraph 6 for children below the age of sexual consent, of this Directive.

should read as follows:

2. The period referred to in paragraph 1 shall be:

a) at least 15 years from the date the victim has reached the age of majority for the offences under the **following articles**:

(i) Article 4(7) for children above the age sexual consent

(ii) Article 5(6).

b) at least 20 years from the date the victim has reached the age of majority for the offences under the **following articles**:

(i) Articles 3(4), **3(4a),** 3(5), 4(3), 4(5)

(ii) Articles 4(2) and 4(7) for children below the age of sexual consent~~,~~

(iii) Article 4(6) for children above the age of sexual consent.

c) at least 32 years from the date the victim has reached the age of majority for the offences under the **following articles**:

(i) Articles 3(6) and 3(7)

(ii) Article 4(6) for children below the age of sexual consent.

On page 51, the text of recital 38:

(38) ~~The trauma arising from~~ **Persons who have suffered from child** sexual abuse and sexual exploitation, **some of whom prefer ~~might~~ to be referred to ~~themselves~~ as survivors,** ~~of children~~ often **experience trauma that** lasts well into adulthood, entailing long-term effects which often prevent victims from reporting the offence and from seeking assistance and support for years or even decades. Therefore, Member States should provide tailored and comprehensive short- and long-term assistance not ~~only~~ to ~~child~~ victims~~, but also to adult survivors~~ of child sexual abuse and sexual exploitation, **including during their adulthood where necessary**.

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should read as follows:

(38) ~~The trauma arising from~~ **Persons who have suffered from child** sexual abuse and sexual exploitation, **some of whom prefer ~~might~~ to be referred to ~~themselves~~ as survivors,** ~~of children~~ often **experience trauma that** lasts well into adulthood, entailing long-term effects which often prevent victims from reporting the offence and from seeking assistance and support for years or even decades. Therefore, Member States should provide tailored and comprehensive short- and long-term assistance ~~not only~~ to ~~child~~ victims~~, but also to adult survivors~~ of child sexual abuse and sexual exploitation, **including during their adulthood where necessary**.

On page 68, the text of the accompanying recital to article 27:

Anonymity is an essential requirement for the effectiveness of some preventive intervention prevention intervention programmes or measures, such as helplines or on-line chats, given that the identity disclosure could discourage persons fearing that they might commit an offence from participating in those programmes or measures. Therefore, where appropriate and necessary for the effectiveness of preventive programmes or measures, Member States should ~~ensure~~ **allow** that such programmes or measures are provided on an anonymous basis. However, where, under national law, access to such programmes or measures falls within the national health~~care~~ **and social** system**s** and the applicable rules do not permit anonymity, Member States should not be required to ~~ensure~~ **allow** anonymous access.

should read as follows:

Anonymity is an essential requirement for the effectiveness of some preventive intervention ~~prevention intervention~~ programmes or measures, such as helplines or on-line chats, given that the identity disclosure could discourage persons fearing that they might commit an offence from participating in those programmes or measures. Therefore, where appropriate and necessary for the effectiveness of preventive programmes or measures, Member States should ~~ensure~~ **allow** that such programmes or measures are provided on an anonymous basis. However, where, under national law, access to such programmes or measures falls within the national health~~care~~ **and social** system**s** and the applicable rules do not permit anonymity, Member States should not be required to ~~ensure~~ **allow** anonymous access.

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