Council of the European Union

Brussels, 3 July 2025
(OR. en)

11193/25

Interinstitutional File:
2024/0035 (COD)

LIMITE

COPEN 195
DROIPEN 77
FREMP 192
CYBER 203
ENFOPOL 245
JAI 1006
CODEC 954

PUBLIC

NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a Directive on combating sexual abuse and sexual exploitation of children and child sexual aubse material (recast) - Debrief from the first political trilogue and the two first inter-institutional technical meetings - Exchange of views

REDACTED DOCUMENT ACCESSIBLE TO THE PUBLIC (02.10.2026). ONLY MARGINAL PERSONAL DATA HAVE BEEN REDACTED.

The Presidency will, at the meeting of JHA Counsellors on 9 July, debrief delegations on the first political trilogue, which was held on 23 June, and on the two first inter-institutional technical meetings, which took place on 1 and 2 July.

The Presidency will also invite delegations to reflect on a number of questions as indicated below. The questions have been formulated on the basis of the discussions at the technical meetings.

1. The political trilogue on 23 June

The first political trilogue on the proposed Child Sexual Abuse Directive (recast) was held under the Polish Presidency of the Council on 23 June at the Parliament premises in Brussels. Its main purpose was to allow the co-legislators to have a first exchange of views on their mandate and to kick-off for trilogue negotiations. During the introductory remarks, the Parliament emphasized the critical nature of the issue and the importance of the fight of child sexual abuse, while noting its strong mandate, with only two votes against, and the victim-centred focus of its position. The Presidency reaffirmed the Council's absolute priority in fighting child sexual abuse and child sexual abuse material in all forms, confirming its commitment to the file. The Commission welcomed the Parliament's ambitious mandate, particularly concerning victim protection and assistance.

The following four items were discussed more in detail:

1. Penalties: the Parliament wishes to increase the penalties across the offences to reflect their severity, asserting that the age of sexual consent should not result in differential penalties as abuse is always abuse, regardless of the victim's age. The Presidency stressed the importance to ensure consistency across legal instruments and supported the introduction of minimum penalties.

2. Limitation periods: based on its research, the Parliament explained how victims need ample time to report the crime, advocating for the absence of limitation periods as the best approach for their protection. The Presidency emphasized the importance operating within the Treaties' limits and maintaining legal framework consistency, while expressing openness to discuss appropriate timeframes to ensure victims have sufficient time.

3. Consent: the Parliament stressed the importance of harmonizing and horizontally applying the concept of consent. Furthermore, the Parliament underlined that its definition is allegedly based on existing EU acquis, and that they hope the Council will retain it. The Presidency highlighted that the introduction of a definition of consent in the general approach already is a significant step forward, as it marks the first time a definition of consent would be incorporated into EU law.

4. Protection of victims: the parliament advocated for a victim-centred approach that is comprehensive and free of charge, ideally following the *Barnahus model*, or at least its core principles. The Presidency pointed out the need for coherence with the ongoing Victims' Rights Directive negotiations and expressed willingness to discuss specific rules for child protection within this file.

The first political trilogue was concluded with the co-legislators agreeing on a mandate for the technical experts to pursue work in view of preparing a compromise text.

2. The inter-institutional technical meetings on 1 and 2 July

The first two inter-institutional technical meetings were held on 1 and 2 July. The co-legislators presented and explained their mandates with regard to all of the Articles. The Presidency thereby consequently defended the general approach and recalled that Article 83 of the Treaty on the Functioning of the European Union (TFUE) serves as the legal basis for this proposal, whose purpose is to enable smooth judicial cooperation in the fight against child sexual abuse and exploitation. Furthermore, the Presidency underlined the importance of consistency across EU legal instruments.

The main takeaways for each of the articles is presented below. **Delegations are invited to consider whether there is room to move towards the Parliament on any of the Articles in the light of the explanations below.** The Presidency would also refer a number of particular questions to delegations, as indicated in bold in relation to the separate Articles below. Delegations are invited to reply to the question at the meeting on 9 July and/or subsequently in writing by **22 August cob** to jai.criminal.justice@consilium.europa.eu, **DELETED** and **DELETED**.

Article 1 – Subject matter (line 80-81)

The Parliament highlighted that the mentioning of technologies proposed in the Article is to underscore their importance in the context of the recast of the Directive.

Article 2 – Definitions (line 82-98)

As part of Article 2 on Definitions, several aspects were discussed.

Consent (line 85-85a)

As announced at the political trilogue, the definition of consent is one of the cornerstones of the negotiations. The Parliament stressed the importance of including a clear and coherent definition of consent in the Directive, since it is the primary factor in court assessments of child sexual abuse offences, preventing legal uncertainty and "forum shopping". The proposed wording for consent originates, according to the Parliament, from the Istanbul Convention and the GDPR Regulation. Moreover, the Parliament explained that the proposed definition aims to follow a "yes means yes" approach and aims for it to cover the Directive as a whole, not just specific articles as in the Council's General Approach (the definition provided in Article 3(7) is limited to paragraphs 4a and 6a).

The Presidency welcomed the explanation from the Parliament and sought further clarification concerning some of the wording proposed, i.e. "clearly", "informed", "unambiguously", to understand the implications for the implementation by Member States. The Presidency also asked about the interplay with other provisions in order to understand how this provision should be read in conjunction with other provisions where consent is also defined (e.g., Article 3(9), Article 10(5), Article 28(1a)). The Presidency took note of the sources flagged by the Parliament to develop the definition, pointing out that the consent given in the context of data protection is not comparable to the context of the proposal at hand. Lastly, the Presidency also raised a legal concern since there might be a lack of legal basis to include consent as part of the general definition, without any link to a specific offence. On this last point, the Parliament invited the legal services to further assess the relevance and appropriateness of including the definition in this Article 2.

Sexual organs/Intimate parts (line 88)

Regarding the introduction of "intimate parts" instead of "sexual organs" in the Directive, the Parliament argued that "sexual organs" is too narrow a term, expressing doubts that body parts such as breasts, the anus, or hips would fall under this category. The inclusion of "intimate parts" is therefore deemed necessary to provide a broader scope and ensure comprehensive coverage of relevant anatomical areas.

PUBLIC

Noting that Member States might be reluctant to change a well-established wording from other legislative acts, the Presidency proposed checking the definition of "sexual organs" to assess whether the elements mentioned by the Parliament are already included, before deciding whether "sexual organs" can be retained or if the proposed change is necessary.

Pseudophotographs (line 90)

Regarding the term "pseudophotographs", the Parliament clarified that this term covers all data that could be converted into images. The Parliament's intention behind introducing this term is to close any potential loopholes in the Directive's scope, ensuring that various forms of digital data capable of being rendered as images are adequately covered.

The Presidency emphasized the Council's overarching objective to be as technologically neutral as possible. In this context, the Presidency sought to understand the Parliament's intention behind the wording in Article 2(1)(3)(d) – specifically, the phrase “regardless of the method of creation or manipulation”. The Parliament responded by explaining that its proposed wording is not overly specific. It aims to cover new and emerging technological trends comprehensively, without unduly limiting the scope.

Representations/depiction/visually (line 88-89)

The Parliament advocated for replacing the term "depiction" with "representation" within the Directive, in line with the Luxembourg guidelines. The Parliament explained that "depiction" primarily refers to visual representations, whereas "representation" is a broader term encompassing a wider range of formats, including audio and augmented reality, among others. The objective of this proposed change is to expand the Directive's coverage, ensure more comprehensive protection, and effectively close any potential loopholes that might arise from emerging forms of content.

Article 2(1)(3)(e) (line 91)

The Presidency explained that the definition of ‘any material … intended to provide advice` was deleted since it has been included as a separate offence.

PUBLIC

Peers (line 98)

The Commission sought clarification from the Parliament regarding the proposed definition of "peers", specifically noting that the European Parliament suggests "maturity" should become a cumulative requirement alongside psychological and physical development. The Parliament indicated that it would provide additional explanations concerning the inclusion of maturity as an additional requirement at a later stage.

PUBLIC

Article 3 – Offences concerning sexual abuse[1] (line 99-116)

The Parliament proposed including "child" in the Directive's title and adding "intentional" to ensure coherence with other articles concerning offenses. This reflects a deliberate focus on crimes against children and the requirement of intent for established offenses.

Distinction concerning the age of sexual consent

A significant horizontal comment from the Parliament concerned the proposal to remove the distinction between offenses committed against children below and above the age of sexual consent. The Parliament argued that while the age of consent is relevant for assessing the severity of abuse, it would be more appropriate to treat it as an aggravating circumstance rather than a default categorisation. The Parliament further noted that the age of consent varies across Member States, suggesting that the current distinction hinders the achievement of a level playing field and risks "forum shopping".

The Presidency welcomed the Parliament's explanations but raised concerns about the practical implications of erasing this distinction. It highlighted potential scenarios where the nature of the offense, even if non-consensual, might be vastly different.

Question: do delegations see any room to lift the distinction between offences committed against children below and above the age of sexual consent, in particular with regard to the penalty levels for certain offences?

[1] Some of the considerations below apply also to other offences under this Directive.

Scope of the offences

The Parliament sought to broaden the scope of covered offenses. In Article 3(4), the Parliament aimed to include "self-inflicted rape," with similar references elaborated in paragraphs 6 and 7(b)(a). In Article 3(5)(b), the Parliament proposed expanding the types of disabilities covered to include intellectual and sensorial disabilities. This expansion is in line with the principles and provisions of the United Nations Convention on the Rights of Persons with Disabilities. Furthermore, in Article 3(9)(a), the Parliament added "sleep" and "surprise" as circumstances where consent cannot be given, emphasizing the inability to provide genuine consent under such conditions. The Parliament also proposed in Article 3(9)(c) to include a specific reference stating that past or present relationships with an offender cannot prejudge consent.

Consent

The Parliament welcomed the Council's inclusion of a consent definition but queried why its scope was limited to paragraphs 4a and 6a. The Presidency clarified that the Council's decision to limit the definition's scope stems from the understanding that children below the age of sexual consent cannot give consent. Therefore, the Council deemed it relevant to include the definition only where consent is a factor, specifically for children above the age of sexual consent. The Parliament also questioned the Council's reasoning behind deleting part of Article 3(9), specifically the description of a non-consensual act.

Question: the Presidency considers that it is highly likely that the debate on the definition of consent will be reopened during the trilogues. Would delegations have any suggestions as to the approach to take in this regard? When answering this question delegations should take into account also Article 10.

PUBLIC

Penalties

The Parliament confirmed that it undertook a similar exercise to the Council concerning the level of penalties, aiming to establish a proportional and coherent level across all offenses, reflecting their severity. The Parliament also compared these penalty levels to those in other legal instruments (without naming them specifically). A key objective for the Parliament is to prevent "forum shopping", asserting that abusers often consider legislative provisions and penalty levels when planning their crimes.

Question: do delegations see any room to move on the level of penalties for any of the offences under this Directive?

New offence proposed by Parliament in Article 3(2a)

The Presidency also inquired about the new offense included in Article 3(2a), and the intention of the Parliament in that regard. This offence was included in the Parliament's position during the vote in plenary and concerns the criminalisation of dissemination of pornographic content without putting in place robust and effect age verification tools. The Parliament committed to come back on this provision at a later stage.

Article 4 – Offences concerning sexual exploitation (line 117—124a)

The Parliament has introduced significant changes in Article 4, including the removal of the distinction between offenses committed against children below and above the age of sexual consent, alongside an adjustment to the overall level of penalties. Furthermore, the Parliament has incorporated stronger wording for sexual extortion within Article 4(7a).

The Presidency sought clarification regarding the specific situations that would be covered by Article 4(7a) that are not already addressed by other articles, such as Article 6. The Parliament explained that the provision on sexual extortion is placed within Article 4(7a) due to the conviction that it constitutes a form of exploitation. This placement also, as explained, aligns with the Luxembourg guidelines, which suggest that extortion should be considered a distinct type of exploitation. The Parliament emphasized the prevalence of more violent attempts to extort children as a key reason for its specific inclusion and placement.

The Presidency proposed to have a more in-depth discussion on Article 4(7a) at a later stage.

Article 5 – Offences concerning child sexual abuse material (line 125-139a)

The Parliament highlighted the criminalisation of AI-generated content as a key feature, specifically drawing attention to paragraph 2, which foresees the criminalization of the acquisition or possession of such systems designed for the purpose of producing child sexual abuse material, as well as related provisions in paragraph 4 and paragraph 6. Concerning the wording "primarily for the purposes", the Parliament explained that the intent is to avoid criminalizing "innocent platforms". Instead, the AI program itself needs to be trained with the exclusive purpose of producing child sexual abuse material for criminalization to apply.

In paragraph 8, the Parliament proposed a more specific wording concerning hotlines, claiming that Member States currently find themselves in a legally unclear situation regarding these services. The Parliament argued that a clear legal framework is needed to regulate hotlines effectively. Furthermore, in paragraph 8(da), the Parliament proposed a provision that explicitly links hotlines and embeds them within the system of notice, also in relation to information society services as foreseen by Regulation 2022/2065.

Article 5a – Offences concerning instructions to commit offences (line139b-139h)

The Presidency announced that the aim of the new Article 5a in the Council's General Approach is to treat as a separate offence the instructions to commit child sexual abuse, exploitation or solicitation of children for sexual purposes The Presidency viewed this provision as a positive development, recognizing it as an important shared objective for both institutions, though acknowledging that some technical work on the precise wording might still be necessary.

The Parliament confirmed that this issue is also a key priority for the Rapporteur, reiterating that both institutions fundamentally agree on the objective and therefore need to collaborate at a technical level on the exact phrasing. The Parliament specified that if certain elements were removed from the initial definition in Article 2(3)(e), their separate treatment as a new article would be crucial.

Article 6 – Solicitation of children for sexual purposes (line 140-147)

The European Parliament noted that there were not many changes in this area but sought clarification on the Council's position regarding paragraphs (1), (1)(a), (2), (2) first subparagraph a, and the deletion of paragraph (3).

On this provision, the Parliament insisted that paragraph 1 should cover all children, regardless of age.

Article 7 – Solicitation of sexual abuse (line 148-149)

The Parliament noted that there are no major differences between the co-legislators regarding this article, aside from the level of penalties. The Presidency echoed this sentiment, indicating a general alignment on the types of activities to be criminalised, with the severity of punishment being the primary point of divergence.

The Commission clarified that the original proposal aimed to cover all situations where an offender is involved, even if not directly committing the abuse. It stated that the Commission's intended scope is somewhat broader than the European Parliament's, encompassing scenarios such as an offender paying someone else to commit abuse, even if live streaming is not necessarily involved.

Article 8 – Operation of an online service for the purpose of child sexual abuse or sexual abuse exploitation (line 150-151)

The Parliament expressed its view that the level of penalty proposed in the Commission's initial proposal was "too low" for this type of crime, and that the positions of the co-legislators are "radically different". The Parliament underscored that these offenses possess a “vast multiplier effect" that can lead to significant harm. Consequently, the Parliament deemed it crucial to raise the level of the penalty to adequately reflect the severity and widespread impact of such crimes.

The Presidency stated that the Council considered the originally proposed level of penalty to be appropriate.

PUBLIC

The Commission clarified that its proposed level of penalty aims to differentiate between situations where abuse is committed directly by the offender and those where it is merely facilitated. This suggests a graduated approach to penalties based on the nature and extent of involvement in the offense.

Article 8a – Travelling for the purpose of sexual abuse and sexual exploitation of children (line 151a-151b)

The European Parliament highlighted that travelling for the purpose of sexual abuse is a significant and acknowledged problem, referencing its identification in the Lanzarote Convention and the Luxembourg guidelines. The Parliament further noted that a similar provision is included in the Terrorism Directive 2017/541. This underscores the Parliament's view on the severity and cross-border nature of this issue.

The Presidency raised questions regarding the burden of proof as well as potential overlaps, querying whether such situations might already be covered by provisions on attempt, particularly if Article 8b is already encompassed by Article 9. The Presidency questioned if Member States would simply utilize Article 9 regardless of the travel aspect and specifically asked about Article 8a and the practicalities of proving the actual purpose of travel.

The Commission acknowledged the potential for overlap with existing provisions on attempt, but clarified that the new offense appears to specifically cover situations involving travel to third countries, which are not currently addressed by the existing proposal. The Commission emphasized that this type of provision is crucial for ensuring the jurisdiction of Member States extends beyond the EU, aligning with the original intention behind similar provisions in the Terrorism Directive.

The Parliament responded that the proposed provision also encompasses situations related to the preparation of such travel. It asserted that while demonstrating the purpose of travel for child sexual abuse might not be the easiest situation for a judge to prove, it is nonetheless feasible through various evidentiary means.

Question: in the light of the explanations above, would delegations see any room to meet the request of the Parliament?

Article 8b – Other offences related to sexual abuse and sexual exploitation of children (line 151c-151d)

As part of this new article, the Parliament aims to include three additional offences (mentioned in letters a, b, and c), that were not fully covered in the original proposal. The Presidency flagged that these offences might be covered by Article 9 on attempt. The Commission explained that letter a might be indeed already covered, but needs to further assess letter b and c.

Article 9 – Incitement, aiding, abetting and attempt (line 152-154)

No major comments were exchanged concerning this article. The cross-references included in the article will need to be updated at the end of the negotiations. The Presidency pointed out that the reference to Article 8 was deleted for the above-mentioned reasons.

Article 10 – Consensual sexual activities (line 155-166)

The Parliament emphasized the importance of strengthening the notion that sexual relationships between peers should not be criminalized in the absence of abuse. This principle is further reinforced by the inclusion of references to both consent and non-consent in relevant provisions. Additionally, the Parliament advocated for stronger language in Article 10(6) concerning the sharing of materials, aiming to ensure more robust provisions against illicit dissemination.

The Presidency explained the Council's position concerning the addition of "exploitation" alongside "abuse" for consistency in relevant articles, and the new provision Article 10(3) second subparagraph (a) to avoid the further sharing of material without consent.

Concerning the exemptions outlined in Article 10 in the Parliament's mandate, the Commission clarified that the EU cannot impose a negative obligation to Member States (i.e., not to criminalise). The Commission also expressed a positive intent to further examine and ensure the effective functioning of this provision.

PUBLIC

The Parliament questioned the deletion of Article 10(5). The Presidency clarified that Article 10(5) was deleted because its content, particularly regarding consent, was relocated to Article 3(7) to prevent any contradictions across the Directive. The Commission highlighted that the concept of consent within Article 10 serves a different purpose than under Article 3, suggesting the need for a specific definition of consent within Article 10 itself.

Article 11 – Aggravating circumstances (line 167-178a)

The Parliament proposed including intellectual and sensorial disabilities as aggravating circumstances, which would align with the principles and provisions of the UN Convention on the Rights of Persons with Disabilities. The Parliament explained that intellectual disabilities can affect learning and comprehension, and can be either chronic or temporary, noting that this is consistent with the wording found in Article 11(b) of the Violence Against Women (VAW) Directive.

Furthermore, the Parliament highlighted the inclusion of new aggravating circumstances in points (ha) and (ja), which refer to offenses motivated by grounds specified in the Charter of Fundamental Rights of the European Union, such as colour, race, or religion.

The Presidency acknowledged the VAW Directive as a reference point for the Council's position. However, it noted the deletion of point (h), "offence committed repeatedly," which had been found problematic by several Member States. This deletion was made to ensure coherence with other existing legal instruments.

The Commission addressed the chapeau of the proposal, stating that it incorporates the wording of the current Directive. The Commission argued that altering the chapeau, as proposed in the General Approach, would represent an unjustified step backward compared to the current legal situation. It further clarified that the full list of aggravating circumstances should remain mandatory.

Article 12 – Disqualification arising from convictions (line 179-182)

The Parliament explained its proposed modifications. The Presidency underlined the need to provide Member States with flexibility to adapt the obligations to the national systems.

PUBLIC

Article 13 – Liability of legal persons (line 183-189)

The co-legislators shared the view that this provision should be aligned with the recent criminal law acquis.

Article 14 – Sanctions on legal persons (line 190-199d)

The co-legislators shared the view that this provision should in principle be aligned with the recent criminal law acquis. However, the Parliament has proposed certain modifications (see for example 198), which it motivates with the need to ensure that "all loopholes" permitting offenders to go for as low penalties as possible are closed.

Article 16 – Investigation and prosecution (line 202-211)

The co-legislators agreed on the structure of the provisions. The Parliament explained why it considers that more detail is needed in the provision (line 209).

Article 16a – Limitation periods (line 211a-211f)

The Parliament noted that this provision is a top priority for it and explained that it has based its position on evidence as well as on in-depths consultation of stakeholders, in particular victim organisations. It also noted that it cannot agree to different limitation periods for different offences, as it is difficult to assess the seriousness of abuse offences during the investigations. Further, it referred to various expert opinions, including from Council of Europe, calling for the abolition of limitation periods for this type of crime.

The Presidency defended the general approach and highlighted the nature of the directive being minimum harmonisation. Both co-legislators expressed openness to explore and discuss possible avenues towards a compromise solution.

Question: delegations are invited to reflect on what flexibility they may have in view of elaborating an acceptable compromise with the Parliament.

PUBLIC

For all victim-related aspects, the co-legislators agreed to discuss Articles 17, 18, 20, 21, 22 and 23 in one context, on the basis of an analysis of the relation of these provisions with the final text of Victim Rights` Directive. The Parliament thereby noted, that certain provisions specific for the current Directive may however be needed.

PUBLIC

Article 17 – Reporting suspicion (line 212-217)

The Parliament again referred to research which indicates a need to improve the reporting mechanisms. It underlined the need for better training and reporting procedures, as reflected in its position.

Article 18 – Reporting of child sexual abuse and sexual exploitation (line 218-221)

The Parliament defended and explained its detailed proposals for this Article. The provision will be discussed again in a broader context (see under Article 17).

Article 19 – Jurisdiction (line 222-233a)

The Parliament insisted on strong rules on jurisdiction. Its proposal for stronger cooperation may be discussed in another part of the Directive.

Article 20 – General provisions on assistance (line 234-237)

The Parliament raised the question whether victims or "survivors" that have not gained the status of "victims" (i.e. have not failed a complaint yet) could benefit from assistance measures under the Directive, or if this would need to be clarified specifically. The participants in the meeting agreed to clarify this issue. The provision will be discussed again in a broader context (see under Article 17).

Article 21 – Assistance and support to victims (line 238-252)

The Parliament explained its position, which goes further than the Victims` rights Directive on a few points. The provision will be discussed again in a broader context (see under Article 17).

Article 22 – Protection of child victims in criminal investigations and proceedings (line 253-269)

The Parliament in particular asked about the deletion of paragraph 7 in the provision. The provision will be discussed again in a broader context (see under Article 17).

Article 23 -Victims' rights to compensation (line 270-280)

The Presidency highlighted that the provision, as proposed by the EP, may have an impact on national civil law. The co-legislator provision will be discussed again in a broader context (see under Article 17).

Article 24 – National authorities or equivalent entities (line 281-287)

The co-legislators noted that there is little difference between their positions.

Article 25 – Multi-agency and multi-stakeholder coordination and cooperation (line 288-289)

The co-legislators noted that there is little difference between their positions.

Article 25a – International cooperation (line 289a)

The parliament explained its proposal briefly, which was to enhance international cooperation.

Question: delegations are invited to indicate whether they can agree to the provision proposed by the EP, or parts of it.

Article 26 – Measures against advertising abuse opportunities (line 290-293)

The Parliament explained its position and in particular underlined the importance of the anonymity requirement.

On Article 27 – 30, the respective positions were briefly presented, but not discussed.

Article 31 – Data collection (line 325-335)

The Parliament has been inspired by the envicrime text for this provision. The co-legislators did not enter into a discussion on the details of the provision.

PUBLIC

Article 32a – Freedom of the press (line 337a-337b)

It was agreed that the need to ensure that this provision is aligned with other instruments (i.e. the Directive on the gender based violence) will be analysed.

PUBLIC