Council of the European Union

Brussels, 10 July 2026
(OR. en)

11761/26

**Interinstitutional File: 2025/0429 (COD)**

**LIMITE**

**JAI 984**
**ENFOPOL 262**
**CRIMORG 151**
**IXIM 158**
**DATAPROTECT 235**
**CYBER 339**
**COPEN 279**
**FREMP 242**
**TELECOM 384**
**COMPET 942**
**MI 768**
**CONSOM 233**
**DIGIT 200**
**CODEC 1429**

PUBLIC

**NOTE**

| | |
|---|---|
| From: | Presidency |
| To: | Delegations |
| Subject: | Draft Regulation of the European Parliament and of the Council 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<br>- State of play and next steps |

## 1. State of play

Having regard to the position of the Council at first reading adopted on 2 July 2026[1] and the Commission's position concerning the position of the Council from 3 July 2026[2], the European Parliament adopted on 9 July 2026 a legislative resolution[3] on the Council position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on a

1 11261/1/26 REV1.
2 11545/26.
3 https://www.europarl.europa.eu/doceo/document/TA-10-2026-0266_EN.html

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.

In line with Article 294(7) of the Treaty on the Functioning of the European Union, the European Parliament proposed, by a majority of its component members, amendments to the Council's position at first reading.

Pending the official forwarding of the European Parliament's second reading position, the amendments adopted suggest the addition of provisions related to the protection of end-to-end encryption in interpersonal communications:

Article 1 – paragraph 2 a (new)

*2a. This Regulation does not apply to interpersonal communications to which end-to-end encryption is, has been or will be applied.*

Article 3 – paragraph 1 – point a – point ia (new)

*(ia) not applied to interpersonal communications to which end-to-end encryption is, has been or will be applied;*

**2. Next steps**

Once the Council and the Commission have received the European Parliament's amendments officially, the Commission has to deliver an opinion on the amendments proposed by the European Parliament, and the Council, acting by a qualified majority[4] may within three months[5]:

(a) approve all those amendments, and the Regulation will be deemed adopted;

(b) not approve all the amendments, with the consequence that the Presidency, in agreement with the President of the European Parliament, would have to convene a meeting of the Conciliation Committee within six weeks.

---

4 Qualified majority applies only if Commission delivers a positive opinion. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

5 This period may be extended to four months.

The Presidency sees the risk that non-acceptance of the amendments proposed by the European Parliament would result in significant delays in the adoption of this Regulation and have a negative impact on the ongoing interinstitutional negotiations on the proposed Regulation laying down rules to prevent and combat child sexual abuse. Moreover, the outcome of the Conciliation Committee's proceedings would be highly uncertain as discussions on the entire text could be reopened.

Therefore, the Presidency invites delegations to consider whether they could accept approving the amendments proposed by the European Parliament with a view to ensuring a swift adoption of this Regulation for an effective fight against child sexual abuse. If Member States were in the position to accept those amendments, the Presidency would stress that acceptance by the Council of the amendments proposed by the European Parliament to this Regulation would not imply in any way the Council's support for the inclusion of such provisions in the text of the proposed Regulation laying down rules to prevent and combat child sexual abuse.

PUBLIC