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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse - State of play and way forward

In preparation of the meeting of JHA counsellors on 14 September 2026, the Presidency provides delegations with an update on the interinstitutional negotiations on the draft Regulation laying down rules to prevent and combat child sexual abuse and the envisaged next steps.

An updated four-column table reflecting the outcome of the 13th interinstitutional technical meeting (ITM) on 10 September 2026 will be made available to delegations as a working document[1].

[1] WK 13816/2026.

1. Summary of responses to the reflection paper

At the end of July 2026, delegates were invited by the Presidency to respond to questions in a reflection paper on detection obligations / own-initiative searches[2]. 14 Member States replied. The Presidency has grouped responses, informing the possible steps forward in engaging with the European Parliament to find a compromise on detection models. In summary, the responses to the paper are overall cautious about the need to regulate own-initiative searches in public content but support in principle detection orders in public content and tasking the EU Centre with own-initiative searches. The concept of 'specific users' proved challenging to clarify or to separate from existing measures under criminal law, and comments on alternative measures focused primarily on quality improvement throughout the proposed system. Further details are provided below and then considered in relation to ongoing technical meetings in the interinstitutional negotiations.

Question 1[3]: Nine Member States did not see a need to further regulate own-initiative searches by providers in public content, noting both legal and technical justifications for their analysis including that currently voluntary detection in public content can already be carried out under the DSA and the GDPR. There were some delegations who felt it necessary to regulate. Regarding scope, all respondents support searching for known CSAM, with most of them supporting the inclusion of new CSAM and some also of grooming, subject to adequate safeguards. Member States largely recognised the benefits to make use of the EU Centre indicators for own-initiative searches by providers, providing greater consistency in quality across providers, greater legal clarity for providers, a higher quality of detection, reduction in false positives, and harmonised implementation across the EU with greater precision and less expense. Some Member States noted that the EU Centre indicators should be an additional support and not a replacement of other existing indicators.

[2] WK 10939/2026.

[3] Do own-initiative searches by providers in public content require any further regulation? If the EP insists on regulating such activities, what limitations, if any, in scope could you accept (known and/or new CSAM)? What benefits do you see to using the EU Centre's database of indicators in the own-initiative search process?

Question 2[4]: Six Member States agreed that the EU Centre should be tasked with own-initiative searches, at least on known content, while two Member States do not want to see the EU Centre tasked with own-initiative searches. All noted the importance of avoiding duplication of processes in using Article 12 and 13 in reporting. Keeping the reporting separate from law enforcement, with processes going via the coordinating authorities, was flagged. The possibility to distinguish processes for searches on known and new CSAM was mentioned.

Question 3[5]: Overall, a vast majority of responding Member States supported detection orders in public content. Many Member States agreed with including new CSAM in their scope as long as there are stringent safeguards and conditions.

Question 4[6]: Most Member States responding are in principle opposed to the concept of targeting detection to specific users in own initiative searches either due to (i) the lack of clarity and possibility to operationalise or (ii) the clear link of the concept with existing measures under criminal law. Some delegations noted a lack of clarity on how specific users would be determined or identified, with doubts on the value of the concept in general. One Member State suggested replacing the concept of specific users by substantive and procedural conditions under which own-initiative searches may be authorised.

On the other hand, some Member States agreed with the principle of targeted detection without going into the detail of identifying specific users but mentioning that this concept could cover persons under investigation or subject to judicial or prosecutorial measures, and persons identified in previous investigations or in other lawfully obtained information. Two Member States explained their models for doing such work, which may offer options for the present exercise[7].

[4] Should the EU Centre be tasked with own-initiative searches in publicly accessible content? Is the reporting structure as set out in Articles 12 and 13 appropriate for own initiative searches by the EU Centre? If not, what else would you recommend?
[5] Should detection orders in public content be established and cover at least known CSAM and possibly new CSAM?
[6] How could the concept of detection orders and own-initiative searches in non-public content targeted to specific users linked to child sexual abuse - taking into account the possibilities offered under national criminal law - work in practice? How could those specific users linked to child sexual abuse be defined, and the targeting process be operationalised in your jurisdiction?
[7] ES explains its model of undercover computer agents and the operational procedure to identify specific users by collecting objective indications of criminality based e.g. on previously validated CSAM reports before detection could be carried out by a provider after judicial authorisation and under judicial control. PT explains its model of searches in computer content, always requiring judicial authorisation. Specific users subject to detection orders could be individuals with relevant CSAM related criminal records, with links to flagged CSAM, participating in groups dedicated to sharing CSAM, or being identified through international cooperation.

Question 5[8]: Delegations are in favour of exploring alternative measures beyond detection, but they should be complementary rather than replace targeted detection or own-initiative searches. Most comments relate to improving the quality of procedures and processes in the existing system, for example, less intrusive tools such as voluntary detection of known CSAM in publicly accessible content. It was flagged that the possible alternative solutions should be targeted and effective; complementary measures such as safety by design, facilitating user flagging, metadata analysis and behaviour patterns and age verification systems; and complementarity with existing structures such as NCMEC.

2. Preparatory work at technical level

Throughout the summer, the Presidency has engaged in bilateral meetings with Member States to discuss both the reflection paper and the ongoing work with the Parliament in greater detail.

In preparation of the 13th interinstitutional technical meeting (ITM) on 10 September 2026, the Presidency and the European Parliament, involving the Commission whenever appropriate, have spent time discussing the detection model in relation to each of their mandates. The concepts of public and private have indeed been helpful in navigating the operationalisation of detection in the context of the full range of perspectives brought to these discussions. The Presidency has communicated that regulation in public spaces is not considered essential and that an open scope is reasonable. It is understood the European Parliament will be flexible on this point. Regarding non-public environments, the Presidency has communicated to the Parliament that the important value for the Council is being able to effectively address criminal activity that takes place therein. The Presidency has made clear that the concept of specific users cannot work in non-public environments and understands that there may be flexibility on this from the European Parliament. An important principle for the Parliament in non-public environments is that of authorisation of searches, by either a judicial or independent administrative authority.

The Presidency has communicated to the Parliament that the most important aspect for the Council is effective detection and removal of content online as provided for through the voluntary regime: that the Council does not want a permanent framework that achieves less than the voluntary regime. The Presidency understands that there is flexibility on scope, with the key component for the Parliament being authorisation by judicial or independent administrative authorities.

[8] Should the Presidency explore other options besides detection orders and own-initiative searches in non-public content targeted to specific users linked to child sexual abuse? If so, what possible options would you envisage?

Both parties acknowledge the need to establish a sustainable regulatory regime, where presently only a temporary derogation from e-privacy rules[9] exists. Three aspects to the discussion seek to address this and may form the basis of a permanent effective regime:

(i) The work of the EU Centre, in particular the establishment of the databases of indicators, is a way of establishing a system to improve the quality of the searches by providers compared to the present voluntary regime.

(ii) The balance of providing sufficient safeguards and operative considerations to establish a permanent regime providing for detection to replace the present voluntary regime.

(iii) There is evidence that a good proportion of reports created by providers are not actionable, because they do not contain adequate data. Under the present voluntary regime, a high volume of reports generated do not lead to any operational outcome.

3. Outcome of the 13th ITM on 10 September 2026

At the 13th ITM on 10 September 2026, co-legislators confirmed lines 16a, 29, 30, 106a, 563-565 as provisionally agreed, following up on the general agreement at the fifth trilogue on 29 June 2026 on the respective provisions on audio communication, mitigation measures, software applications, and the identification of CSAM and URLs by national authorities. Clarifications were reached with regard to data collection and retention (line 40).

Provisional agreement at technical level was reached on the own-initiative searches by the EU Centre (Article 49), including the possibility for the Coordinating Authorities to delay the submission of notifications from the EU Centre to providers if those would interfere with investigations and prosecutions.

The deletion of reports considered unfounded by the competent authorities (line 651a) was requested again by the European Parliament. Since Member State views on that matter were rather varied, the Presidency invites delegations to indicate if that deletion is agreeable.

[9] Regulation (EU) 2026/1881 of the European Parliament and of the Council of 24 July 2026 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, 2026/1881, 28.7.2026, ELI: http://data.europa.eu/eli/reg/2026/1881/oj

Regarding the composition of the EU Centre's Technology Committee (lines 85, 85, 840, 840a, 840c), the European Parliament asked for clarity regarding the experts entitled to respond to the call for expression of interest. The Presidency suggests that beyond Member State nominations, there should also be the possibility for other experts to apply in order to facilitate a complete skills profile if required. While one seat per Member State would be guaranteed, the Management Board should be free to select up to five additional experts for this reason. Delegations are invited to indicate if they can support this approach.

Finally, co-legislators discussed possible compromise solutions related to detection orders and own-initiative searches, facilitated by a presentation of the Commission. The European Parliament indicated some flexibility with regard to an authorisation procedure for own-initiative searches in non-public content. The Presidency communicated the need to establish an effective regime that allows maintaining the current level of material identified through the providers' voluntary searches. Potential possibilities to find a compromise could include authorisation of search plans for a period of time rather than on a case-by-case basis; that a request by providers for authorisation for searches could include the technologies used and other relevant safeguards. Delegations are invited to reflect about such possibilities and to share any relevant experience at national level.

4. Envisaged way forward

After the 14th ITM scheduled to take place on 18 September 2026, the Presidency is planning to consult Coreper on 23 September 2026 in preparation of the sixth trilogue taking place at the Council premises on 29 September 2026. The Presidency seeks to reach general political agreement on detection obligations and own-initiative searches at that trilogue. Once there is general political agreement on the tasks of the EU Centre, the procedure on establishing the seat of the agency can be launched.

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5. Questions to delegations

1. *What possibilities for authorisation of own-initiative searches by providers in non-public content can be realised so that the effectiveness of own-initiative searches can be ensured?*

2. *Could delegations share any relevant experience at national level of effective and balanced regulatory procedures in their national jurisdictions that could be used as inspiration for the authorisation of own-initiative searches in non-public content?*

3. *Can delegations accept the compromise reached at technical level at the ITM on 10 September 2026 as outlined in point 3 of this note?*

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