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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Draft Council Conclusions on combating the sexual abuse of children

WeProtect Global Alliance, a worldwide cooperation to stop the crime of online child sexual abuse and exploitation, has recently announced that this topic will be tackled at a Summit in Addis Ababa, Ethiopia on 11-12 December 2019. The Presidency is convinced that the Council should encourage Member States to participate in the Summit in order to share good practices, learn from others and encourage other countries to subscribe to and to implement the shared goals of the Alliance.

Consequently, the Presidency has prepared a Draft Council Conclusions on combatting the sexual abuse of children, to be found in the annex to this note. The draft has been revised on the basis of written comments of the Member States and a discussion in the Law Enforcement Working Party on 17 September 2019, and the finalized text was endorsed in an informal silence procedure.

Based on the above, COREPER is invited to approve the draft Council Conclusions on combatting the sexual abuse of children, as set out in the Annex to this note, and recommend that the Council adopts them at a forthcoming meeting.

DRAFT COUNCIL CONCLUSIONS

of .../2019

on combating the sexual abuse of children

1. Sexual abuse and sexual exploitation violate the most intimate self of the child, causing great physical and psychological harm, which can traumatise victims for life. The internet has created unprecedented opportunities for abusers and criminals for the distribution, trade, possession, and viewing of child sexual abuse material. This has significantly increased the demand for new material and therefore the risk for children worldwide of becoming victims.
2. Offenders typically operate across borders, making use of social media platforms and electronic communication services, as well as of peer-to-peer networks, bulletproof hosting, cyber lockers, dedicated forums in the dark web, and other digital ‘safe havens’ where the offline abuse of children is actively encouraged for the purpose of producing new ‘high-value’ material and where the crime is normalised. It is important to highlight as an international priority the pursuit of the producers of the materials, due to the severity of their crimes and the serious harm they can cause.
3. Offenders make use of encryption and other anonymisation techniques to hide their identity and location. They use communication platforms hosted and administered in different countries to groom children into abuse and to extort them to obtain abusive material, as law enforcement, hampered by obfuscation techniques and different legislative regimes across different jurisdictions, especially in third countries, struggles to take forward investigations.
4. The fight against sexual abuse and the sexual exploitation children is often also a fight against organised crime and trafficking in human beings.

5. Against this background, and in line with the EU acquis¹, the Council reaffirms the EU's and Member States' commitment to protect the fundamental rights of children, and the rights of victims of crime, and to combat the sexual abuse and sexual exploitation of children, both offline and online, irrespective of the physical location or nationality of the child. Reducing the number of children who fall victim to sexual abuse and increasing the proportion of successful investigations remains a key political and operational priority.
6. In this framework, the Council welcomes the announcement of the WeProtect Global Alliance Summit to End Child Sexual Exploitation in Addis Ababa, Ethiopia on 11-12 December 2019 and recognises its importance as a means of engagement with key stakeholders on this challenging topic. The Council encourages Member States to participate, at the appropriate level, in the Summit in order to share good practices, learn from others and encourage other countries to subscribe to and to implement the shared goals of the WeProtect Global Alliance.
7. To this end, the Council recalls,
 - a. the adoption of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children, and the commitment made by the EU and its Member States to fully transpose its provisions into national regimes. The 2016 Commission reports to the Council and the European Parliament² showed that, whereas considerable effort had been made to transpose the Directive, further transposition work was required to ensure that children could benefit from the full added value of the Directive. In particular, according to the reports, additional efforts are still required on prevention and substantive criminal law provisions, and assistance, support and protection measures for child victims;

¹ Article 82 and 83 in the Treaty of the Functioning of the European Union (consolidated version).

² [COM/2016/0871](#) and [COM/2016/0872](#).

- b. the adoption and, where applicable, the practical application of the provisions of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, which is applicable to all victims of all crimes and insists on a child-sensitive approach, whereby the best interests of a child victim must be the primary consideration throughout the criminal proceedings;
- c. the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and the complementing policy framework, under the horizontal mandate of the EU Anti-trafficking Coordinator
- d. the EU Agenda on Security³ which lists cybercrime and all its ramifications, including the sexual abuse and sexual exploitation of children, as one of the three main priorities to be addressed in order to safeguard the security of citizens and the Union's values;
- e. the EU Strategic Framework and Action Plan on Human Rights and Democracy⁴, in which the EU reaffirms its commitment to the promotion and protection of all human rights and in this regard advocates for the rights of children with a specific focus on protecting children against violence.
- f. the commitment of the EU and its Member States to achieve the goal of eradicating child sexual exploitation as set out in the UN 2030 Agenda for Sustainable Development⁵ and the Council of Europe Convention on protection of children against sexual abuse and exploitation⁶;

³ [COM\(2015\) 185 final](#) and the Draft Council conclusions on the Renewed European Union Internal Security Strategy 2015-2020 ST 9798/15.

⁴ [11855/12](#).

⁵ [UN 2030 Agenda for Sustainable Development](#).

⁶ [Council of Europe Convention on protection of children against sexual abuse and exploitation](#), 2007.

- g. the UN Resolution of 24 May 2019 on countering child sexual abuse and exploitation online⁷, the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography⁸;
 - h. the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
 - i. the 2012 Council conclusions on a Global Alliance against Child Sexual Abuse Online⁹
 - j. and the call made to Member States under the Council conclusions on the implementation of the EU Gender Action Plan II in 2017¹⁰ to remain committed to preventing, combatting and prosecuting all forms of sexual and gender-based violence.
8. The Council invites the EU and its Member States to assess periodically the effectiveness of legislation on combatting the sexual abuse and sexual exploitation of children to ensure that it is fit for purpose. Gender-sensitive assessments should address in particular the prevention, investigation and prosecution of crimes, including those committed in abuse of online platforms, as well as the provision of assistance and support to child victims during and after the investigation, and protection measures during criminal proceedings. Measures should however not be limited to the area of criminal law.
9. The Council acknowledges the importance of gender mainstreaming and taking an intersectorial, comprehensive and inclusive approach when designing and implementing future policies and legislation in all areas relevant to combat the sexual abuse of children.

⁷ UN Economic and Social Council, Commission on Crime Prevention and Criminal Justice, [Countering child sexual exploitation and sexual abuse online](#), 24 May 2019.

⁸ [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 25 May 2000.

⁹ [10607/12](#).

¹⁰ [14027/18](#).

10. The Council reiterates the importance of timely action to investigate and prosecute offenders and rescue child victims of sexual abuse and exploitation from situations of ongoing harm, and invites competent authorities to make the widest possible use of the existing tools and mechanisms available at national and EU level, in particular at Europol and Eurojust. The Council highlights the necessity of having appropriate and specific tools in order to fight against online child abuse, including the possibility for the competent authorities to exploit the data collected during investigations. To this end, the Council recalls its conclusions of the JHA Council of 6 and 7 June 2019, underlining that data retention is essential for effective investigation and prosecution of serious crimes. Furthermore, legislative reforms should maintain the legal possibility for schemes for retention of data, in accordance with the principles laid down in the EU Charter of Fundamental Rights.
11. In this regard, the Council encourages Member States to develop and apply innovative investigation methods as well as consider allocating specialised law enforcement resources to combat child abuse and sexual exploitation. The exchange of good practices among Member States adds value to these initiatives.
12. The Council considers industry, and in particular online platforms, to be a key contributor to preventing and eradicating child sexual abuse and exploitation, including the swift removal of child sexual abuse material online. Notwithstanding current efforts, the Council notes that more must be done to counter technical, legal and human challenges that hamper the effective work of competent authorities.

13. The Council urges the industry to ensure lawful access for law enforcement and other competent authorities to digital evidence, including when encrypted or hosted on IT servers located abroad, without prohibiting or weakening encryption and in full respect of privacy and fair trial guarantees consistent with applicable law. Furthermore, cooperation between national law enforcement authorities, Internet providers, Europol and Interpol should be intensified in accordance with the applicable legal framework, for instance by devising mechanisms for the encrypted exchange of information. This could allow for continuous monitoring of the network for identifying and blocking sites containing the sexual exploitation of children and placing them on the lists of forbidden sites. In particular, the Council emphasises the importance of ensuring that new technological developments do not adversely impact on the ability to block child sexual abuse material online. In this regard, the Council urges industry to engage with relevant stakeholders as appropriate.

14. The Council notes with concern the exponential increase in child sexual abuse material online in the last years. Better solutions are needed to manage and prioritise the reports of instances of child sexual abuse and exploitation online, in order to ensure swift action to rescue victims from ongoing abuse. The Council invites online service providers to remove or disable access to contents identified as child sexual abuse material online as soon as possible after becoming aware of such content. It calls on the Commission to propose measures to address this growing challenge. The Council also highlights the important role of civil society, in particular the INHOPE hotlines, in supporting the removal of child sexual abuse material online and encourages Member States to consider further options for their authorities to support the civil hotlines, especially in cases where cooperation from companies is lacking.

15. Moreover, the Council recognises the necessity of setting out a multi-stakeholder approach, bringing together industry, civil society, law enforcement and governments (including through public-private partnerships) to coordinate prevention efforts and thus maximise their effectiveness. The Council invites the Commission to consider further action to support prevention-related initiatives.
16. In particular, the Council welcomes the implementation of preventive approaches by Member States, such as the comprehensive vetting of all professionals and volunteers coming into regular and direct contact with children, the creation of prevention programmes for offenders and the launch of educational campaigns in schools and for the public in order to strengthen virtual resilience and the digital citizenship of young people. The Council invites Member States to continue expanding and exchanging good practice in these areas and calls upon the Commission to continue promoting and coordinating such preventive approaches among all services dealing with children.
17. The Council welcomes the participation of EU Member States' competent authorities in collaborative efforts aimed at fighting child sexual abuse and sexual exploitation. The Council urges them to continue deepening their involvement, including in the EMPACT priority on child sexual exploitation within the EU Policy Cycle for Serious and Organised crime, and the Europol Victim Identification Taskforce.
18. The Council welcomes the good work of Europol's European Cybercrime Centre (EC3) in supporting competent authorities in Member States and highlights the importance of the availability of state-of-the-art technology for investigations. It invites EC3 to continue assisting Member States in preventing and detecting all forms of criminality associated with the sexual abuse and sexual exploitation of children, and in combatting the distribution of child abuse material online, including live distant child abuse.

19. The Council also stresses the role of Eurojust in supporting national investigating and prosecuting authorities with a view to avoiding the impunity of sexual abuse and the sexual exploitation of children. It underlines the importance of cooperation between Eurojust and Europol as well as the improvements and initiatives in the field of digital criminal justice.
20. The Council underlines the importance of providing law enforcement agencies and other authorities with appropriate training to effectively combat child sexual abuse and exploitation, with special emphasis on the protection of the victims. The Council welcomes CEPOL's available training portfolio in this respect.
21. Furthermore, the Council recognises the importance of a global, coordinated approach to fight child sexual abuse and exploitation and calls for strong engagement in existing channels of cooperation with third countries and other key stakeholders in curbing these horrific crimes.
22. The Council recalls the pledge taken by EU Member States' Ministers of Justice and Interior to participate in the shared policy targets and operational goals set out in the launch of the Global Alliance¹¹ and the work that countries have already undertaken¹². The Council urges Member States' competent authorities to increase their participation and use of technical solutions such as the International Child Sexual Exploitation database (ICSE) at Interpol to facilitate international investigations, in line with their commitment under the Global Alliance. The connection to ICSE is vital for the exchange of information on global cases, but participation is still low in some parts of the world. A broad participation in the database brings valuable expertise regarding different languages used in videos submitted by other agencies, and thus fosters a better protection of children across the world.

¹¹ [Declaration on the launch of the Global Alliance against child sexual abuse online](#). The Global Alliance merged with WeProtect (a UK-led multi-stakeholder initiative to combat online child sexual exploitation globally) in 2014, to combine the strengths of both initiatives and avoid duplication of effort.

¹² This work is reflected in the Global Alliance reports of [2013](#) and [2015](#).

23. The Council welcomes the WeProtect Global Alliance to End Child Sexual Exploitation Online as a global, multi-stakeholder organisation bringing together governments, law enforcement, juridical authorities, industry and civil society to improve the effectiveness of the fight against these crimes worldwide. The WeProtect Global Alliance's Model National Response¹³ and its Global Threat Assessment¹⁴ play a key role in identifying gaps and prioritising actions.
24. The Council encourages Member States to deepen their cooperation with third countries in the fight against child abuse and exploitation and to provide an overview of existing measures to support third countries in the fight against child sexual abuse and exploitation, including the phenomenon of travelling child sex offenders and live-streamed child sexual abuse, and calls upon the Commission to obtain an overview of ongoing support with a view to facilitating future work in this area.
25. The EU encourages third countries to consider accession to the Council of Europe Convention on protection of children against sexual exploitation and sexual abuse¹⁵, as the key legislative framework at international level to combat the crime of child sexual abuse and exploitation and a model for national legislation.
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¹³ [Model National Response](#), 2018, We Protect Global Alliance.

¹⁴ [Global Threat Assessment](#), 2018, We Protect Global Alliance.

¹⁵ [Council of Europe Convention on protection of children against sexual abuse and exploitation](#), 2007.