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NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse - Preparation for the trilogue

I. BACKGROUND/INTRODUCTION

1. On 11 May 2022, the Commission submitted to the Council and the European Parliament a proposal for a Regulation laying down rules to prevent and combat child sexual abuse ('the CSA Regulation')[1], which aims to oblige online service providers, such as providers of hosting services and interpersonal communications services, to prevent the dissemination of, to detect, report and remove child sexual abuse material ('CSAM'), to prevent, detect and report the solicitation of children ('grooming'), and to set up a new decentralised EU agency

[1] 9068/22.

(the 'EU Centre') to support the implementation of the proposed Regulation, together with a network of national Coordinating Authorities and other competent authorities.

2. The draft Regulation is based on Article 114 of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

3. The European Data Protection Board and the European Data Protection Supervisor adopted a joint opinion on 28 July 2022.

4. The European Economic and Social Committee adopted an opinion on 21 September 2022.

5. The Council Legal Service issued a written opinion on 26 April 2023[2].

6. In the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) has the lead responsibility for the negotiations on the proposal. It appointed MEP Javier Zarzalejos (EPP, ES) as rapporteur in October 2022. The LIBE Committee adopted its report on 14 November 2023, and the decision to enter interinstitutional negotiations was confirmed on 22 November 2023.

7. The Permanent Representatives Committee reached a partial mandate for negotiations with the European Parliament on 26 November 2025[3].

8. Article 42 of this Regulation about the seat of the EU Centre is excluded from the text for the partial mandate for negotiations. The selection of the seat is subject to an inter-institutional agreement on the selection procedure applicable to newly established EU agencies.

9. The interinstitutional negotiations with a view to reaching political agreement at first reading were launched with a trilogue on 9 December 2025, with further trilogues being organised on 26 February, 16 April, 11 May and 29 June 2026. The next trilogue is scheduled to take place on 29 September 2026.

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[2] 8787/23.
[3] 15318/25.

II. STATE OF PLAY OF THE INTERINSTITUTIONAL NEGOTIATIONS

10. The Presidency notes that a substantial part of the proposed Regulation has already been provisionally agreed, including the general provisions (Articles 1 and 2); risk assessment and mitigation obligations (Articles 3 to 6); reporting obligations (Articles 12 and 13), removal, blocking and delisting orders (Articles 14 to 18c); additional provisions on providers' obligations (Articles 19 to 24); most provisions on the EU Centre to protect children from child sexual abuse (Articles 40-82); data collection and transparency reporting (Articles 83 and 84); and the final provisions (Articles 85-89), pending further discussions on a review clause and the entry into force and application.

11. In preparation of the trilogue, provisional agreement at technical level has been reached on own-initiative searches by the EU Centre (Article 49) in publicly accessible content, 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. If this agreement is confirmed at the trilogue, the Presidency next intends to launch the process for the establishment of the seat of the EU Centre.

12. The trilogue on 29 September 2026 is dedicated to reaching general political agreement on detection obligations and own-initiative searches (Articles 7-11). Based on this general political agreement, co-legislators would then need to further engage at technical level to prepare a consolidated commonly agreeable legislative text, to continue discussions on a review clause, and the relevant provisions on the entry into force and application of this Regulation.

    In discussions at technical level on possible compromise solutions related to detection orders and own-initiative searches, the Presidency has consistently communicated the need to establish an effective regime that allows maintaining the current level of reports through the providers' voluntary searches making use of the derogation from e-privacy rules provided by Regulation (EU) 2026/1881 (CSA Interim Regulation)[4].

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[4] 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

Potential possibilities to find a compromise to establish own-initiative searches by providers in non-public content were explored at the interinstitutional technical meeting on 18 September 2026. The European Parliament indicated willingness to test an approach that would require providers to prepare search plans outlining the technologies used and other relevant safeguards subject to review by national judicial or independent administrative authorities. The Presidency reiterated that a possible review and suspension mechanism should operate in a manner that does not deter providers from carrying out own-initiative searches. The European Parliament also wants to oblige providers to use the database of indicators provided by the EU Centre when carrying out own-initiative searches. In addition, the European Parliament has insisted on targeting own-initiative searches and detection orders on non-public content. The Presidency proposed to target searches to specific parts of a service or, where possible, to individual users. The Presidency has made clear that according to the analysis done within the Council structures, requiring that searches are targeted to specific users only would not generate any added value compared to the possibilities already existing under criminal law.

The own-initiative searches by providers in non-public content could be complemented by (i) detection orders for non-public content, (ii) detection orders for publicly accessible content and (iii) own-initiative searches by the EU Centre on publicly accessible content. Co-legislators agreed in technical discussions that own-initiative searches by providers in publicly accessible content would not require specific rules.

While the European Parliament wants to limit the scope of searches to known CSAM, the Presidency is advocating to keep the scope of own-initiative searches by providers in non-public content unchanged compared to the CSA Interim Regulation, that is, to cover known and new CSAM, and the solicitation of children. This scope could possibly also apply to the searches conducted by the EU Centre in publicly accessible content. Regarding the possible establishment of detection orders on non-public content, the Presidency indicated that this matter can be discussed only once there is agreement on the parameters and the scope of the own-initiative searches.

To avoid a general monitoring obligation, it is necessary that detection orders on publicly accessible content are limited to known CSAM so that providers would not be obliged to carry out any assessment of content prior to reporting.

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III. CONCLUSION

13. The Permanent Representatives Committee is invited to take note of the state of play of the interinstitutional negotiations and to reply to the following questions in preparation of the trilogue on 29 September 2026:

a) Do you agree to establish (i) detection orders on publicly accessible content for known CSAM and (ii) own-initiative searches by providers on non-public content for known and new CSAM and the solicitation of children?

b) Do you agree in a spirit of compromise that own-initiative searches by providers on non-public content would require a search plan reviewed by a national judicial or independent administrative authority, and that providers would be obliged to make use of a database of indicators provided by the EU Centre?

c) If no compromise solution can be agreed providing at least for the same level of effectiveness as the current voluntary practice, would you accept to exclude own-initiative searches or detection orders on non-public content from the scope of this Regulation?

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