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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) - Examination of Presidency's compromise proposals

The last meeting on 26 November allowed for a fruitful exchange on Articles 1 to 4 and articles 5a to 8b. The Presidency welcomes the input from delegations during and after the meeting. Based on these exchanges, the Presidency has revisited the compromise proposals. Delegations will find below the new text proposal tabled by the Presidency regarding Articles 1 to 6.

The changes indicated in **bold** and ~~strikethrough~~ are in comparison to the Commission's original proposal. Subsequent changes are in **bold and underlined**. The latest changes, which would be the main focus of the meeting, are indicated in yellow.

Given the limited time to assess the proposed changes, delegations in the need of more time are invited to provide written comments, following the meeting.

Article 1 – Subject matter (line 80-81)

Delegations will find below a new compromise text proposal tabled by the Presidency on Article 1 based on the discussions during the meeting on the 26 November, as well as advice from the Council Legal Service and the lawyer linguist.

Delegations are invited to indicate by the raise of flags whether they can agree with the Presidency's text proposal. Following this, delegations are invited to take the floor, should they wish to do so.

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Article 1

Subject matter

This Directive establishes minimum rules concerning the definition of criminal offences and **penalties** in the area of sexual abuse and sexual exploitation of children, child sexual abuse material and solicitation of children for sexual purposes, ~~**including if committed by means of information and communication technology**~~ **including where those offences are committed by means of information and communication technology**. It also introduces provisions to strengthen the prevention of those criminal offences and the protection of the victims thereof.

Article 2 – Definitions (line 82-98)

Delegations will find below two options for a new compromise text proposal tabled by the Presidency on Article 2. The adjustments are based on the discussions during the meeting on 26 November, as well as advice from the Council Legal Service and the lawyer linguist.

The overall purpose of **option 1** is to keep "sexual organs" as tabled in the General Approach, and thereby ensuring alignment with the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. As for the definition on child sexual abuse material, "visually" would be accompanied by a may clause regarding written or audio content.

The overall purpose of **option 2** is to keep "visually" in line 87 and 89 as well as "depiction" in line 88, without adding written or audio content as optional when it comes to the definition of child sexual abuse material. The Council will, as part of this option, accept the Parliament's wording regarding "intimate parts" as suggested in line 88, 89, 90 and 95. The latter would be an alignment with the Directive (EU) 2024/1385 on combating violence against women and domestic violence, and would include - besides sexual organs - other intimate bodily parts, such as breasts, hips and anus.

Delegations are invited to indicate by the raise of flags whether they prefer option 1, or option 2. Following this, delegations are invited to take the floor, should they wish to do so.

Delegations will find below the text for Option 1:

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

(1) 'child' means any person below the age of 18 years;

(2) 'age of sexual consent' means the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child;

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(3) ‘child sexual abuse material’ means:

(a) any **visual material, which may include written or audio content, that depicts, describes or represents** ~~material that visually depicts~~ a child engaged in real or simulated sexually explicit conduct[1];

(b) **any** depiction of the sexual organs of a child for primarily sexual purposes;

(c) any **visual material, which may include written or audio content, that depicts, describes or represents** ~~material that visually depicts~~ any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction, **description or representation** of the sexual organs of any person appearing to be a child, for primarily sexual purposes[2];

(d) **any** realistic images, reproductions or representations of a child engaged in sexually explicit conduct or of the sexual organs of a child, for primarily sexual purposes, **regardless of the method of creation**;

4) ‘child exploitation in prostitution’ means the use of a child for sexual activities where money or **any form of benefit** ~~any other form of remuneration, benefit or consideration~~ is given or promised in exchange for the child engaging in sexual activities, regardless of whether that **money or benefit** ~~payment, promise or consideration~~ is made to the child or to a third party;

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1 Reference is made to the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes, Article 14(2).

2 Reference is made to the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes, Article 14(2).

(5) 'child sexual abuse performance' means a live exhibition aimed at an audience of **one or more persons**, including by means of information and communication technology, of:

(a) a child engaged in real or simulated sexually explicit **acts or** conduct; or

(b) the sexual organs of a child for primarily sexual purposes;

(6) 'legal person' means ~~an entity having legal personality~~ **any legal entity having such status** under the applicable **national** law, except for States or public bodies ~~in the exercise of~~ **exercising** State authority and for public international organisations[3];

(7) 'information society service' means a service as defined in Article 1, point (b), of Directive (EU) 2015/1535[4].

(8) 'peers' means persons who are close in age and degree of psychological and physical development or maturity.

Article 2 would be accompanied by the following extended recital 10, explaining the term "images" (in order to address the EP's proposed amendments in line 90)

> 10) Child sexual abuse material frequently includes images recording the sexual abuse of children ~~by adults~~. It may also include images of children involved in sexually explicit conduct, or of their sexual organs, where such images are produced or used for primarily sexual purposes and exploited with or without the child's knowledge. Furthermore, the concept of child sexual abuse material also covers realistic images of a child, where a child is engaged or depicted as being engaged in sexually explicit conduct for primarily sexual purposes ~~as well as so called 'paedophile manuals'.~~

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[3] The purpose of the proposed changes is to ensure alignment with the definition of a "legal person" according to directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC, Article 2(2)(a). The line was endorsed by the co-legislators at the political trilogue, which took place on 6 November 2025.

[4] Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification), OJ L 241, 17.9.2015, p. 1–15.

The term image includes any visual representation, regardless of the method of creation or manipulation, including by using artificial intelligence, deepfake technologies, or augmented, extended, or virtual reality settings. The term image includes e.g. images in printed publications, photographic images including film, video, videograms and digital representation. It also includes pseudo-photographs, i.e. an image made by computer graphics, or in any other way, that appears to be a photograph, [tracings, derivatives of a photograph] or data that can be converted into a photograph. This recital is not an exhaustive list of what may constitute a visual representation.

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Delegations will find below the text for Option 2:

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

(1) 'child' means any person below the age of 18 years;

(2) 'age of sexual consent' means the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child;

(3) 'child sexual abuse material' means:

(a) any material that visually depicts a child engaged in real or simulated sexually explicit conduct.;

(b) **any** depiction of the **intimate parts** ~~sexual organs~~ of a child for primarily sexual purposes;

(c) any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the **intimate parts** ~~sexual organs~~ of any person appearing to be a child, for primarily sexual purposes;

(d) **any** realistic images, reproductions or representations of a child engaged in sexually explicit conduct or of the **intimate parts** ~~sexual organs~~ of a child, for primarily sexual purposes, **regardless of the method of creation**;

4) 'child exploitation in prostitution' means the use of a child for sexual activities where money or **any form of benefit** ~~any other form of remuneration, benefit or consideration~~ is given or promised in exchange for the child engaging in sexual activities, regardless of whether that **money or benefit** ~~payment, promise or consideration~~ is made to the child or to a third party;

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(5) 'child sexual abuse performance' means a live exhibition aimed at an audience of **one or more persons**, including by means of information and communication technology, of:

(a) a child engaged in real or simulated sexually explicit **acts or** conduct; or

(b) the **intimate parts** ~~sexual organs~~ of a child for primarily sexual purposes;

(6) 'legal person' means ~~an entity having legal personality~~ **any legal entity having such status** under the applicable **national** law, except for States or public bodies ~~in the exercise of~~ **exercising** State authority and for public international organisations[5];

(7) 'information society service' means a service as defined in Article 1, point (b), of Directive (EU) 2015/1535[6].

(8) 'peers' means persons who are close in age and degree of psychological and physical development or maturity.

Article 2 would be accompanied by the following extended recital 10, explaining the term "images" (in order to address the EP's proposed amendments in line 90)

10) Child sexual abuse material frequently includes images recording the sexual abuse of children ~~by adults~~. It may also include images of children involved in sexually explicit conduct, or of their **intimate parts** ~~sexual organs~~, where such images are produced or used for primarily sexual purposes and exploited with or without the child's knowledge. Furthermore, the concept of child sexual abuse material also covers realistic images of a child, where a child is engaged or depicted as being engaged in sexually explicit conduct for primarily sexual purposes ~~as well as so called 'paedophile manuals'.~~

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5 The purpose of the proposed changes is to ensure alignment with the definition of a "legal person" according to directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC, Article 2(2)(a). The line was endorsed by the co-legislators at the political trilogue, which took place on 6 November 2025.

6 Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification), OJ L 241, 17.9.2015, p. 1–15.

The term image includes any visual representation, regardless of the method of creation or manipulation, including by using artificial intelligence, deepfake technologies, or augmented, extended, or virtual reality settings. The term image includes e.g. images in printed publications, photographic images including film, video, videograms and digital representation. It also includes pseudo-photographs, i.e. an image made by computer graphics, or in any other way, that appears to be a photograph, [tracings, derivatives of a photograph] or data that can be converted into a photograph. This recital is not an exhaustive list of what may constitute a visual representation.

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

Delegations will find below, and only for their information, the compromise text proposal on Article 3, which would be the basis of the Presidency's negotiations with the Parliament on the matter. The compromise text proposal has been slightly adjusted (indicated in yellow), compared to the previous text circulated for Counsellors' meeting on 26 November.

Delegations are not expected to take the floor.

Article 3

Offences concerning **child** sexual abuse

1. Member States shall take the necessary measures to ensure that the **intentional** conduct referred to in [**paragraphs 2 to 6a/8**] a is punishable.

2. Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual activities, even without having to participate, shall be punishable by a maximum term of imprisonment of at least 1 year.

3. Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual abuse, even without having to participate, shall be punishable by a maximum term of imprisonment of at least 2 years.

3a. **Where the child has reached the age of sexual consent, the conduct referred to in [paragraph 3] shall be punishable by a maximum term of imprisonment of at least [x] years, where:**

Proposal tabled by the Presidency:

a) abuse is made of a recognised position of trust, authority or influence over the child; or

[b) abuse is made of a particularly vulnerable situation of the child, in particular because of a physical, mental, intellectual or sensory disability or a situation of dependence; or

c) use is made of coercion, force or threats].

~~*Alternatively, as proposed by the Parliament:*~~

~~**3a. Where the child has reached the age of sexual consent, the conduct referred to in the first subparagraph shall be punishable by a maximum term of imprisonment of at least [x] years, where such conduct is likely to cause serious psychological harm to that child.**~~

4. Engaging in sexual activities, **other than those set out in paragraph 6,** with a child who has not reached the age of sexual consent or causing ~~the~~ **that** child to engage in sexual activities with ~~another~~ **a third** person **or with themself** shall be punishable by a maximum term of imprisonment of at least [x years].

4a. Engaging in sexual activities, other than those set out in paragraphs 6a, with a child who has reached the age of sexual consent and does not consent to sexual activities, or causing that child to engage in non-consensual sexual activities with a third person [or with themself], shall be punishable by a maximum term of imprisonment of at least [x years].

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5. Engaging in sexual activities with a child **or causing that child to engage in sexual activities ~~with a third person~~**[7]**, as provided for in paragraph 4 and 4a**, where:

(a) abuse is made of a recognised position of trust, authority or influence over the child, shall be punishable by a maximum term of imprisonment of at least [**x** years] if the child has not reached the age of sexual consent, and of at least [**x** years] of imprisonment, if the child is over that age; or

(b) abuse is made of a particularly vulnerable situation of the child, in particular because of a ~~mental or physical~~ **physical, mental, intellectual or sensory**[8] disability or a situation of dependence, shall be punishable by a maximum term of imprisonment of at least [**x** years] if the child has not reached the age of sexual consent, and of at least [**x** years] of imprisonment if the child is over that age; or

(c) use is made of coercion, force or threats[9] shall be punishable by a maximum term of imprisonment of at least [**x** years] if the child has not reached the age of sexual consent, and of at least [**x** years] of imprisonment if the child is over that age.

6. **The following intentional conduct** shall be punishable by a maximum term of imprisonment of at least [**x** years]:

(a) engaging with a child who has not reached the age of sexual consent in sexual activities entailing vaginal, or anal penetration, with any bodily part or object;, or oral penetration with a genital bodily part,

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7 The reasoning behind the proposal to delete "with a third person" in paragraph 5 is that paragraph 4 and 4a, to which a reference is made, specifies whether "with a third person" (and "with themself") is covered by the scope of the single offence. Therefore, it could be seen as redundant and, potentially, confusing. So far, the Council has only accepted expanding the scope of the provision regarding "with themself" for children below the age of sexual consent.

8 To align with the United Nations Convention on the Rights of Persons with Disabilities, Article 1.

9 A recital could be envisaged explaining that coercion, force or threats include physical or psychological violence, and blackmail to meet the Parliament.

(b) **causing a child who has not reached the age of sexual consent to engage with a third person in sexual activities entailing vaginal, or anal penetration with any bodily part or object, or oral penetration with a genital bodily part.**

6a. **The following intentional conduct shall be punishable by a maximum term of imprisonment of at least [5/x years]:**

(a) engaging with a child who has reached the age of sexual consent and does not consent in sexual activities entailing vaginal, or anal penetration, with any bodily part or object; or oral penetration with a genital bodily part;

(b) causing a child who has reached the age of sexual consent and does not consent to sexual activities, to engage with a third person in sexual activities entailing vaginal or anal penetration with any bodily part or object, or oral penetration with a genital body part.

6b. Member States may take the necessary measures to ensure that conducts described in paragraph 5 also apply to the offences referred to in paragraphs 6 and 6a, providing for more severe penalties.

6c. Causing, for sexual purposes, a child [who has not reached the age of sexual consent] to engage themselves in sexual activities entailing vaginal, or anal penetration with any bodily part or object~~, or oral penetration with a genital bodily part~~ shall be punishable by a maximum term of imprisonment of at least [x] years.[10]

7. *[Text on consent is to be determined.]*

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

Delegations will find below, and only for their information, the compromise text proposal on Article 4, which would be the basis of the Presidency's negotiations with the Parliament on the matter.

Delegations are not expected to take the floor.

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[10] Text proposal tabled by the Presidency to welcome the Parliament's proposal to introduce as a criminal offence so-called "self-penetration" (line 111a).

Article 4

Offences concerning **child** sexual exploitation

1. Member States shall take the necessary measures to ensure that the intentional conduct referred to in paragraphs 2 to 7 is punishable.

2. Causing or recruiting a child to participate in child sexual abuse performances, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent and of at least [x] years of imprisonment if the child is over that age.

3. Coercing or forcing a child to participate in child sexual abuse performances, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent, and of at least [x] years of imprisonment if the child is over that age.

4. Knowingly attending child sexual abuse performances involving the participation of a child shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent, and of at least [x] year of imprisonment if the child is over that age.

5. Causing or recruiting a child to participate in exploitation in prostitution, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent, and of at least [x] years of imprisonment if the child is over that age.

6. Coercing or forcing a child into exploitation in prostitution, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent, and of at least [x] years of imprisonment if the child is over that age.

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7. Engaging in sexual activities with a child, where recourse is made to exploitation in prostitution shall be punishable by a maximum term of imprisonment of at least [x] years if the child has not reached the age of sexual consent, and of at least [x] years of imprisonment if the child is over that age.

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

Compromises are still to be found on Article 5 and, therefore, a compromise text proposal has not been included at this stage.

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

Delegations will find below an updated compromise text proposal based on feedback received during the Counsellors' meeting on 26 November.

The addition on instructions regarding artificial intelligence systems is, as mentioned in previous documents, the Parliament's condition for accepting a self-standing provision on instructions/manuals.

Delegations are invited to indicate by the raise of flags whether they can agree with the new text proposal. Following this, delegations are invited to take the floor, should they wish to do so.

Article 5a

Offences concerning instructions to commit child sexual abuse, sexual exploitation or solicitation of children for sexual purposes

Member States shall take the necessary measures to ensure that the following intentional conduct, when committed without right, is punishable by a maximum term of imprisonment of at least [x] year:

(a) distribution, dissemination or transmission of;

(b) offering, supplying or making available of;

(c) producing,

(d) possessing

any material, regardless of its form or method of creation, including, but not limited to the use of artificial intelligence systems, or other new or emerging technologies, intended to provide advice or instructions on how to commit one of the offences referred to in Articles 3, 4, 5, [or] 6 [or 7] in this directive~~, including any instruction for artificial intelligence systems~~.

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

Delegations will find below a compromise text proposal tabled by the Presidency on Article 6(3). The text is a redraft of the text presented during the Counsellors' meeting on 23 October and 26 November.

Delegations are invited to indicate by the raise of flags whether they can agree with the new text proposal. Following this, delegations are invited to take the floor, should they wish to do so.

Article 6

Solicitation of children for sexual purposes

1. [xx]

2. [xx]

3. Member States shall take the necessary measures to ensure that the intentional conduct, committed by an adult, of coercing or threatening a child to disclose to one or more third parties child sexual abuse material depicting that child, or a child close to that child, with the aim of obtaining money or any form of benefit ~~remuneration, benefit or consideration~~ in exchange, shall be punishable by a maximum term of imprisonment of at least [x months/x years] if the child has not reached the age of sexual consent, and of at least [x months/x years] of imprisonment, if the child is over that age.

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

Delegations will find below a new proposal tabled by the Presidency on Article 7. Paragraphs 1 and 3 are to be found in the General Approach, whereas paragraph 2 is to be found in the Commission's original proposal. In this compromise proposal, it is suggested that the paragraph 2 is accompanied by a recital, clarifying that provided that the conduct referred to is already covered by e.g. national law, providing for more severe penalties, Member States should not be obliged to provide for this specific offence.

Delegations are invited to indicate by the raise of flags whether they can agree with the new text proposal. Following this, delegations are invited to take the floor, should they wish to do so.

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Article 7

Commissioning of Child Sexual Abuse or Exploitation, including live streaming

~~*Solicitation of sexual purposes*~~

1. **Member states shall take the necessary measures to ensure that the intentional conduct referred to in paragraphs 2 and 3 is punishable.**

2. **Promising or giving any person money, or other form of remuneration, [benefit], or consideration to cause them to commit any of the offences listed in Article 3(4), (4a), (5), (6), (6a), Article 4(2) and (3) and Article 5(6) shall be punishable by a maximum term of imprisonment of at least [x] years.**[11]

[11] This paragraph could be accompanied by a recital explaining that to the extent that the conduct referred to in the paragraph is already covered by national law or the directive, providing for more severe penalties, member states should not be obliged to provide for this specific offence.

3. **Promising or giving money or any form of benefit, in order to gain access to a livestream[12] of activities described in any of the offences listed in Article 3(4), (4a), (5), (6), (6a), Article 4(2) and (3), and Article 5(6) shall be punishable by a maximum term of imprisonment of at least [x] year.**

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

Following the Counsellors' meeting on 26 November, the Presidency will do its best to ensure the deletion of "or encourage", or alternatively introduce "advance".

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

The support for Article 8a was very limited during the Counsellors' meeting on 26 November. Against this backdrop, the Presidency will insist to the Parliament on withdrawing this Article.

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

Delegations will find below a new proposal tabled by the Presidency based on a suggestion by a Council member. It has been suggested to table this as a new article 5b.

If supported, the provision would at the same time replace Article 26 from the General Approach, to which delegations are kindly referred to.

Delegations are invited to indicate by the raise of flags whether they can agree with the new text proposal. Following this, delegations are invited to take the floor, should they wish to do so.

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12 Could be accompanied by a recital clarifying that the term "livestream" also covers earlier recorded livestreams.

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The new Article 5b would read as follows:

Article 5b

Offences concerning advertising abuse opportunities

~~***Other offences related to sexual abuse and sexual exploitation of children***~~

Member States shall take the necessary measures to ensure that intentionally dissemination of material advertising the opportunity to commit any of the offences referred to in Articles 3 to 7 is punishable by a maximum term of imprisonment of at least [x] years.

~~**related to sexual abuse and sexual exploitation of children include the following intentional acts:**~~

> ~~**(a) the dissemination of material advertising the opportunity to commit any of the offences referred to in Articles 3 to 8a;**~~
>
> ~~(b) extortion with a view to committing one of the offences listed in Articles 3 to 8; and~~
>
> ~~(c) drawing up or using false administrative documents with a view to committing one of the offences referred to in Articles 3 to 8a.~~

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