Council of the European Union

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LIMITE

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NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation amending Regulation (EU) 2021/1232 as regards the extension of its period of application - Preparation of a possible trilogue on 12 March 2026

I. BACKGROUND

1. On 19 December 2025, the Commission adopted a legislative proposal[1] aimed at extending the period of application of Regulation (EU) 2021/1232 on a temporary derogation from certain provisions of Directive 2002/58/EC ("the ePrivacy Directive") for the purpose of combating online child sexual abuse ("Interim Regulation") for a period of two years, that is until 3 April 2028. The proposal intends to ensure that number-independent interpersonal communications service providers can continue to rely on the interim derogation from the applicability of Articles 5(1) and 6 of the ePrivacy Directive for the purpose of their voluntary

[1] 17104/25.

use of specific technologies to detect and report child sexual abuse online and to remove child sexual abuse material ('CSAM') on their services, pending the adoption of the proposed Regulation to prevent and combat child sexual abuse, which is currently subject to interinstitutional negotiations.

2. In the Council, the proposal was examined at the meeting of JHA counsellors on 14 January 2026 to prepare a mandate for negotiations with the European Parliament.

3. On 28 January 2026, the Permanent Representatives Committee approved a mandate for negotiations with the European Parliament[2], accepting the Commission's proposal without substantial amendments.

II. PROCEDURE AT THE EUROPEAN PARLIAMENT AND PROPOSED AMENDMENTS

4. In the European Parliament, the proposal was referred to the Committee on Civil Liberties, Justice and Home Affairs (LIBE). The rapporteur, MEP Birgit Sippel (S&D, DE), presented a draft report to the LIBE committee on 23 February 2026, including several substantial amendments to the Commission proposal. At the LIBE Committee meeting on 2 March 2026, the report did not obtain the required simple majority and was therefore rejected.

5. The proposal from the LIBE committee to reject the Commission's proposal was tabled for the plenary meeting of the European Parliament from 9 to 12 March 2026.

6. In addition, political groups or groups of at least 36 Members of the European Parliament were able to submit amendments to the Commission's proposal by 6 March 2026 (see section III below).

7. On 11 March 2026, the plenary of the European Parliament will first vote on the LIBE committee's proposal to reject the Commission's proposal. If the European Parliament rejects the legislative proposal at the plenary meeting, the Interim Regulation will expire on 3 April 2026, resulting in a legal gap.

8. If the rejection is not supported by a majority, the plenary will vote on the proposed amendments. If the plenary adopts amendments to the text, a vote on the whole draft

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2 5761/26.

legislative act, as amended, will be held during the same plenary session. The outcome of this vote would constitute the European Parliament's mandate for interinstitutional negotiations.

III. AMENDMENTS TABLED BY POLITICAL GROUPS

9. Twenty-eight (28) amendments were submitted by political groups, concerning both the recitals and the operative part of the Commission's proposal. The amendments jointly proposed by three political groups concern the following aspects of the Commission's proposal:

   a. The **duration of the extension**: The proposed amendments suggest limiting the extension of the period of application to 16 months (until 3 August 2027), instead of 24 months (until 3 April 2028) as in the Commission's proposal and in the Council's mandate.

   b. The **scope of the voluntary activities** of providers. The proposed amendments keep in place the providers' ability to detect and remove *known* CSAM. However, they amend the ability of the providers to conduct voluntary activities in the following ways:

      i. the detection of new CSAM and of the solicitation of children would be limited to cases where the provider received concrete reports or notifications concerning a specific communication, account or interaction indicating a reasonable suspicion of online child sexual abuse.

      ii. the use of technologies by providers for the processing would be limited to content data while excluding related traffic data or excluding from the scope interpersonal communications to which end-to-end encryption is, has been or will be applied.

   Other amendments, proposed by one political group, include (i) a request to limit the scope of voluntary detection in general to users/subscribers/groups of users in respect of whom there are reasonable grounds of suspicion, (ii) a general limitation of the scope to known CSAM as well as (iii) modifications and additions to the recitals, i.a. questioning the proportionality of the derogation, stressing the voluntary character of the providers' activities and recalling that no law enforcement powers should be conferred to providers.

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IV. WAY FORWARD

10. If the European Parliament approves a mandate to launch interinstitutional negotiations on 11 March 2026, the Presidency aims at reaching political agreement as soon as possible to avoid a legal gap.

11. The Permanent Representatives Committee is invited to indicate whether, in which aspects and to what extent it would be acceptable to deviate from the Council's mandate and show flexibility to accommodate some or part of the proposed amendments to be considered by the European Parliament so that a political agreement could be reached swiftly at a possible trilogue that might take place at the premises of the European Parliament in Strasbourg on 12 March 2026.

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