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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 abuse material (recast) – Presidency's note

In view of the next JHA Counsellors meeting on the CSAD (recast) proposal, delegations will find bow the Presidency note structured around two sections. Section A presents the compromise proposal for the new possible offence on artificial intelligence systems (article 5b) as well as the provision related to travelling (article 8a). Additionally, section B displays the Commission's compromise package on the victims' rights related provisions.

A. SECTION A – New offences

Following on the previous discussion at COPEN on 18 March, the Presidency took note of the delegations' openness to further discuss a possible offence concerning artificial intelligence systems (article 5b) and another related to travelling (article 8a) but not in the way that was initially proposed by the Parliament.

Delegations will find below compromise proposals for both articles.

Question to delegations:

Delegations are invited to indicate whether they could agree with the compromise proposals.

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Article 5b

*Offences concerning artificial intelligence systems ~~to~~ **which** enable the production of child sexual abuse material*

Member States shall take the necessary measures to ensure that the following intentional conduct, when committed without right, is punishable:

~~(a) Acquisition or possession of artificial intelligence systems designed or adapted primarily specifically for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least […] year.~~

(b) Distribution, dissemination or transmission of artificial intelligence systems designed or adapted ~~primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least […] years.

(c) Offering, supplying or making available artificial intelligence systems designed or adapted ~~primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least […] years.

(d) Creation or adaptation of artificial intelligence systems designed or adapted ~~primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least […] years.]]

Article 8a

During the discussions in the COPEN meeting on 18 March, delegations recognised the need to address the issue of travelling for the purpose of committing one of the offences in the directive, in a different way than the one proposed by the Parliament. Building on that discussion, Presidency proposes to criminalise the conduct now included in article 26(b). Delegations are requested to indicate if they are willing to accept the inclusion of Art 8a as below and the consequential deletion of article 26(b).

Article 8a

Offence concerning the organisation of travel arrangements

Member States shall take the necessary measures to ensure that intentionally organising for others travel arrangements for the purpose of committing any of the offences referred to in articles 3, 4, 5, irrespective whether or not it was in the course of a commercial activity, is punishable by a maximum term of imprisonment of at least [] year.

B. SECTION B – Victims' rights related provisions

Building on their comparative table on victims' rights related provisions (presented on 25 March – WK 4298), the Commission has prepared a compromise package for these provisions that will be presented to both co-legislators. The compromise package is included in the annex and relates to para (1) and (2) of Article 17 (excluding the reporting obligation for which the Presidency will provide a draft at a later stage) article 18 and articles 20 to 23.

Delegations will find the compromise package in annex.

Question to delegations:

Delegations are invited to indicate whether they could agree with this compromise package

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