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NOTE

From: Belgium, Bulgaria, Cyprus, Hungary, Ireland, Italy, Latvia, Lithuania, Romania and Spain delegations

To: Law Enforcement Working Party (Police)

Subject: Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse

– Common position of the like-minded group (LMG) of Member States

This document sets out the common position of the like-minded group (LMG) of Member States in relation to some of the key elements of the proposal for a Regulation to prevent and combat child sexual abuse. In light of the expiry of the temporary Regulation (2021/1232) in August 2024 and the end of the legislative term in advance of that date, the LMG is in favour of securing rapid progress towards agreement in 2023.

1. Principles of the proposal

The LMG agrees with the basic conceptual architecture of the proposal, notably:

- it should be **technology-neutral and future-proof**;
- the onus should be placed on service providers to act in respect of **all forms of CSA online** on their services (i.e. known and unknown CSAM and solicitation of children/grooming);
- it should focus first on **prevention**, through a comprehensive **risk assessment and mitigation** process, with **detection as a last-resort measure**;
- a **detection order** should be the result of a comprehensive process where **necessity and proportionality** are carefully assessed on a **case-by-case basis** by national authorities/courts. **All** the fundamental rights at stake, i.e. those of children, including victims of sexual abuse, other online users, and providers, should be taken into account and appropriately balanced;
- the **EU Centre** is a key component of the architecture of the proposal, and should serve as a **facilitator** of efforts of all relevant parties, while respecting their competences. The role of the Centre in prevention of CSA should be developed.

2. Scope of the detection orders

The LMG considers it essential that the scope of detection orders should **include** the following:

1. **Interpersonal communication services**, in particular number-independent interpersonal communications services. These services are the main ones that are abused for CSA purposes (according to NCMEC figures, more than 75% of online CSA reports originate in these services).
2. The **detection of known CSAM, unknown CSAM and solicitation of children/grooming**. The detection of known CSAM prevents re-victimisation and can lead to investigations that uncover other types of CSA, online and offline. An even higher degree of urgency to act is attached to the detection of unknown CSAM and grooming, as this is key to stopping ongoing and/or imminent abuse.

3. The relevant online services, regardless of any technological choices made by the provider in their deployment, in coherence with the principle of technological neutrality and the need to future-proof the proposal. Therefore, **end-to-end-encrypted services (E2EE)** should **not be excluded** from the scope of **detection orders**.

