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NOTE

From:	Presidency
On:	12 May 2026
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

Ahead of the next JHA Counsellors meeting on 22 May, delegations will find below the Presidency note to be used as a basis for discussion.

The note builds upon the previous full compromise package that was discussed on 11 and 12 May. The Presidency welcomes the valuable input provided by delegations, enabling to reach a fair compromise on this file.

For the purposes of the meeting on 22nd of May, the Presidency intends to discuss the articles included in Section B, Section C, new Section E on Victims' rights related provisions, Article 10(4)(5). Articles 3(8), 11 and 16a still require further work and will be presented in the following meeting.

At the ITM on the 13th of May, the Presidency presented to the EP the main elements of the global compromise package and announced its intention to share a first draft later this week.

While acknowledging the Council's flexibility on several important issues, the EP maintained that the Council mandate (or any approach close to it) on penalty levels and Article 6 represents, in its view, a significant weakening of child protection standards. The EP therefore stressed the need to seek a balanced compromise on these issues.

Concerning limitation periods, the Presidency explained that the Council's acceptance of longer limitation periods under Article 16a(2) is conditional upon maintaining paragraphs 1 and 3 of Article 16a as set out in the Council mandate. The EP reacted negatively to this position and reiterated its strong opposition to the derogation provided for in paragraph 3. In the EP's view, the current wording of par.3 would effectively allow for an automatic substantially shorter limitation periods by the Member States. Consequently, the EP does not consider the Council's openness to longer limitation periods under paragraph 2 to constitute a meaningful concession if paragraph 3 stays in the text. The Presidency rejected this interpretation and strongly defended the retention of paragraph 3 in the text explaining among others the need of allowing the national systems of Member States to be compatible with their suspension and interruption mechanisms and citing other examples of recently adopted Directives that include such a provision. The Commission repeated their position that Member States do not need the derogation for their interruption and suspensions mechanisms to continue to apply and be compatible with Art.16a.

Section B includes the articles that are agreed upon at the technical level, but penalty levels or cross-references remain under discussion: articles 2, 3, 4, 5, 5a, 6a, 7, 8, 9, 14, 19, 26. In this section the additional two new offences of articles 5b and 8a are added that include also penalty levels.

Section C provides the articles that are being discussed with JHA Counsellors and the European Parliament, and agreement is expected in the short term: articles 25, 28, 31, as well as the general recital on minimum harmonisation as presented in the last meeting.

Section E: Victims' rights related provisions: The compromise proposals build upon the proposals prepared by the Commission and upon written suggestions we have received from the EP. For now, the EP has not dropped their position on deleting art.18(3) and they wish to maintain the proposal on compensation as was proposed by Commission. Both issues for them constitute important and political issues that need to be seen/ assessed within the entire package. It is the Presidency's impression that at the end they will accept the Council's position on those 2 issues, if other important elements for the EP are in the package. For now, the Presidency keeps these points deleted.

For Barnahus although they expressed their strong disappointment that the Council could not even accept a slightly stronger wording (ie. 'shall strive to ensure') given that we are discussing about children that have been abused, they accepted a wording aligned with VRD, provided that the Council accepts adding a further general element adjusted to the case of children.

The Presidency wants to recall that the coming weeks are crucial for the negotiations in this file, given that the aim of the Presidency remains to be able to conclude the negotiations and reach political agreement in the next trilogue which has been re-scheduled to take place on the 22nd of June, in order to allow sufficient time for the co-legislators to finalize the remaining technical issues. The Presidency counts on the delegations' support and cooperation and urges delegations to raise only their strong concerns (red lines) at this point in order to reach the target of political agreement in June.

New changes (compared to previous versions) are indicated in bold and underlined, while cross-references and penalty levels are highlighted in yellow.

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A. SECTION B – Articles agreed, but penalty levels or cross-references pending + Articles 5b and 8a

Article 2 – Definitions

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;

~~[**(2a)** definition of consent]~~

(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 sexual organs, **breasts or anal area** 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 sexual organs, **breasts or anal area** of any person appearing to be a child, for primarily sexual purposes; ~~or~~

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

~~(e) any material, regardless of its form, intended to provide advice, guidance or instructions on how to commit child sexual abuse or sexual exploitation or child solicitation;~~

(4) 'child exploitation in prostitution' means the use of a child for sexual activities where money or any other form of remuneration or consideration is given or promised as payment in exchange for the child engaging in sexual activities, regardless of whether that 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 conduct; or

(b) the sexual organs, **breasts or anal area** of a child for primarily sexual purposes;

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

(7) ‘information society service’ means a service as defined in Article 1, point (b), of Directive (EU) 2015/1535.

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

(9) ‘artificial intelligence system’ means an AI system as defined in Article 3, point (1), of Regulation (EU) 2024/1689.

(10) ‘instructions on how to commit offences related to child sexual abuse, means any material, regardless of its form, or method of creation, intended to provide advice or instructions on how to commit the offences referred to in Articles [3, 4, 5, ~~5b~~, 6 or 6a] including any instruction for producing child sexual abuse material with the use of artificial intelligence systems.

Recital 10:

(10) Child sexual abuse material frequently includes images recording the sexual abuse of children. It may also include images of children involved in sexually explicit conduct, or of their sexual organs, breasts or anal area, 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. **This Directive does not govern** ~~It does not however cover~~ **unrealistic depictions, reproductions or representations of a child engaged in sexually explicit conduct, or of the sexual organs, breasts or anal area of a child, such as unrealistic doodles or sketches.**

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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 as well as photographic images including films and videos, videograms and digital representation. It may also include pseudo-photographs, i.e. an image made by computer graphics, or in any other way, that appears to be 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 **child** sexual abuse*

1. Member States shall take the necessary measures to ensure that the **intentional** conduct referred to in [paragraphs 2 to **7** ~~8~~] 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 the ~~first subparagraph~~ paragraph 3 shall be punishable by a maximum term of imprisonment of at least [2] years, where:

(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 disability or a situation of dependence; or

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

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 a child **who has not reached the age of sexual consent** to engage in sexual activities with ~~another~~ **a third person or with themselves** shall be punishable by a maximum term of imprisonment of at least [**5** ~~8~~] years.

4a. [Engaging in sexual activities, other than those set out in paragraph 7, with a child who has reached the age of sexual consent and does not consent to the act, or causing a child who has reached the age of sexual consent and does not consent to engage in ~~non-consensual~~ **sexual activities with** ~~another~~ **a third person or with themselves, shall be punishable by a maximum term of imprisonment of at least [5 years.]**

5. Engaging in sexual activities with a child, **or causing a child to engage in sexual activities with** ~~another~~ **a third person or with themselves, [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 [10] years if the child has not reached the age of sexual consent, and of at least [**5** ~~6~~] 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~~ disability or a situation of dependence, shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [**5** ~~7~~] years of imprisonment if the child is over that age; or

(c) use is made of coercion, force or threats shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [**5** ~~7~~] years of imprisonment if the child is over that age.

~~6. Coercing, forcing or threatening a child into sexual activities with a third party shall be punishable by a maximum term of imprisonment of at least […] years if the child has not reached the age of sexual consent, and of at least […] 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 [~~12~~ 10] years:

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

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

7. ~~Where the child is above the age of sexual consent and does not consent to the act, the conduct referred to in paragraph 7 shall be punishable by a maximum term of imprisonment of at least […] years~~.

The following intentional conduct shall be punishable by a maximum term of imprisonment of at least [8 ~~10~~] years:

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

~~**6b**~~

8. *Further work is required on consent.*

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Article 4 – Offences concerning sexual exploitation

Article 4

Offences concerning 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 [5] years if the child has not reached the age of sexual consent and of at least [2] 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 [8] years if the child has not reached the age of sexual consent, and of at least [5] 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 [3] years if the child has not reached the age of sexual consent, and of at least [1] 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 [8] years if the child has not reached the age of sexual consent, and of at least [5] 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 [10] years if the child has not reached the age of sexual consent, and of at least [5] 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 [**6** ~~8~~] years if the child has not reached the age of sexual consent, and of at least [**3** ~~4~~] years of imprisonment if the child is over that age.

~~**7a**~~

Article 5 – Offences concerning child sexual abuse material

Article 5

Offences concerning child sexual abuse material

1. Member States shall take the necessary measures to ensure that the intentional conduct, when committed without right, referred to in paragraphs 2 to 6 is punishable.

2. Acquisition or possession of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [2] years.

3. Knowingly obtaining access, by means of information and communication technology, to child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [2] years.

4. Distribution, dissemination or transmission of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [3] years.

5. Offering, supplying or making available child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [3] years.

6. Production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [**3** ~~5~~] years.

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7. For the purposes of paragraph 1, the conducts referred to in paragraphs 2, 3 and 4 shall not be considered to be committed without right in particular where carried out by, or on behalf and under the responsibility of, an organisation, **such as a hotline**, established in a Member State acting in the public interest against child sexual abuse**,** ~~for example when it~~ **including organisations that have** been authorised by competent authorities of that Member State, and when such actions were carried out in accordance with the conditions set out in such authorisation.

~~Member States are encouraged to ensure that the organisations acting in the public interest against a child sexual abuse referred to in the first subparagraph have the necessary expertise and functional independence, that there are appropriate reporting and oversight mechanisms to ensure that the organisations act expeditiously, diligently, and in the public interest, and that the organisations they make use of secure channels of communication to carry out the actions covered by the authorisation.~~

8. Member States ~~shall ensure that~~ **shall strive to provide a legal framework for issuing** authorisations for ~~an~~ organisation**s** acting in the public interest against child sexual abuse referred to in paragraph 7**, and shall ensure that, when issued, the authorisations** allow **at least** ~~some or~~ all of the following activities ~~to~~:

   a. ~~receive and analyse~~ **reception and analysis of** reports of suspected child sexual abuse material, submitted to them by victims, online users or other organisations acting in the public interest against child sexual abuse;

   b. prompt~~ly notify~~ **notification to** the relevant law enforcement authority of the Member State where the material is hosted of reported illegal content;

   c. ~~collaborate~~ **collaboration** with organisations acting in the public interest against child sexual abuse and authorized to receive reports of suspected child sexual abuse material in accordance with point (a) in the Member State or third country where the material is hosted;

   ~~d. carry out searches on publicly accessible material on hosting services to detect the dissemination of child sexual abuse material, using the reports of suspected child sexual abuse material referred to in letter (a) or on a request of a victim.~~

~~da.~~

Member States shall strive to ensure that organisations acting in the public interest against child sexual abuse referred to in the paragraph 7 have the necessary expertise and functional independence, that there are appropriate reporting and oversight mechanisms to ensure that the organisations act expeditiously, diligently, and in the public interest, and that ~~the organisations~~ they make use of secure channels of communication to carry out the actions covered by the authorisation.

8a. Member States ~~are encouraged~~ shall strive to allow organisations acting in the public interest against child sexual abuse referred to in paragraph 7 to carry out searches on publicly accessible material on hosting services to detect the dissemination of child sexual abuse material, using the reports of suspected child sexual abuse material referred to in letter (a) or on a request of a victim.

9. It shall be within the discretion of Member States to decide whether this Article applies to cases involving child sexual abuse material as referred to in Article 2, point (3)(c) where the person appearing to be a child was in fact 18 years of age or older at the time of depiction.

~~9a.~~

Article 5a

Offences concerning instructions on how to commit offences related to child sexual abuse, sexual exploitation, child sexual abuse material, or solicitation of children for sexual purposes

1. Member States shall take the necessary measures to ensure that the intentional conduct when committed without right, referred to in paragraphs 2 to 5 is punishable.

2. Knowingly obtaining access, acquiring or possessing instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [1] year.

3. Distributing, disseminating or transmitting instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] years.

4. **Offering, supplying or making available instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] years.**

5. **Producing instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] year.**

Article 5b

Offences concerning artificial intelligence systems ***designed or adapted specifically*** *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) Distributing, disseminating or transmitting 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 [2] year.

(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 [2] year.

(d) **Designing or adapting** ~~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 [2] years.

Accompanying recital:

The Presidency is currently working on a recital to clarify the relationship with the AI Omnibus.

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Article 6a

Sexual extortion

Member States shall take the necessary measures to ensure that intentionally threatening a child with the disclosure of child sexual abuse material depicting that child or a child having a close personal relationship with that child to one or more persons in order to obtain money, further child sexual abuse material, or any other form of remuneration or consideration in exchange, shall be punishable by a maximum term of imprisonment of at least [3 ~~5~~] years if the threatened child has not reached the age of sexual consent, and of at least [2] years of imprisonment, if the threatened child is over that age.

Article 7

*Solicitation **of livestreaming** of **child** sexual abuse **or sexual exploitation***

Member States shall take the necessary measures to ensure that intentionally promising or giving any person money, or other form of remuneration or consideration, ~~to cause them to commit~~ **for the purpose of accessing, or making accessible to** ~~another~~ **a third person, a livestream of the activities described in** any of the offences listed in **[**Article 3(4), **(4a)**, (5), (6), **and** (7)**],** **[**Article 4(2) and (3) and Article 5(6)**]** is punishable by a maximum term of imprisonment of at least [**2** ~~3~~] years.

Article 8

Operation of an online service for the purpose of child sexual abuse or sexual exploitation

Member States shall take the necessary measures to ensure that intentionally operating or administering an information society service which is ~~conceived~~ **designed or adapted** to facilitate or **promote** ~~or encourage~~ the commission of any of the offences referred to in Articles 3 to 7 is punishable by a maximum term of imprisonment of at least [**2** ~~1~~] year.

Article 8a

Organisation of travel arrangements with the purpose of committing child sexual abuse and sexual exploitation

Member States shall take the necessary measures to ensure that intentionally organising ~~for others~~ travel arrangements for **another person for** the purpose of **enabling that other person to commit** ~~committing~~ any of the offences referred to in Articles 3 **and** 4~~, and 5~~, **abroad**, irrespective whether or not it was in the course of a commercial activity, is punishable by a maximum term of imprisonment of at least [**2** ~~1~~] year.

~~*Article 8b*~~

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

Article 9

Incitement, aiding and abetting, and attempt

1. Member States shall take the necessary measures to ensure that inciting or aiding and abetting to commit any of the offences referred to in Articles [3 to 8] is punishable.

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the offences referred to in Article [3(4), **(4a),** (5), (6), **and** (7) ~~and (8)~~, Article 4(2), (3), (5), (6) and (7), Article 5(4), (5) and (6) ~~**and where applicable in accordance with the national law to in [Articles 7 and 8]**~~ **is punishable.**

Article 14

~~*Sanctions on*~~ ***Penalties for*** *legal persons*

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 13**(1) or (2)** is punishable by effective, proportionate and dissuasive ~~sanctions, which shall include~~ criminal or non-criminal ~~fines and may include other sanctions, such as:~~ **penalties or measures.**

1a. Member States shall take the necessary measures to ensure that penalties or measures for legal persons held liable pursuant to Article 13(1) or (2) for the criminal offences referred to in Articles 3 to 9 shall include criminal or non-criminal fines and may include other criminal or non-criminal penalties or measures, such as:

(a) exclusion from entitlement to public benefits or aid;

(b) exclusion from access to public funding, including tender procedures, grants ~~and~~**,** concessions **and licences**;

(c) temporary or permanent disqualification from the practice of ~~commercial~~ **business** activities;

(d) placing under judicial supervision;

(e) judicial winding-up; or

(f) ~~temporary or permanent~~ closure of establishments ~~which have been~~ used for committing the offence.

(fa) where there is a public interest, the publication of all or part of the judicial decision relating to the criminal offence committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.

2. Member States shall take the necessary measures to ensure that, **at least** for legal persons held liable pursuant to Article 13**(1)**, **criminal** offences punishable **under this directive** by a maximum term of imprisonment of at least ~~2 years~~**1 year** for natural persons are punishable by **criminal or non-criminal** fines ~~whose maximum level should be not less than 1 percent~~**, the amount of which shall be proportionate to the gravity** of the ~~total worldwide turnover~~ **conduct and to the individual, financial and other circumstances** of the legal person ~~in the business year preceding the fining decision.~~ **concerned.**

Member States shall take the necessary measures to ensure that the maximum level of such fines is not less than:

(i) 1 percent of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 8 000 000.

3. Member States shall take the necessary measures to ensure that, **at least** for legal persons held liable pursuant to Article 13**(1)**, **criminal** offences punishable **under this directive** by a maximum term of imprisonment of at least 3 years for natural persons are punishable by **criminal or non-criminal** fines, ~~whose maximum level should be not less than 5 percent~~ **the amount of which shall be proportionate to the gravity** of the ~~total worldwide turnover~~ **conduct and to the individual, financial and other circumstances** of the legal person ~~in the business year preceding the fining decision~~ **concerned. Member States shall take the necessary measures to ensure that the maximum level of such fines is not less than:**

(i) 3 percent of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 24 000 000.

3a. Member States may establish rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding that in which the offence was committed, or in the business year preceding the decision to impose the fine.

Article 19 – Jurisdiction

The cross-reference to article 8 under article 19(4) is still pending.

Article 19

Jurisdiction

1. Member States shall take the necessary measures to establish their jurisdiction over the offences referred to in [Articles 3 to 9] where:

   (a) the offence is committed in whole or in part within their territory; or

   (b) the offender is one of their nationals.

2. A Member State shall inform the Commission where it decides to establish further jurisdiction over an offence referred to in Articles 3 to 9 committed outside its territory, *inter alia*, where:

   (a) the offence is committed against one of its nationals or a person who is an habitual resident in its territory;

   (b) the offence is committed for the benefit of a legal person established in its territory; or

   (c) the offender is an habitual resident in its territory.

3. Member States shall ensure that their jurisdiction includes situations where an offence referred to in [Articles 5, 6 and 8], and in so far as is relevant, in [Articles 3, 4, 7 and 9], is committed by means of information and communication technology accessed from their territory, whether or not it is based on their territory.

4. For the prosecution of any of the offences referred to in [Article 3(4), (5), ~~(6), (7), and (8)~~ (6), (4a), (6a), Article 4(2), (3), (5), (6) and (7), Article 5(6)~~-~~, **and** Article 7] ~~[and Article 8]~~ committed outside the territory of the Member State concerned, as regards paragraph 1–, point– (b) of this Article, each Member State shall take the necessary measures to ensure that its jurisdiction is not subordinated to the condition that the acts are a criminal offence at the place where they were performed.

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5. For the prosecution of any of the offences referred to in [Articles 3 to 9] committed outside the territory of the Member State concerned, as regards paragraph 1–, point– (b) of this Article, each Member State shall take the necessary measures to ensure that its jurisdiction is not subordinated to the condition that the prosecution can only be initiated following a report made by the victim in the place where the offence was committed, or a denunciation from the State of the place where the offence was committed.

~~6.~~

Article 26 – Measures against advertising abuse opportunities to commit child sexual abuse and sexual exploitation

Article 26

Measures against advertising abuse opportunities ***to commit*** ~~*and the*~~ ***child*** *sexual abuse and sexual exploitation* ~~*of children in travel and tourism*~~

Member States shall take appropriate measures to prevent or prohibit the dissemination of material advertising the opportunity to commit any of the offences referred to in Articles 3, 4, 5, 6, 6a, 7, 8 and 8a~~; and~~

~~(b) the organisation for others, whether or not for commercial purposes, of travel arrangements with the purpose of committing any of the offences referred to in Articles 3 , 4 and 5.~~

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SECTION C – Articles still under discussion, close to agreement

New recital:

This Directive establishes minimum rules and Member States are therefore free to adopt or maintain more stringent criminal law rules concerning the definition of criminal offences and penalties in the area of child sexual abuse. As regards the provisions of this Directive, on the rights of child victims, Member States can introduce or maintain provisions with higher standards, including those which provide a higher level of protection and support for victims.

Article 25 – Multi-agency and multi-stakeholder coordination and cooperation (*preliminary agreed)*

At the ITM meeting on 13 May, the Presidency informed the EP that the Council could not accept a general reference to other "relevant Union agencies and bodies", as such wording could be interpreted as extending to additional agencies beyond those envisaged.

The Presidency therefore presented the solution set out below, explaining that the Council could only accept more limited wording, accompanied by the safeguards "where appropriate and where applicable". While the Parliament expressed reservations that this formulation weakened the obligation, it ultimately agreed to the proposed solution together with the accompanying recital.

Article 25

Multi-agency and multi-stakeholder coordination and cooperation

Member States shall put in place appropriate mechanisms to ensure effective coordination and cooperation to develop and implement measures to ~~tackle~~ **combat** child sexual abuse and exploitation, both online and offline, at the national level, of relevant authorities, agencies and bodies, including local and regional authorities, law enforcement agencies, the judiciary, public prosecutors, support service providers as well as providers of information society services, non-governmental organisations, **including those operating hotlines and helplines**, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities. These mechanisms shall also ensure effective coordination and cooperation with ~~the [EU Centre] and~~ the Commission and **where appropriate and where applicable, with Union agencies and bodies with competences specifically to address issues related to child sexual abuse.**

Proposed recital:

The mechanisms established by Member States to ensure effective coordination and cooperation between all the relevant actors at national level as provided by the Directive, should also ensure where appropriate **and where applicable**, effective coordination and cooperation with ~~other~~ Union agencies and bodies, such as Eurojust and Europol, **and with any other Union agency or body if and once established specifically to address issues related to child sexual abuse within their respective competences.**

Article 28 – Prevention

The Presidency has improved the wording of par.1, for clarity reasons. At the ITM the Parliament has accepted to have a stronger wording in par.2 for hotlines and in exchange to drop their request of having 'shall' in par.4. However, they expressed a preference to have the whole wording of last sentence in par.2 in the operative part (instead of recital) in order to be clearer as to what is the purpose of the helplines. However, this article remains still open due to the reference of EU centre in par.5, for which the EP did not still finalise their position.

Article 28

Prevention

1. To discourage and reduce the demand that fosters all forms of sexual exploitation of children, Member States shall take appropriate measures, such as education and training, information and awareness raising campaigns ~~on~~ **regarding** the lifelong consequences of child sexual abuse and exploitation, its illegal nature, and the possibility ~~for~~ **that** persons who fear that they might commit related offences to have access to dedicated and effective intervention programmes or measures **as provided in Article 27** ~~to discourage and reduce the demand that fosters all forms of sexual exploitation of children.~~

   ~~Member States shall develop a communication strategy, national action plans, and promote dialogue and cooperation with civil society organisations, hotlines, helplines, public authorities and relevant informations society services.~~

The measures referred to in paragraph 1 shall also aim to increase knowledge of the fact that non-consensual sex is a criminal offence and to promote the understanding that consent must be given voluntarily as a result of a person's free will, mutual respect, and the right to sexual integrity and bodily autonomy. Such measures shall be adapted to the evolving capacity of the persons to whom they are addressed.

2. Member States shall take appropriate action, including through the Internet, such as information and awareness-raising campaigns, research, ~~and~~ education and training programmes, or **material, including on** digital literacy, on ~~age-appropriate sexuality~~ **comprehensive sexuality education** ~~focusing~~ **and on** ~~the notion of consent,~~ **safe** ~~online and offline practices, as well as on the proper~~ **use of the internet and new technologies**, where appropriate in cooperation with relevant civil society organisations, **hotline, helplines** and other stakeholders, aimed at raising awareness and reducing the risk of children, becoming victims of sexual abuse or sexual exploitation. **To further minimise that risk, Member States shall ensure that children have access to these hotlines and helplines in order to get relevant information and advice of the offences provided under this Directive**

3. **Without prejudice to the judicial independence and differences in the organisation of the judiciary across the Union,** Member States shall **take appropriate measures to** ~~ensure~~ **promote** regular **and specialist**~~ed~~ training, including in child friendly justice ~~is promoted or offered to~~ for professionals, **prosecutors**, judges~~, without prejudice to the judicial indepedence~~ **and** ~~for~~ officials likely to come into contact with child victims of sexual abuse or sexual exploitation, ~~including, but not limited to, child protection professionals, legal professionals, teachers, staff in child care, healthcare professionals, and, educators, volunteers and coaches, family court judges and front-line police officers~~, aimed at enabling them to ~~detect early signs of abuse or potential abuse or sexual exploitation,~~ identify and deal with child victims and potential child victims of sexual abuse or sexual exploitation.

4. Member States shall take appropriate measures to ~~ensure~~ **enhance** the prevention of child sexual abuse in community settings, including schools, hospitals, social care services, **foster care**, sports clubs or religious communities ~~by equipping children and adults, including parents and educators, with adequate skills for detecting potential malicious behaviour.~~

Those measures **may** ~~shall~~ include:

(a) dedicated training and awareness raising activities for ~~staff, consultants and volunteers~~ **personnel** working in **close contact with children, including on how to prevent, identify and provide an age-appropriate, gender-sensitive and trauma-informed response to child sexual abuse and exploitation** ~~such settings~~;

(b) ~~mandatory~~ **child safeguarding policies,** dedicated guidelines, internal protocols and standards identifying good practices, such as the establishment of mechanisms of supervision and accountability for staff working in close contact with children in such settings;

(c) the creation of safe ~~and accessible~~ spaces, run by dedicated and appropriately trained personnel, where children, parents, carers and members of the community can report inappropriate behaviour.

~~(ca) the creation of helplines, online chats or other readily available channels run by appropriately trained personnel, where children can obtain information and advice regarding the offences referred to in Articles [3 to 8b].~~

Prevention measures shall devote particular attention to the need to protect children who are particularly vulnerable, including children with ~~mental, intellectual, sensory or physical~~ disabilities.

[5. **For the purpose of this Directive,** ~~the EU Centre, once established~~, **Member States** shall **be** proactively supported **by the EU Centre, once established** ~~Member States' prevention efforts~~ by:

(a) inviting other Union institutions, bodies, offices and agencies, as well as relevant authorities, bodies or agencies of the Member States, to share information about prevention measures and programmes in the field of child sexual abuse and sexual exploitation whenever appropriate and at least once a year;

(b) collecting information on prevention measures and programmes in the field of child sexual abuse and exploitation, including measures and programmes implemented in third countries;

(c) facilitating the ~~generation and~~ exchange of ~~knowledge, guidelines for front-line professionals,~~ best practices **and expertise** among Member States, ~~Union institutions, bodies, offices, and agencies,~~ and third countries by keeping a public database of prevention measures and programmes implemented in each Member State as well as in third countries;

(ca) supporting the development of national awareness-raising and prevention campaigns, educational and intervention programmes, tools and materials as well as guidelines for professionals working in close contact with children.]

~~5a. Member States shall ensure that the actions listed in paragraph 5 are evidence-based and that those actions take into account the evolving manifestations of the offences listed in the Directive, including online.~~

The Presidency is awaiting feedback from the European Parliament on accompanying recital 43.

PUBLIC

Recital 43

(43) Member States should establish or strengthen policies to prevent sexual abuse and sexual exploitation of children, including measures to discourage and reduce the demand that fosters all forms of sexual exploitation of children, and measures to reduce the risk of children becoming victims, by means of, information and awareness-raising campaigns, including for parents ~~and~~, **volunteers**, carers**, teachers, educators, child protection professionals, social and foster care professionals, trainers coaches, legal professionals,** ~~family court judges~~**, front-line police officers, healthcare professionals, religious community leaders** and society at large. **For the same reasons, Member States should strengthen** ~~and~~ research **on the topic as well as** ~~and~~ education programmes~~, including sexual education~~. In such initiatives, Member States should adopt a child-rights based approach. Care should be taken to ensure that awareness-raising campaigns aimed at children are appropriate and sufficiently easy to understand, and tailored to the specific needs of children of different age groups, including pre-school children **as well as children who are particularly vulnerable, including children with** ~~mental, intellectual, sensory or physical~~ **disabilities children in contexts of migration,** ~~both unaccompanied or accompanied,~~ **or children who do not conform to conventional norms** ~~relating to sexual orientation, gender identity and expression or sex characteristics~~**.** Prevention measures should take a holistic approach to the phenomenon of child sexual abuse and sexual exploitation, by addressing its online and offline dimensions and mobilizing all relevant stakeholders. In particular for the online dimension, measures should include the development of digital literacy skills, including critical engagement with the digital world, to help users identify and address attempts of online child sexual abuse, seek support and prevent its perpetration. Particular attention should be paid to prevention of child sexual abuse and sexual exploitation of children that are cared for in a group facility rather than in the context of family-based care. ~~Where not already in place, the establishment of dedicated help-lines or hotlines should be considered. Children should be able to obtain information and advice regarding the offences referred to in Articles [3 to 8ab] through those channels. Children who fear that they might become victims of sexual abuse or sexual exploitation should have access to hotlines and helplines in order to get relevant information and advice of the offences provided under this Directive.~~

Article 31 – Data collection and research

At the ITM, the following compromise was presented to the EP, but we have not yet received feedback from them.

PUBLIC

Article 31

Data collection and research

1. Member States shall ensure that a system is in place for the recording, production and provision of anonymised statistical data on the reporting, investigative and judicial stages in relation to the criminal offences referred to in Articles 3 to 9 in order to monitor the effectiveness of their measures to combat sexual abuse and sexual exploitation of children.

2. The statistics shall**, as a minimum,** include the following **existing data, available at central level, where possible**~~data~~ disaggregated by sex, age **or age group** of the victim and of the offender, **the type of the offence and, where possible and relevant** relationship between the victim and the offender ~~and type of offence~~

   (a) the **annual** number of reported offences ~~and of convictions of offences~~ referred to in Articles 3 to 9, **including the number of victims involved in those offences**, **obtained from national administrative sources** ~~or~~;

   (b) the annual number of persons prosecuted for and convicted of the offences referred to in Articles 3 to 9, obtained from national administrative sources;

   (c) the number of offenders having accessed prevention programmes under Article 29;

   (d) the number of potential offenders having accessed prevention programmes under Articles 27 and 28;

   (e) the number of calls to helplines provided by [article 21 and article 28].

3. Member States shall **endeavour to** conduct **population-based surveys at regular intervals to** assess the prevalence of, and trends **in**, all forms of abuse covered by this Directive. Member States shall transmit **statistical data resulting from** those **surveys** to the Commission (Eurostat) **as soon as they become available**.

~~4. In order to ensure the comparability and standardisation of administrative data across the Union, Member States shall endeavour to collect administrative data on the basis of common disaggregations developed in accordance with appropriate standards referred to in paragraph 5.~~

~~5. European Union agencies and bodies with competences relevant to the offences covered in this Directive, support Member States in the data-gathering referred to in paragraph 2, including by establishing common standards taking into account the requirement set in paragraph 4.~~

6. Member States shall transmit the ~~statistics to the EU Centre and~~**available statistical data to** the Commission and make the collected ~~statistics~~**statistical data** available to the public on an annual basis. The ~~EU Centre shall compile the statistics and make them publicly available. The statistics~~**statistical data** shall not contain personal data.

7. Member States shall ~~support~~**foster** research on root causes, effects, incidences, effective prevention measures, effective assistance to victims measures and conviction rates of the offences referred to in Articles 3 to 9 of this Directive.

PUBLIC

SECTION E - Victims rights provisions

Article 17

Reporting suspicion of child sexual abuse or sexual exploitation

1. Member States shall take the necessary measures to ensure that the confidentiality rules**, as well as the rules on professional secrecy,** imposed by national law on certain professionals ~~whose main duty is to work~~ **working in close contact** with children do not constitute an obstacle to the possibility, for those professionals, ~~of their reporting~~ **to report** to the ~~services responsible for child protection~~ **competent authorities** any situation where they have reasonable grounds for believing that a child is the victim **or could become a victim** of offences referred to in Articles 3 to ~~9~~ **6 and 9**.

2. Member States shall take the necessary measures to **encourage and facilitate** any person who knows about or suspects, in good faith, that any of the offences referred to in Articles 3 to 9 have been committed, to report this to the competent ~~services~~ **authorities** in accordance with national procedural rules, without ~~affecting~~ **prejudice to** Article 18 of Regulation (EU) 2022/2065 of the European Parliament and of the Council[1] ~~and Article 12 of Regulation (EU) …/… [*laying down rules to prevent and combat child sexual abuse]*~~.

3. Member States shall ensure that professionals working in close contact with children in the child protection, education, childcare and health care sectors have the obligation to report to the competent authorities at least when they have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger because an offence punishable under this Directive has been committed or is likely to be committed.

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1 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2065/oj).

3a. **Member States**, ~~supported by the EU Centre once established~~, **shall issue guidelines, binding and non-binding in nature depending on national law, for the persons referred to in paragraph 3 on identifying whether substantial grounds exist that show that the wellbeing of the child is in serious and imminent danger and on reporting to competent authorities. Such guidelines shall also indicate how to address the specific needs of victims.**

New Recital 34a

The best interests of the child as provided by Article 3 of the UN Convention on the rights of the child and Article 24, section 2, of the European Charter of Fundamental Rights must be the guiding principle for professionals working in close contact with children in the child protection, education, childcare and health care sectors when reporting suspicion that an offence punishable under this Directive has been committed or is likely to be committed to the competent authorities. Article 17 para. 3 therefore provides for an obligation to report at least in cases where the professionals in question have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger. ~~Moreover, experiences in the field show that there can be circumstances where the best interest of the child may be best served by at least postponing reporting to law enforcement agencies.~~ Therefore, a child-centered approach ~~should~~ **could** also take into consideration if the child ~~doesn't~~ **does not** consent to getting law enforcement agencies involved and/or if criminal proceedings would constitute an imminent threat to the physical or psychological well-being of the child that cannot be avoided otherwise. It is therefore the responsibility of each Member State to determine the competent authorities to which such suspicion must be reported. Those competent authorities are in particular not limited to law enforcement agencies but can also include for example youth welfare offices.

PUBLIC

Article 18

Reporting of child sexual abuse or sexual exploitation

1. ~~In addition to the rights of victims when making a complaint under Article 5 **and 5a** of Directive 2012/29/EU, and Article 5a under Directive (EU) …/… [proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes], Member States shall ensure that victims can report the offences referred to in Articles 3 to **6 and** 9 of this Directive to the competent authorities in an easy and **through** accessible**, easy to use, safe and readily available channel**s manner. This **That** shall**, where appropriate,** include the possibility of reporting those criminal offences, and submitting evidence where feasible, by means of easily **online or through other** accessible and user-friendly **secure** information and communication technologies**, without prejudice to national procedural rules regarding formalising online reporting**.~~

Member States shall ensure that the possibility to report online or through other accessible and secure information and communication technologies includes the possibility to submit evidence by the means set out in the first subparagraph, without prejudice to national procedural rules regarding formalising the submission of evidence.

~~**1a**~~.

2. ~~Member States shall ensure that the reporting procedures referred to in paragraph 1 are safe, confidential and designed in a child-friendly manner and language, in accordance with their age and maturity.~~ Member States shall ensure ~~reporting~~ **that the ability of a child to report the act** is not conditional upon ~~parental~~ **the** consent **of the holder of parental responsibility and that the measures necessary to protect the safety of the child are taken by the competent authorities before that person is informed about the reporting**.

~~**2a**.~~

2b. **Member States shall ensure that professionals in contact with children during the reporting procedure are properly trained on the issue of sexual abuse and exploitation of children.**

~~3. [Member States shall ensure that the competent authorities coming in contact with victims reporting child sexual abuse offences or sexual exploitation offences are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment of the victims' protection needs conducted in accordance with Article 22 of Directive 2012/29/EU.]~~

Article 20:

The Parliament can accept the deletion of the last part of para 1 ("irrespective of whether they have filled a formal complaint"), upon the condition to include part of their recitals 36 and 37 (see below). Specifically, The Parliament intially proposed an obligatory wording in recital 37 that the Presidency rejected and reverted to "should consider". They wish also to keep para 2a.

Article 20

General provisions on assistance, support and protection measures for child victims

1. Child victims of the offences referred to in Articles 3 to **6 and** 9 shall be provided assistance, support and protection in accordance with Articles 21 and 22, taking into account the best interests of the child~~**, [irrespective of whether they have filed a formal complaint]**~~.

2. Member States shall take the necessary measures to ensure that a child is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that a child might have been subject to any of the offences referred to in Articles 3 to **6 and** 9.

2a. Member States shall ensure the provision of easily accessible, free of charge and comprehensive healthcare services for child victims of sexual abuse or exploitation, including sexual and reproductive healthcare.

3. Member States shall ensure that, where the age of a person subject to any of the offences referred to in Articles 3 to **6 and** 9 is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 21 and 22.

EP wishes to introduce a part of their recital 36 and 37:

(36) **Measures to protect child victims in a comprehensive manner should be adopted in their best interest, taking into account an assessment of their needs. Effective child protection requires a whole of society approach. With the child at the centre, all relevant authorities and services should work together to protect and support the child, in their best interests, as soon as they receive credible indication that a child has been subject of sexual abuse or exploitation. Filing of a formal complaint should not be a precondition for accessing support and protection measures.**

(37) **Member States should consider providing tailored and comprehensive short- and long-term assistance to child victims and survivors, irrespective of whether they have filed a formal complaint. Survivors should be understood as a person who has experienced sexual violence as a child, irrespective of their legal status and their formal recognition as a victim of crime. Any harm caused by the sexual abuse and sexual exploitation of a child is significant and should be addressed as soon as possible after the first contact of the victim with the authorities.**

PUBLIC

Article 21:

The Parliament wishes to introduce some new elements of their mandate, like para 1a and reintroduce para 7 and 8 that were deleted by the Commission in the compromise package. The proposal on Barnahus is an effort to find a middle ground between the two positions.

PUBLIC

Article 21

*Assistance**,** ~~and~~ support**, and protection measures for** ~~to~~ victims*

1. **In addition to the measures laid down in Directive 2012/29/EU,** Member States shall take the ~~following~~ necessary measures to ensure that assistance and specialised and appropriate support are provided to victims **of the offences referred to in Articles 3 to 6 and 9.** ~~before, during and for an appropriate period of time after the conclusion of criminal proceedings in order to enable them to exercise the rights set out in Directive 2012/29/EU, Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*] and in this Directive~~. ~~Member States shall notably ensure that victims of offences referred to in Articles 3 to 9 have access to targeted and integrated support services for children in accordance with Article 9a of Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*~~]. Member States shall, in particular, take the necessary steps to ensure protection for children who report cases of abuse within their family.

1a. **Member States shall ensure protocols and services for age-appropriate clinical management of sexual violence, including assisting in the safekeeping and documentation of evidence, and shall provide access to age-appropriate medical and forensic examinations.**

2. ~~Victims shall be provided with coordinated, age-appropriate medical care, emotional, psychosocial, psychological and educational support, as well as any other appropriate support tailored in particular to situations of sexual abuse.~~

Member States shall consider ensuring that child victims of the offences referred to in Articles 3 to 6 and 9 are provided with the targeted and integrated support services referred to in Article 9a of Directive 2012/29/EU within the same premises. If those services are not provided in the same premises, Member States shall ensure that arrangements are made to improve accessibility of those services, support the overall well-bening of the child given their vulnerable situation and reduce trauma.

Proposal for recital:

If those services are not provided within the same premises, Member State should strive to ensure that they are at least provided within close proximity between them in order to improve accessibility, coordination, and the overall well-being of the child, given their vulnerable situation. Other arrangements serving these objectives could include fast-track procedures, limiting waiting time, avoidance of repetitive interviewing, assistance of a single well-being officer throughout procedures in multiple locations.

2a. **Member States shall ensure that helplines are available, free of charge, during adequate operating hours, to provide information on the type of support they can obtain and from whom according to articles 20, 21 and 22 of this Directive, and offer emotional support to victims of the offences referred to in Articles 3 to 6 and 9.**

Proposal for accompanying recital:

The provision of helplines does not require Member States to establish a new helpline, but could be implemented in conjuntction with an existing helpline at national level. The operating hours of such helplines need to take into account the children needs and lifestyle.

3. Where it is necessary to provide for interim accommodation, **Member States shall ensure that** children ~~shall~~, as ~~a priority,~~ **appropriate and in accordance with national law,** ~~be~~ **are** placed with ~~other~~ family members, where necessary in temporary or permanent housing, equipped with support services. **Member States shall take the necessary measures to ensure that the best interests of the child is a primary consideration when assessing matters related to interim accomodation of children.**

4. **Member States shall ensure that** victims of offences ~~punishable under this Directive~~ **referred to in Articles 3 to 6 and 9** ~~shall~~ have access to the referral centres established under **Article 26 of Directive (EU) 2024/1385**.

5. Member States shall take the necessary measures to ensure that assistance and support for a child victim are not made conditional on the child victim's willingness to cooperate in the criminal investigation, prosecution or trial.

6. **Member States shall ensure that child victims have, without delay, access to legal** ~~counselling~~ **aid and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation,** ~~Legal counselling and legal representation~~ **which shall be free of charge where the victim does not have sufficient** ~~financial ressources~~ **means.**

7. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that, in criminal investigations relating to any of the offences referred to in Articles 3 to 6 and 9, medical examinations of the child victim for the purposes of the criminal proceedings are carried out by professionals trained for this purpose in accordance with national standards for the medical profession.

8. Member States shall ensure that child victims of the offences referred to in Articles 3 to 6 and 9, ~~including~~ **in particular children who have suffered harm because they have** ~~as a result~~ **witnessed**~~ing~~ **these crimes, where appropiate benefit from the support and protection measures laid down in Articles 20, 21, 23, and 24 of Directive 2012/29/EU.**

~~6. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims in enjoying their rights under this Directive, are undertaken following an individual assessment of the special circumstances of each particular child victim, conducted in accordance with Article 22 of Directive (EU) …/… [*proposed Directive amending* Directive 2012/29/EU *establishing minimum standards on the rights, support* and *protection of victims of crimes*] and taking due account of the child's views, needs and concerns.~~

7. Child victims of any of the offences referred to in Articles 3 to 9 shall be considered as particularly vulnerable victims pursuant to Article 22(2) of Directive 2012/29/EU and Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*].

8. Member States shall take measures, where appropriate and possible, to provide assistance and support to the family of the child victim in enjoying the rights under this Directive when the family is in the territory of the Member States. In particular, Member States shall, where appropriate and possible, apply Article 4 of Directive 2012/29/EU and Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*] to the family of the child victim.

~~[9. The EU Centre, once established, shall proactively support Member States' efforts on assistance to victims by:~~

~~(a) inviting other Union institutions, bodies, offices and agencies, as well as relevant authorities, bodies or agencies of the Member States, to share with the EU Centre information about assistance to victims of child sexual abuse and sexual exploitation whenever appropriate and at least once a year;~~

~~(b) collecting on its own initiative information on measures and programmes in the field of assistance to victims of child sexual abuse and sexual exploitation, including measures and programmes implemented in third countries;~~

~~(c) facilitating the exchange of best practices among Member States and between Member States and third countries, by keeping a public database of assistance to victims measures and programmes implemented in each Member States as well as in third countries; the database shall not contain any personal data.~~

~~(d) facilitating the preparation of the guidelines and protocols referred to in paragraph 10.]~~

10. Member States~~, supported by the EU Centre once established,~~ shall **ensure that** guidelines for healthcare, education and social service professionals on providing appropriate support to victims of child sexual abuse or exploitation, including on referring victims to the relevant support services and clarifying roles and responsibilities **are issued**. Such guidelines, **binding and non-binding in nature depending on national law**, shall also indicate how to address the specific needs of victims.

Article 22

Commission has deleted art.22, but the EP would like to preserve this article. In the EP mandate the protection measures apply not only to child victims, but also to witnesses, which deviates the approach from the one adopted in VRD, and threfore, considered *lex specialis*.

Question to delegations:

Delegations are invited to indcate whether they could accept keeping article 22, and if so, if they can show openess to cover child witnesses under this article.

Article 22

*Protection of child**ren*** ~~*victims*~~ *in criminal investigations and proceedings*

1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a special representative for the child victim where, under national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim, or where the child is unaccompanied or separated from the family.

2. Member States shall ensure that child victims have, without delay, access to legal counselling and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources.

PUBLIC

3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal investigations relating to any of the offences referred to in Articles 3 to **6 and** 9:

(a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;

(b) interviews with the child victim **or, where applicable, with a child witness**, take place in premises designed or adapted for this purpose;

(c) interviews with the child victim **or, where applicable, with a child witness**, are carried out by or through professionals trained for this purpose;

(d) the same persons, if possible and where appropriate, conduct all interviews with the child victim **or, where applicable, with a child witness**;

(e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purpose of criminal investigations and proceedings;

(f) the child victim **or, where applicable, with a child witness** may be accompanied by his or her legal representative or, where appropriate, by an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

(g) medical examinations of the child victim for the purposes of the criminal proceedings are as limited as possible and are carried out by professionals trained for this purpose.

4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 3 to **6 and** 9 all interviews with the child victim or, **where applicable** ~~appropiate~~, with a child witness, may be audio-visually recorded and that such audio-visually recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.

PUBLIC

5. Member States shall take the necessary measures to ensure that in criminal court proceedings relating to any of the offences referred to in Articles 3 to **6 and** 9, that it may be ordered that:

   (a) the hearing take place without the presence of the public;

   (b) the child victim **or, where applicable, with a child witness**, be heard in the courtroom without being present, in particular through the use of appropriate communication technologies.

6. Member States shall take the necessary measures, where in the interest of child victims **or, where applicable, with a child witness** and taking into account other overriding interests, to protect the privacy, identity and image of child victims **and child witnesses** and to prevent the public dissemination of any information that could lead to their identification.

7. Member States shall take the necessary measures to ensure that, where the participation of a child is necessary in criminal court proceedings relating to any of the offences referred to in Articles 3 to **6 and** 9, the court takes into account the child's age and maturity in the relevant court proceedings **including those related to the child's age, maturity and mental and physical wellbeing. Member States shall ensure this applies to all children, including those suspected, accused of, or convicted of a crime.**

Article 23:

The position of the Parliament is to have an ambitious provision on compensation. EP could accept the one proposed by the Commission in the compromise package. The Presidency has explained that the Council strongly opposes to the Commission's proposal and those issues have been discussed and agreed in the context of VRD.

Question to delegations:

In the spirit of compromise, could delegations accept the below proposal.

PUBLIC

Article 23

Victim's right to compensation

1. Member States shall ensure that victims ~~of offences referred to in Articles 3 to 9 of this Directive have a~~ **have the** right to **claim, in accordance with national law, full** compensation **from offenders for damages resulting from** ~~for any damage suffered. Member States shall ensure that compensation can be requested from perpetrators of~~ any of the offences referred to in Articles 3 to 9 **of this Directive.**

~~Where appropriate, Member States shall ensure that victims can claim such compensation from legal persons liable for such offences under Articles 13 and 14 and, where appropriate, from national compensation schemes established for the benefits of victims of crime.~~

~~2.~~ ~~Member States shall ensure, where appropriate, that victims are able to obtain a decision on compensation in the course of criminal proceedings within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.~~

3. ~~In addition to their rights under Article 16a of Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*], victims~~. **Victims shall be allowed to** ~~request~~ **claim compensation** ~~in the context of criminal and civil proceedings for any damage caused to them by any of the offences punishable under this Directive,~~ **for a sufficient period of time, commensurate with the gravity of the offence, after reaching the age of majority.**

~~4. Member States shall ensure that, in order to ensure sufficient compensation to victims of offences punishable under this Directive, all relevant elements are taken into account, including:~~

~~(a) any physical or mental pain and suffering caused by the offence, including the pain and suffering linked to the online circulation of child sexual abuse material concerning the victim in question;~~

~~(b) any cost of care in relation to the recovery from such pain and suffering, including expenses related to mental and physical health and treatment and travelling costs that might have been incurred to access such care; and~~

~~(c) any loss of income caused by the offence.~~

(39a) Victims of offences covered by this Directive should be able to obtain full compensation from offenders for the damages suffered. These may include, in particular, the specific and often long-lasting harm caused by the online circulation of child sexual abuse material depicting the victim, which may result in ongoing and repeated victimisation. Taking due account of such elements may contribute to ensuring that the right to compensation is effective in practice.

Article 23a:

The Parliament proposes to introduce a new article, using the same wording as in article 28b of VRD.

Question to delegations:

Delegations are invited to indicate whether they could accept this new provision in the spirit of compromise.

Article 23a

Resources

Without prejudice to the budgetary autonomy of the Member States, Member States shall ensure sufficient human and financial resources for the effective application of the measures set out in this Directive.

Article 10 – Consensual activities

This article was agreed in the previous trilogue, although para 4 and 5 are still pending. Para 4 is kept as in the General Approach, given that article 6 would remain as in Council's mandate. Part.5 in the Presidency's view should be deleted as this matter is already covered now by Art. 3(8).

Article 10

Consensual sexual activities

1. It shall be within the discretion of Member States to decide whether **[**Articles 3(2)**,** ~~and~~ (4), **and (6)**, ~~and Article 4(6)~~**]** apply to consensual sexual activities between peers, in so far as the acts did not involve any abuse **or exploitation**.

2. It shall be within the discretion of Member States to decide whether **[**Article 4(4)**]** applies to a performance that takes place in the context of a consensual relationship where the child has reached the age of sexual consent or between peers, in so far as the acts did not involve any abuse or exploitation and no money or other form of remuneration or consideration is given as payment in exchange for the performance.

3. It shall be within the discretion of Member States to decide whether **[**Article 5(2), (3), (4) and (6)**]** apply to the production, acquisition or possession of, or access to, material ~~which exclusively involves~~ **involving**:

   (a) children who have reached the age of sexual consent, or

   (b) children ~~above the age of sexual consent~~ and their peers,

   where that material is produced**, acquired,** ~~and~~ possessed **or accessed by the persons involved with their** ~~with the consent~~ **mutual agreement** ~~**of** the children involved~~ and only for ~~the~~ **their** private use ~~of the persons involved~~, in so far as the acts did not involve any abuse **or exploitation**.

   [When applying discretion referred to in the first subparagraph, Member States shall ensure that the consensual sharing of one's intimate images or videos cannot be interpreted as consent to any further sharing or dissemination of that same material, [including in a manipulated or altered version.]

[4. It shall be within the discretion of Member States to decide whether Article 6 applies to proposals, conversations, contacts or exchanges between peers, **in so far as the acts did not involve any abuse or exploitation, coercion or threat**].

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~~[5. For the purpose of paragraphs 1 to 4, a child above the age of sexual consent can be considered as having consented to an activity only where the consent was given voluntarily, as result of the child's free will assessed in the context of the surrounding circumstances.~~

~~Consent can be withdrawn at any moment.~~

~~The absence of consent cannot be refuted exclusively by the child's silence, verbal or physical non-resistance or past conduct.~~

~~6. Consensual sharing of one's intimate images or videos cannot be interpreted as consent to any further sharing or dissemination of that same image or video.~~

Recital 24:

(24) This Directive does not govern Member States' policies with regard to consensual sexual activities in which children may be involved and which can be regarded as the normal discovery of sexuality in the course of human development, taking account of the different cultural and legal traditions and of new forms of establishing and maintaining relations among children and adolescents, including through information and communication technologies. ~~Member States which avail themselves of the possibilities referred to~~ **Nothing** in this Directive ~~do so in the exercise of their competences. More particularly~~ **should be understood as requiring, or encouraging directly or indirectly, Member States to criminalise, penalise or otherwise sanction such consensual activities, which remain outside the scope of this Directive. In implementing this Directive,** Member States should ~~be able to exempt from criminalisation~~ **ensure that its provisions are applied in a manner that clearly distinguishes abusive and exploitative conduct from** consensual ~~sexual~~ **and non-exploitative** activities ~~involving~~ **forming part of normal sexual development of** children ~~above the age of sexual consent, as well as~~**. Member States are encouraged to ensure that** consensual sexual activities ~~involving children and their peers. The amendments of this provision are intended to clarify the scope of the derogation. Risks associated with creating and sharing self-generated sexual content~~ between ~~children who have reached the age of sexual consent and adults or between children and their~~ peers ~~must be considered when applying this derogation~~ **are not subject to criminalisation or other punitive measures under national law, in so far as the acts did not involve any abuse or exploitation**.

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