



Council of the
European Union

Brussels, 16 May 2023
(OR. en)

9533/23

**Interinstitutional File:
2022/0155(COD)**

LIMITE

JAI 639
ENFOPOL 250
CRIMORG 79
IXIM 130
DATAPROTECT 142
CYBER 128
COPEN 161
FREMP 149
TELECOM 151
COMPET 453
MI 420
CONSOM 181
DIGIT 94
CODEC 900

NOTE

From: Portuguese delegation
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

With a view to the Law Enforcement Working Party (Police) meeting on 25 and 26 May 2023,
delegations will find in the Annex a text proposal on the above subject.

Hereby is our proposal regarding Article 89, along with some more detailed considerations. Please bear in mind, that the mentioned dates depend on the date we will be able to approve the Regulation and, as so, are subject to be changed accordingly.

The Portuguese delegation suggests an evaluation of the regime proposed in Article 89 of the Commission's proposal as it seems to us that, although time is short, there should not be periods not covered by this regime.

We consider that this may happen with the current Article 89, which provides for an entry into force on the twentieth day following that of its publication in the Official Journal of the European Union and a delay of application (18 months) after its entry into force.

So, we propose an alternative wording of this article, based on Article 93 of the DSA, that could solve the discussion on the need to maintain the voluntary regime of Regulation (EU) 2021/1232 of the European Parliament and of the Council, allowing both regimes to coexist for a foreseeable period of six months.

And, as soon as the Regulation is published it would be guaranteeing two important effects : one that the act is applicable in its entirety on the 4th of August 2024 (Considering that Regulation (EU) 2021/1232 provides a temporary solution until the 4 August 2024 (Article 10)) leaving no room for any legal gap; two: that, on that date, the conditions will already be in place for the regime to continue to apply in its entirety, allowing companies to proceed with full legal security.

These conditions deemed to be essential would be :

1. Companies must be able to start the risk assessment process as soon as the regulation entries into force (doc. 14143/22);
2. The regime of delegated acts must be effective immediately;
3. The EU Centre must be set up;
4. All nominations and appointments must be complete including the ones of the Victims Board.

So, the following new wording, pending of the approval of the proposal in an adequate timing, would be:

“Article 89

Entry into force and application

1. This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall apply from 4 August 2024.

However:

- Articles 3 to 6;
- Article 8(4), Article 13(2), Article 14(8), Article 17(6), Article 47, Article 84(6) and Article 86;
- Articles 40 et seq. and Article 81;
- Article 25(1), Article 52, Article 56(4), Article 61(1), Article 65, Article 66, Article 66a, and Article 82,

shall apply from 1 January 2024.”