



# Background

## Questions & Answers on removal or blocking of child pornography on the Internet

The agreement between Parliament and Council representatives on the draft directive on combating sexual abuse and sexual exploitation of children and child pornography would introduce EU-wide requirements on prevention, prosecution and protection for victims. It would also require Member States promptly to remove web sites containing child pornography, or, should this prove impossible, to block access to them within their national territory.

The number of web sites devoted to child pornography is growing and it is estimated that 200 images containing child pornography are put into circulation every day. Ever younger children are portrayed in pornography, and the images are becoming more graphic and more violent.

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# Background

## **What measures will Member States have to take against child pornography web sites?**

The new directive will require far-reaching measures against child pornography on the net.

Member States will have to ensure the "prompt removal of web pages containing or disseminating child pornography hosted in their territory". They will also have to do their best to co-operate with third countries (US and others) to obtain the removal of such pages if hosted outside the EU.

Parliament's negotiating team, led by Roberta Angelilli (EPP, IT) has, from the outset, advocated the complete removal of child pornography web sites across the EU (the initial Commission proposal would have made blocking mandatory, leaving removal only as a secondary option). The compromise text reflects MEPs' position in that it first obliges Member States to ensure removal (deletion) of those sites.

Removal would ensure that all offensive and abusive material disappears, whereas simply blocking a site would not guarantee this, MEPs argued. Removal at source is also more effective and reassuring for children, given that images to which access is merely blocked could still exist and be found "somewhere" in cyberspace.

Co-operation between public authorities should be established and strengthened, particularly to ensure that national lists of web sites containing child pornography material are as complete as possible and to avoid duplication of work.

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## What about images hosted outside the EU?

As mentioned above, Member States will have to co-operate with third countries to obtain the removal of pages hosted outside the EU. Here, too, removal must also be the first option.

However, MEPs recognize that removal of material located outside the EU is often impossible, either because the State where the servers are hosted is not willing to co-operate or because obtaining removal would take too long.

In these cases, EU countries will continue to be able to block internet access to child pornography web pages in their territory.

Measures taken at national level to remove or, where appropriate, block web sites containing child pornography could take various forms, such as legislative, non-legislative, judicial or other, says the compromise text.

This is “without prejudice to voluntary action taken by the internet industry to prevent misuse of their services, or to any support for such action by Member States”, it adds. Whichever basis for action or method is chosen, Member States should ensure that it provides an adequate level of legal certainty and predictability for users and service providers.

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## **Since internet access may be blocked, will there be any safeguards?**

Yes. The measures taken by Member States to block access to internet users in their territory “must be set by transparent procedures and provide adequate safeguards, in particular to ensure that the restriction is limited to what is necessary and proportionate, and that users are informed of the reason of the restriction”, says the agreement.

These safeguards must also include the possibility of judicial redress, MEPs added.

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## How did the agreement change the initial Commission proposal?

In Article 21 of the proposal, the Commission said “Member States shall take the necessary measures to obtain the blocking of access by Internet users in their territory to Internet pages containing or disseminating child pornography”.

Without prejudice to this “mandatory blocking”, Member States would also have to take measures to ensure the removal of such Internet pages.

The proposal thus recognised that action is needed to remove the content at source, even though this was not the Commission’s main aim. MEPs argued that blocking would merely serve to “cover up” the problem, and went further than the Commission, by requiring Member States to take all measures to have such web sites deleted.

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## How big is the problem?

The number of web sites devoted to child pornography is growing and it is estimated that 200 images containing child pornography are put into circulation every day. Ever younger children are portrayed in pornography, and the images are becoming more graphic and more violent.

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## What comes next?

The agreement will be put to a vote by the full Parliament at the end of September 2011, in Strasbourg, and it is expected to be formally adopted by the Council of Ministers shortly after. Once adopted, this directive would replace current EU legislation dating from 2004. Member States would then have two years to transpose the new rules into their national laws.

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## **Will there be any follow-up on how Member States implement these measures?**

Yes. The compromise text requires the Commission, within four years of the adoption of the directive, to present a report assessing the implementation of measures against web sites containing or disseminating child pornography.