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*Committee on Women's Rights and Gender Equality*

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**2010/0064(COD)**

25.1.2011

## **OPINION**

of the Committee on Women's Rights and Gender Equality

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on combating sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA)  
(COM(2010)0094 – C7-0088/2010 – 2010/0064(COD))

Rapporteur: Marina Yannakoudakis

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## SHORT JUSTIFICATION

### **Background information**

Children's vulnerability puts them at greater risk of being maltreated or sexually abused. According to UNICEF, the child pornography industry generates 20 billion Euro and 1 million children are used for this horrendous purpose.<sup>1</sup> Sexual abuse and sexual exploitation of children are particularly serious forms of crime and can produce long-term physical, psychological and social harm to victims, their families and the families of the perpetrators.

### **Definitions**

In view of this report being part of the Ordinary Legislative Procedure it is important that the definition of a 'child' is incorporated. Children's charities recommend that a 'child' is any person under the age of consent in the Member State, while a 'adolescent' shall mean any person above the age of consent in the Member State, and below the age of 18 years. This is an important distinction from a legal perspective, as a 'child' who is under the age of consent, and a 'adolescent' who is over the age of consent but under the age of 18, still has a right to be protected from sexual exploitation.

The draftsman feels the term 'child pornography' should be used as opposed to 'child abuse image'. 'Child abuse image' is a broad term used to describe images from a diverse range of criminal acts, which may not necessarily be sexual in nature. The term 'child pornography' has a wider legal scope in current protocols and conventions, and is widely known to be valid in all interpretations.

### **The Gender Perspective**

Due to the sensitivity of this issue acquiring accurate data on the numbers of male and female child victims is problematic. However, it is known that a higher number of girls report sexual abuse than boys. This Opinion argues that sexual abuse and exploitation can occur in both sexes, and is not a female centred issue. This Opinion also recognises that women, as the predominant care givers in the family, are invaluable in the successful care of a victim or a perpetrator.

### **The Victims**

Children who have been victims of sexual abuse can carry the scars of this experience throughout their lives, well into adulthood. Children who have been subject to this abuse can become repeated victims as images on the internet will remain long after the act has taken place.

### **The perpetrators**

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<sup>1</sup> [http://www.europarl.europa.eu/comparl/libe/elsj/zoom\\_in/36\\_en.htm](http://www.europarl.europa.eu/comparl/libe/elsj/zoom_in/36_en.htm)

It is important to stop offenders reoffending. Evidence suggests that this needs to be carried out at national level through a variety of holistic measures. One such measure, is the recommended implementation of a telephone hotline for an individual who is thinking about committing child sexual abuse. Research has shown time and time again that if individuals are able to discuss their thoughts with a trained counsellor then they may be deterred from recidivism. This Opinion also recommends that Member States offer accredited sex offender treatment programmes which can aid rehabilitation

An issue that is often forgotten, is the need to provide support and advice to the family of the perpetrator.<sup>1</sup> The immediate members of the offender's family are often the quiet victims who face daily turmoil internally within the family unit and externally within the wider community.

### **Content deletion and blocking**

There is strong debate within stakeholders over the issue of content deletion and blocking. In considering this approach there needs to be a careful balance between democratic regulation of the internet, through freedom of speech, and the protection and well-being of our children. Member States have a duty to work with Internet Service Providers to ensure that children are protected from the illegal activity of child sexual abuse. The obligation to set up controls and safety checks to protect children is also an important consideration.

In a number of Member States the blocking of sites at local level has proven to be successful<sup>2</sup>. For this reason, it is of the utmost importance for Member States to obtain the deletion of internet pages containing or disseminating child pornography in the first instance, and the blocking of access by internet users in their territory to internet pages containing or disseminating child pornography, as a cause of action if deletion is not possible. Outside the EU's jurisdiction, and where such controls fail, blocking over deletion may be the only viable option.

This Opinion urges Member States to work with the IT industry and Internet Service Providers to share best practice and exchange information in a collaborative manner.

### **Summary**

This Opinion has taken a balanced and reasoned approach to this issue and has aimed to remain within the competencies of the Women's Rights and Gender Equality Committee, and that of the European Union as present within the Treaty of Lisbon.

It is clear that it is right to take an approach which seeks to address the root causes of the problem with a view to eliminating the crime. A society which values the vulnerable, such as children, will take a strong move towards creating a culture in which the sexual abuse and exploitation of children becomes unacceptable.

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<sup>1</sup> EPP Group Hearing on Sexual Abuse of Children on the Internet, 2010

<sup>2</sup> The Internet Watch Foundation Company

The nature of this crime is changing rapidly, especially with the ongoing progression of technology and its application. Where child pornography existed in the past it was only limited to physical applications such as the post or photographs. Now, the images can be sent around the world quickly without cost. The criminal nature of this action, the abuse on the most vulnerable and our obligation to protect children means we must not hesitate to take strong and robust action.

## AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive

#### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) All stakeholders should have a zero-tolerance approach to combating the sexual abuse and exploitation of children and child pornography.***

### Amendment 2

#### Proposal for a directive

#### Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) It is possible for both female and male children and adolescents to be victims of sexual abuse.***

### Amendment 3

#### Proposal for a directive

#### Recital 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(3b) The danger posed by females who commit child sexual abuse, as well as the danger posed by men who do likewise should be investigated.***

#### **Amendment 4**

##### **Proposal for a directive Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) It is often the case that victims of human trafficking have been victims of child abuse and sexual exploitation.***

#### *Justification*

*Children are more likely to suffer from the long term consequences of sexual abuse both physically and psychologically. This can cause alienation within their family and community which can make them vulnerable to other forms of exploitation such as human trafficking.*

#### **Amendment 5**

##### **Proposal for a directive Recital 6**

*Text proposed by the Commission*

*Amendment*

(6) Serious forms of child sexual abuse and sexual exploitation should be subject to effective, proportionate and dissuasive sanctions. This includes, in particular, various forms of sexual abuse and sexual exploitation facilitated by the use of information and communication technology. The definition of child pornography should also be clarified and brought closer to that contained in international instruments.

(6) Serious forms of child sexual abuse and sexual exploitation should be subject to effective, proportionate and dissuasive sanctions. This includes, in particular, various forms of sexual abuse and sexual exploitation facilitated by the use of information and communication technology ***such as "grooming" (the online solicitation of children for sexual purposes) via social networking websites and chat rooms.*** The definition of child pornography should also be clarified and brought closer to that contained in international instruments.

## Amendment 6

### Proposal for a directive Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) At the same time, it is necessary to ensure that differences of cultural and legal tradition are not to be used to hide the sexual abuse of children and child pornography.***

## Amendment 7

### Proposal for a directive Recital 8

*Text proposed by the Commission*

*Amendment*

(8) Investigating offences and bringing charges in criminal proceedings should be facilitated, to take into account the difficulty for child victims of denouncing abuse **and** the anonymity of offenders in cyberspace. To ensure successful investigations and prosecutions of the offences referred to in this Directive, effective investigation tools should be made available to those responsible for the investigation and prosecutions of such offences. These tools may include covert operations, interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts or other financial investigations.

(8) Investigating offences, bringing charges in criminal proceedings **and identifying the offender** should be facilitated, to take into account the difficulty for child victims of denouncing abuse. The anonymity of offenders in cyberspace **should not be allowed to obstruct investigations and prevent the offender from being traced without delay. Member States should therefore take steps to ensure that cyberspace users remain anonymous in public but can be identified immediately in the event of an offence being committed, in particular in the online spaces in which there is the highest risk of grooming, such as on social networking websites, forums, social platforms and blogs.** To ensure successful investigations and prosecutions of the offences referred to in this Directive, effective investigation tools should be made available to those responsible for the investigation and prosecutions of such offences. These tools

may include covert operations, interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts or other financial investigations. *Those investigations should be authorised by the relevant judicial authority in the Member State concerned and should be carried out under the supervision of that authority.*

## Amendment 8

### Proposal for a directive Recital 8 a (new)

*Text proposed by the Commission*

*Amendment*

*(8a) An early warning system through regular reporting to the police or local hotlines of suspected child sexual abuse material on the internet is likely to help considerably in rapidly disrupting the activities of sex offenders and in notifying immediately to the authorities and internet service providers the existence of such illegal material in their network, so that they can take prompt, appropriate action to remove the illegal material from public access and preserve evidence for law enforcement investigations.*

## Amendment 9

### Proposal for a directive Recital 9

*Text proposed by the Commission*

*Amendment*

*(9) Rules on jurisdiction should be amended* to ensure that child sexual abusers or exploiters from the European Union face prosecution even if they commit their crimes outside the European

*(9) It is crucial to strengthen the effectiveness of law, including extraterritorial criminal law in order to ensure that child sexual abusers or exploiters from the European Union face*

Union, in particular via so-called sex tourism.

prosecution even if they commit their crimes outside the European Union, in particular via so-called sex tourism, ***a phenomenon that is spreading geographically with serious implications.***

## **Amendment 10**

### **Proposal for a directive Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) Member States should foster open dialogue and communication with third countries in order to be able to prosecute, under the relevant national legislation, perpetrators who travel to those countries for the purposes of sex tourism.***

*Justification*

*Sex tourism can only be tackled effectively by cross border cooperation amongst all countries.*

## **Amendment 11**

### **Proposal for a directive Recital 10**

*Text proposed by the Commission*

*Amendment*

(10) Measures to protect child victims should be adopted in their best interest, taking into account an assessment of their needs. Child victims should have easy access to legal remedies, including free legal counselling and representation and measures to address conflicts of interest where abuse occurs in the family. Moreover, child victims should be protected from sanctions, for example under national legislation on immigration or prostitution, if they bring their case to the attention of competent authorities. Furthermore, participation in criminal

(10) Measures to protect child victims should be adopted in their best interest, taking into account an assessment of their needs. Child victims should have easy access to legal remedies, including free legal counselling and representation and measures to address conflicts of interest where abuse occurs in the family. Moreover, child victims should be protected from sanctions, for example under national legislation on immigration or prostitution, if they bring their case to the attention of competent authorities. Furthermore, participation in criminal

proceedings by child victims should not cause additional trauma as a result of interviews or visual contact with offenders.

proceedings by child victims should not cause additional trauma as a result of interviews or visual contact with offenders.  
***The confidentiality of any information related to the identification of child victims is central to the protection of those child victims.***

## **Amendment 12**

### **Proposal for a directive Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) For full victim protection, child victims should be informed of their rights and the services at their disposal, the general progress of the investigation or proceedings, their role in the investigation or proceedings and the outcome thereof.***

***Furthermore, measures should be adopted which should ensure that children are educated about their rights to protection from abuse, how to protect themselves and what to do if they are or have been abused.***

## **Amendment 13**

### **Proposal for a directive Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) Where the danger posed by the offenders and the possible risks of repetition of the offences make it appropriate, convicted offenders should be temporarily or permanently prevented from exercising activities involving regular contacts with children, where appropriate. Implementation of such prohibitions

(12) Where the danger posed by the offenders and the possible risks of repetition of the offences make it appropriate, convicted offenders should be temporarily or permanently prevented from exercising activities involving regular contacts with children, where appropriate. Implementation of such prohibitions

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throughout the EU should be facilitated.  
***Pre-employment screening checks should be carried out by the Member States when the job is subject to regular activities with children. Procedures should be implemented in line with the legislation in force in the Member States.***

#### **Amendment 14**

##### **Proposal for a directive Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12a) The internet is a part of society like any other and should not be viewed as a 'neutral' space. As in normal society, standards and rules governing its use will need to be applied.***

#### **Amendment 15**

##### **Proposal for a directive Recital 13**

*Text proposed by the Commission*

*Amendment*

(13) Child pornography, ***which*** constitutes sex abuse images, ***is a specific type of content which cannot be construed as the expression of an opinion.*** To combat it, it is necessary to reduce the circulation of child abuse material by making it more difficult for offenders to upload such content onto the publicly accessible Web. Action is therefore necessary to remove the content at source and apprehend those guilty of making distributing or downloading child abuse images. The EU, in particular through increased cooperation with third countries and international organisations, should seek to facilitate the effective removal by third country

(13) Child pornography constitutes sex abuse images. To combat it, it is necessary to reduce the circulation of child abuse material by making it more difficult for offenders to upload such content onto the publicly accessible Web. Action is therefore necessary to remove the content at source and apprehend those guilty of making distributing or downloading child abuse images. The EU, in particular through increased cooperation with third countries and international organisations, should seek to facilitate the effective removal by third country authorities of websites containing child pornography, which are hosted in their territory. Despite

authorities of websites containing child pornography, which are hosted in their territory. **However as**, despite such efforts, the removal of child pornography content at its source proves to be difficult where the original materials are not located within the EU, **mechanisms should also be put in place to block access from the Union's territory to internet pages identified as containing or disseminating** child pornography. **For that purpose, different mechanisms can be used as appropriate, including facilitating the competent judicial or police authorities to order such blocking, or supporting and stimulating Internet Service Providers on a voluntary basis to develop codes of conduct and guidelines for blocking access to such Internet pages. Both with a view to the removal and the blocking of child abuse content, cooperation between public authorities should be established and strengthened, particularly in the interest of ensuring that national lists of websites containing child pornography material are as complete as possible and of avoiding duplication of work.** Any such developments must take account of the rights of the end users, adhere to existing legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.

such efforts, the removal of child pornography content at its source proves to be difficult where the original materials are not located within the EU, **whereas the vast majority of websites having been blocked are facilitated through servers located in countries (mainly the US and EU) which have signed the United Nations Convention on the Rights of the Child or the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography. Mechanisms should be put in place to strengthen international cooperation between states, judicial and police authorities, and reporting points for child pornography in order to ensure the safe and fast removal** of websites containing child pornography. Any such developments must take account of the rights of the end users, adhere to existing legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.

## Amendment 16

### Proposal for a directive Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

***(13a). There are numerous access points for viewing child pornography images online and offenders adapt with the ongoing progression of technology and its application.***

## **Amendment 17**

### **Proposal for a directive Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

***(13b). The European Financial Coalition should expand its remit to cover all child pornography images online, and not just commercial child pornography sites.***

## **Amendment 18**

### **Proposal for a directive Article 2 – point b – introductory part**

*Text proposed by the Commission*

*Amendment*

(b) ‘child pornography’ shall mean

(b) ‘child pornography’ ***is a form of child abuse and*** shall mean:

#### *Justification*

*Using the term ‘child pornography’ the accent is put on the sexual purpose of the act whereas ‘child abuse image’ is a broad term used to describe images from a diverse range of criminal acts, not necessarily of a sexual nature: the scope of this instrument is regarding sexual abuse, sexual exploitation of children and child pornography. Given the scope of the instrument and taking into account the current legislation and legal terminology used in the "Protocol to the Convention on the Rights of the Child and the Sale of Children, Child Prostitution and Child Pornography" and the "Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse" the drafts person advises that the word ‘child pornography’ is used.*

## Amendment 19

### Proposal for a directive Article 3 – paragraph 2

*Text proposed by the Commission*

2. Causing, for sexual purposes, a child who has not reached the age of sexual consent under national law to witness sexual abuse or sexual activities, even without having to participate, shall be punishable by a maximum term of imprisonment of at least two years.

*Amendment*

2. Causing, for sexual purposes, a child who has not reached the age of sexual consent under national law to witness sexual abuse or sexual activities, even without having to participate, shall be punishable by a maximum term of imprisonment of at least two years ***and a ban on engaging in occupations involving any form of contact with children.***

## Amendment 20

### Proposal for a directive Article 3 – paragraph 3

*Text proposed by the Commission*

3. Engaging in sexual activities with a child who has not reached the age of sexual consent under national law shall be punishable by a maximum term of imprisonment of at least ***five*** years.

*Amendment*

3. Engaging in sexual activities with a child who has not reached the age of sexual consent under national law shall be punishable by a maximum term of imprisonment of at least ***eight*** years ***and a ban on engaging in occupations involving any form of contact with children.***

## Amendment 21

### Proposal for a directive Article 3 – paragraph 4 – point i

*Text proposed by the Commission*

(i) 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 eight years; ***or***

*Amendment*

(i) 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 eight years ***and a ban on engaging in occupations involving any form of contact with***

*children. In the case of parents who have abused their children, the sentence shall be adequate to protect the children against any repetition of the offence;*

## Amendment 22

### Proposal for a directive Article 3 – paragraph 4 – point ii

*Text proposed by the Commission*

(ii) abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence shall be punishable by a maximum term of imprisonment of at least eight years; *or*

*Amendment*

(ii) abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability, ***poverty and social exclusion*** or a situation of dependence shall be punishable by a maximum term of imprisonment of at least eight years ***and a ban on engaging in occupations involving any form of contact with children;***

## Amendment 23

### Proposal for a directive Article 3 – paragraph 4 – point iii

*Text proposed by the Commission*

(iii) use is made of coercion, force or threats shall be punishable by a maximum term of imprisonment of at least ten years.

*Amendment*

(iii) use is made of coercion, force or threats shall be punishable by a maximum term of imprisonment of at least ten years ***and a ban on engaging in occupations involving any form of contact with children.***

## Amendment 24

### Proposal for a directive Article 3 – paragraph 5

*Text proposed by the Commission*

5. Coercing a child into sexual activities with a third party shall be punishable by a maximum term of imprisonment of at least ten years.

*Amendment*

5. Coercing a child into sexual activities with a third party shall be punishable by a maximum term of imprisonment of at least ten years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 25**

**Proposal for a directive  
Article 4 – paragraph 2**

*Text proposed by the Commission*

2. Causing a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least two years.

*Amendment*

2. Causing a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least two years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 26**

**Proposal for a directive  
Article 4 – paragraph 3**

*Text proposed by the Commission*

3. Profiting from or otherwise exploiting a child participating in pornographic performances shall be punishable by a maximum term of imprisonment of at least two years.

*Amendment*

3. Profiting from or otherwise exploiting a child participating in pornographic performances shall be punishable by a maximum term of imprisonment of at least two years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 27**

**Proposal for a directive**  
**Article 4 – paragraph 4**

*Text proposed by the Commission*

4. Knowingly attending pornographic performances involving the participation of children shall be punishable by a maximum term of imprisonment of at least two years.

*Amendment*

4. Knowingly attending pornographic performances involving the participation of children shall be punishable by a maximum term of imprisonment of at least two years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 28**

**Proposal for a directive**  
**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. Recruiting a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least five years.

*Amendment*

5. Recruiting a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least five years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 29**

**Proposal for a directive**  
**Article 4 – paragraph 6**

*Text proposed by the Commission*

6. Causing a child to participate in child prostitution shall be punishable by a maximum term of imprisonment of at least five years.

*Amendment*

6. Causing a child to participate in child prostitution shall be punishable by a maximum term of imprisonment of at least five years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 30**

**Proposal for a directive**  
**Article 4 – paragraph 6 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Under special circumstances a maximum penalty of at least 8 years. Especially if the child is exposed to danger, extreme violence is used which is causing the child serious harm, or where there are performances of more systematic or organized nature.***

**Amendment 31**

**Proposal for a directive**  
**Article 4 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. Profiting from or otherwise exploiting a child participating in child prostitution shall be punishable by a maximum term of imprisonment of at least five years.

7. Profiting from or otherwise exploiting a child participating in child prostitution shall be punishable by a maximum term of imprisonment of at least five years ***and a ban on engaging in occupations involving any form of contact with children.***

**Amendment 32**

**Proposal for a directive**  
**Article 4 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

8. Engaging in sexual activities with a child, where recourse is made to child prostitution shall be punishable by a maximum term of imprisonment of at least ***five*** years.

8. Engaging in sexual activities with a child, where recourse is made to child prostitution shall be punishable by a maximum term of imprisonment of at least ***eight*** years ***and a ban on engaging in occupations involving any form of contact with children.***

### Amendment 33

#### Proposal for a directive Article 4 – paragraph 9

*Text proposed by the Commission*

9. Coercing a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least eight years.

*Amendment*

9. Coercing a child to participate in pornographic performances shall be punishable by a maximum term of imprisonment of at least eight years **and a ban on engaging in occupations involving any form of contact with children.**

### Amendment 34

#### Proposal for a directive Article 4 – paragraph 10

*Text proposed by the Commission*

10. Recruiting a child to participate in child prostitution shall be punishable by a maximum term of imprisonment of at least eight years.

*Amendment*

10. Recruiting a child to participate in child prostitution shall be punishable by a maximum term of imprisonment of at least eight years **and a ban on engaging in occupations involving any form of contact with children.**

### Amendment 35

#### Proposal for a directive Article 4 – paragraph 11

*Text proposed by the Commission*

11. Coercing a child into child prostitution shall be punishable by a maximum term of imprisonment of at least ten years.

*Amendment*

11. Coercing a child into child prostitution shall be punishable by a maximum term of imprisonment of at least ten years **and a ban on engaging in occupations involving any form of contact with children.**

### Amendment 36

**Proposal for a directive**  
**Article 5 – Title**

*Text proposed by the Commission*

*Amendment*

Offences concerning child ***pornography***

Offences concerning child ***abuse material***

*Justification*

*The word "child pornography" is very problematic. The usual definition of the word "pornography" refers to consensual acts between adults. The wording child abuse material gives a clear message: looking at it is the evidence of a crime.*

**Amendment 37**

**Proposal for a directive**  
**Article 7 – paragraph 3 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the organisation of travel arrangements with the purpose of committing any of the offences referred to in Articles 3 to 6.

(b) the organisation of travel ***and/or other*** arrangements with the purpose of committing any of the offences referred to in Articles 3 to 6.

*Justification*

*Regarding the organisation of child sex tourism, actors facilitating the sexual abuse and exploitation of a child include not only those who arrange travel, such as tour operators and travel agencies, but also a number of intermediaries which provide other services, such as hotels, hostels, tour guides, translation services and so on.*

**Amendment 38**

**Proposal for a directive**  
**Article 9 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the offence was committed against a child in a particularly vulnerable situation, notably because of a mental or physical disability or a situation of dependence;

(b) the offence was committed against a child in a particularly vulnerable situation, notably because of a mental or physical disability or ***poverty and social exclusion*** or a situation of dependence;

## Amendment 39

### Proposal for a directive Article 10 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that the measure referred to in paragraph 1 is entered in the criminal record of the convicting Member State.

*Amendment*

2. Member States shall take the necessary measures to ensure that the measure referred to in paragraph 1 is entered in the criminal record of the convicting Member State. ***Member States shall take the necessary legislative or other measures to ensure that criminal records have been checked every time a person applies for a new job whose exercise implies regular contact with children.***

## Amendment 40

### Proposal for a directive Article 10 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. Member States should ensure that state and private organisations exercising activities involving regular contact with children check systematically the criminal records of new employees, and that organisations, including schools, providing services for children have in place strong and active child protection policies.***

### *Justification*

*Information recording and sharing must be complimented with action by organisations involving regular contact with children to ensure that the criminal record of candidates for a position or activities involving children are checked prior to the offer of employment, through pre-employment checks.*

## Amendment 41

### Proposal for a directive Article 13

*Text proposed by the Commission*

Member States shall ***provide for the possibility of not prosecuting or imposing*** penalties on child victims of the offences referred to in Articles 4 and Article 5 (4) to (6) for their involvement in unlawful activities as a direct consequence of being subjected to those offences.

*Amendment*

Member States shall not ***prosecute child victims or impose*** penalties on child victims of the offences referred to in Articles 4 and Article 5(4) to (6) for their involvement in unlawful activities as a direct consequence of being subjected to those offences.

*Justification*

*A child victim should not be considered as capable of consenting to prostitution or participation in child abuse images. Criminal liability rests solely with the perpetrator regardless of any purported or presumed 'consent' from the victim.*

## Amendment 42

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

1. Member States shall take the necessary measures to ensure that investigations into or the prosecution of the offences referred to in Articles 3 to 7 are not dependent on a report or accusation being made by the victim, and that the criminal proceedings may continue even if the victim has withdrawn their statements.

*Amendment*

1. Member States shall take the necessary measures to ensure that investigations into or the prosecution of the offences referred to in Articles 3 to 7 are not dependent on a report or accusation being made by the victim, and that the criminal proceedings may continue even if the victim has withdrawn their statements. ***Procedures shall be implemented in line with the legislation in force in the Member States.***

## Amendment 43

### Proposal for a directive Article 14 – paragraph 3

*Text proposed by the Commission*

3. Member States shall take the necessary measures to ensure that effective investigative tools are available to persons, units or services responsible for investigating or prosecuting offences referred to in Articles 3 to 7, allowing the possibility of covert operations at least in those cases where the use of information and communication technology is involved.

*Amendment*

3. Member States shall take the necessary measures to ensure that effective investigative tools are available to persons, units or services responsible for investigating or prosecuting offences referred to in Articles 3 to 7, allowing the possibility of covert operations at least in those cases where the use of information and communication technology is involved. ***Those measures shall be subject to prior authorisation by the relevant judicial authority in the Member State concerned and shall be carried out under the supervision of that authority.***

**Amendment 44**

**Proposal for a directive  
Article 14 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall take the necessary measures to enable investigative units or services to attempt to identify the victims of the offences referred to in Articles 3 to 7, in particular by analysing child pornography material, such as photographs and audiovisual recordings transmitted or made available by means of information and communication technology.

*Amendment*

4. Member States shall take the necessary measures to enable ***and support*** investigative units or services to attempt to identify ***without delay*** the victims of the offences referred to in Articles 3 to 7, in particular by analysing child pornography material, such as photographs and audiovisual recordings transmitted or made available by means of information and communication technology.

*Justification*

*Member States must provide the necessary financial and human resources to ensure that investigative units become fully operational and effective*

**Amendment 45**

**Proposal for a directive**  
**Article 14 – paragraph 4 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In line with action to combat terrorism, monitoring and prevention measures should be taken vis-à-vis perpetrators of offences within the meaning of Articles 3 to 7 of this Directive. To that end, the Commission shall look into the feasibility of establishing a European early warning system (EWS) to coordinate anti-cyber crime activities conducted by Member State authorities and prevent offences by paedophiles and sex offenders, as called for by the European Parliament in its recommendation of 23 June 2010 on setting up a European early warning system (EWS) for paedophiles and sex offenders<sup>1</sup>, which was adopted by an absolute majority.***

**Amendment 46**

**Proposal for a directive**  
**Article 14 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall work in partnership with law enforcement agencies, judicial authorities, the Information and Communication Technology Industry, Internet Service Providers, the banking sector and Non-Governmental Organisations.***

***Member States shall work collaboratively and share examples of best practice for combating child sexual exploitation in those Member States where specialised units are working effectively.***

*Justification*

*A holistic approach that shares best practice between Member States and relevant*

*stakeholders is essential to combat the cross border nature of this crime.*

#### **Amendment 47**

##### **Proposal for a directive Article 15 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall encourage state and private organisations exercising activities involving regular contact with children to carry out routine staff training, so that individuals are better able to detect where a child is being abused and are aware to whom this information should be reported.***

*Justification*

*Where staff members are trained to detect abuse, incidents of abuse are likely to be reported more quickly.*

#### **Amendment 48**

##### **Proposal for a directive Article 15 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. Member States shall take steps to ensure that victims have access to confidential child-friendly reporting and referral mechanisms, such as telephone or internet helplines, and that these are run by professionals trained in dealing with abuse.***

*Justification*

*Putting in place child-friendly reporting mechanisms and information services gives child victims a greater degree of autonomy, and will encourage them to come forward and report abuse.*

## Amendment 49

### Proposal for a directive Article 15 – paragraph 2

*Text proposed by the Commission*

2. Member States shall *take* the necessary measures to encourage any person who knows about *or suspects, in good faith*, offences referred to in Articles 3 to 7 to report these facts to the competent services.

*Amendment*

2. Member States shall *adopt* the necessary measures to encourage any person who knows about *the* offences referred to in Articles 3 to 7 *or who suspects in good faith that they may have been committed* to report these facts to the competent services. ***Any person reporting such offences will be covered by data protection and anonymity.***

*Justification*

*To encourage people to come forward and report cases of child sexual abuse it is imperative to instil confidence in the informer that their anonymity will be protected at all times.*

## Amendment 50

### Proposal for a directive Article 15 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall take the necessary measures to establish an anonymous reporting service to internet users who accidentally uncover child sex abuse material on the internet.***

## Amendment 51

### Proposal for a directive Article 15 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

***2b. Member States shall take the measures necessary to create information services, such as special telephone***

*helplines and internet sites, to provide advice and assistance to children.*

## **Amendment 52**

### **Proposal for a directive Article 16 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. A Member State may decide that it will not apply or that it will apply only in specific cases or circumstances the jurisdiction rules set out in paragraph 1 (c) and (d) as far as the offence is committed outside its territory.***

***deleted***

## **Amendment 53**

### **Proposal for a directive Article 17 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall take the necessary measures to protect the privacy of child victims, their identity and their image by means of preventing public dissemination of information.***

## **Amendment 54**

### **Proposal for a directive Article 17 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) Member states shall put in place preventative protection for children. This shall include:***

***(a) information and support shall be***

*provided to the general public to help them protect children, including awareness raising and education campaigns so that individuals are better able to detect if a child might be being sexually abused and aware to whom this should be reported, both online and offline;*

*(b) educational awareness programmes in schools and in children's activity groups to educate children to recognise and avoid high-risk situations;*

*(c) measures to ensure that internet social networking includes a "panic button" application so that children can alert the relevant authorities of any inappropriate sexual behaviour, since the grooming of children on the internet, via chat rooms, and social networking websites, is on the increase. It is necessary to put in place clear and coherent follow up procedures that state who the report will go to, how it will be processed and what support and assistance will be given to the child;*

*(iv) robust criminal checks for all types of employment, whether voluntary or paid employment, which involve working with children and young people below the age of 18 years;*

*(v) measures exploring the possibility of implementing a 'red alert' system whereby information/data on the most dangerous child sex offenders is communicated between Member States as the offender travels through the EU and such information/data is subject to all current EU and national data protection law.*

## **Amendment 55**

### **Proposal for a directive Article 18 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States are encouraged to use the confiscated assets from criminals to***

*fund additional therapeutic and integration services for child pornography victims.*

## **Amendment 56**

### **Proposal for a directive Article 18 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. Member States shall employ existing structures to prevent and combat the activities of criminal networks involved in the production, sale or distribution of child pornography, for example, Europol's Analytical work framework, and implement the necessary legislation or other measures to encourage and support the setting up of information services, such as telephone or internet help lines to provide advice to callers confidentially and with due regard for their anonymity.*

*Justification*

*Information services such as telephone help lines can be a vital tool in combating child sexual abuse. Article 13 of the Council of Europe's Convention on Sexual Abuse recognises this.*

## **Amendment 57**

### **Proposal for a directive Article 18 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

*4b. Member States shall take the necessary measures to ensure that the family of the offender will not experience isolation and stigmatisation.*

## **Amendment 58**

**Proposal for a directive**  
**Article 19 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal **investigations** of any of the offences referred to in Articles 3 to 7:

*Amendment*

3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal **proceedings** of any of the offences referred to in Articles 3 to 7:

*Justification*

*This wording is in keeping with Article 14(3) of the Commission proposal for a Directive on preventing and combating trafficking in human beings and protecting victims.*

**Amendment 59**

**Proposal for a directive**  
**Article 19 – paragraph 3 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) interviews with the child victim take place in premises designed or adapted for this purpose, **and where the child feels safe**;

**Amendment 60**

**Proposal for a directive**  
**Article 19 – paragraph 3 – point f**

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

*This amendment aims at strengthening the level of protection of the child.*

**Amendment 61**

**Proposal for a directive**

**Article 19 – paragraph 5 – introductory part**

*Text proposed by the Commission*

5. Member States shall take the necessary measures to ensure, in criminal court proceedings relating to any of the offences referred to in Articles 3 to 7, that it **may be** ordered that:

*Amendment*

5. Member States shall take the necessary measures to ensure, in criminal court proceedings relating to any of the offences referred to in Articles 3 to 7, that it **is** ordered that:

**Amendment 62**

**Proposal for a directive**

**Article 20 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that effective **intervention** programmes **or measures** are made available with a view to preventing and minimising the risks of repeated offences of a sexual nature against children. These programmes or measures shall be accessible at any time during the criminal proceedings, inside and outside prison, according to the conditions laid down in national law.

*Amendment*

2. Member States shall take the necessary measures to ensure that effective **accredited sex offender treatment** programmes are made available **or measures put in place** with a view to preventing and minimising the risks of repeated offences of a sexual nature against children. These **accredited sex offender treatment** programmes or measures shall be accessible at any time during the criminal proceedings, inside and outside prison, according to the conditions laid down in national law. **Member States shall offer counselling and advice programmes to support the immediate families of male or female perpetrators.**

*Justification*

*Women are also perpetrators or co-perpetrators of crimes involving child pornography and*

*the dissemination of such material on the Internet.*

### **Amendment 63**

#### **Proposal for a directive**

#### **Article 20 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

Such intervention programmes or measures shall be adapted to meet the specific developmental needs for children who sexually offend, including those who are below the age of criminal responsibility.

*Amendment*

Such intervention programmes or measures shall be adapted to meet the specific developmental needs for children who sexually offend ***against other children***, including those who are below the age of criminal responsibility. ***Member States shall ensure that such children are offered a suitable response, which includes an assessment of their individual needs and appropriate treatment to address their offending behaviour.***

### **Amendment 64**

#### **Proposal for a directive**

#### **Article 20 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. As prevention is best achieved by stopping the perpetrator, Member States shall consider the possibility of implementing an EU-wide telephone number made available to anyone who is thinking about committing child sexual abuse. The anonymity of the individual shall be ensured.***

*Justification*

*As a preventative measure current and potential perpetrators should have access to a helpline that can offer support and counselling. Someone worried about their thoughts or behaviour towards children should be able to ring a confidential helpline in anonymity. This helpline has been successfully implemented in the United Kingdom.*

## Amendment 65

### Proposal for a directive Article 21

*Text proposed by the Commission*

**Blocking access to** websites containing child pornography

1. 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. **The blocking of access shall be subject to adequate safeguards, in particular to ensure that the blocking is limited to what is necessary, that users are informed of the reason for the blocking and that content providers, as far as possible, are informed of the possibility of challenging it.**

2. **Without prejudice to the above, Member States shall take the necessary measures to obtain the removal of internet pages** containing or disseminating child pornography.

*Amendment*

**Measures against** websites containing **or disseminating** child pornography

1. Member States shall take the necessary measures to **ensure the removal of webpages** containing or disseminating child pornography **hosted in their territory and to endeavour to obtain the removal of such pages hosted outside of their territory.**

**1a. Member States shall take the appropriate law enforcement measures to notify other Member States rapidly about the existence of child sexual abuse material and obtain its removal.**

2. **Where the removal of webpages** containing or disseminating child pornography **is not possible the blocking of access shall be obtained subject to adequate safeguards, in particular to ensure that the blocking is limited to what is necessary, that users are informed of the reason for the blocking and that content providers, as far as possible, are informed of the possibility of challenging it.**

## Amendment 66

### Proposal for a directive Article 21 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall take the necessary measures to increase the liability of internet service providers and owners of domains so that they deny access to child pornography websites of which they are aware.***

#### **Amendment 67**

**Proposal for a directive  
Article 21 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. Member States shall make an active effort to address the issue of peer-to-peer software and the re-emergence of usenet newsgroups.***

#### **Amendment 68**

**Proposal for a directive  
Article 21 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

***2c. The determination of harmful websites under this Directive as well as of the appropriate procedures for deleting or blocking the website must take full account of fundamental rights of internet users and shall be based on transparent procedures and judicial control and oversight.***

#### **Amendment 69**

**Proposal for a directive  
Article 21 – paragraph 2 d (new)**

*Text proposed by the Commission*

*Amendment*

***2d. The Commission shall submit to the European Parliament and the Council an annual report on the activities undertaken by Member States to remove child sexual abuse material from online services.***

## PROCEDURE

<b>Title</b>	Sexual abuse and sexual exploitation of children and child pornography (repeal of Framework Decision 2004/68/JHA)
<b>References</b>	COM(2010)0094 – C7-0088/2010 – 2010/0064(COD)
<b>Committee responsible</b>	LIBE
<b>Opinion by</b> Date announced in plenary	FEMM 21.4.2010
<b>Rapporteur</b> Date appointed	Marina Yannakoudakis 4.5.2010
<b>Discussed in committee</b>	28.10.2010      20.1.2011
<b>Date adopted</b>	20.1.2011
<b>Result of final vote</b>	+ :            24 - :            3 0 :            2
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Andrea Češková, Marije Cornelissen, Tadeusz Cymański, Ilda Figueiredo, Iratxe García Pérez, Zita Gurmai, Mary Honeyball, Livia Járóka, Teresa Jiménez-Becerril Barrio, Philippe Juvin, Nicole Kiil-Nielsen, Rodi Kratsa-Tsagaropoulou, Barbara Matera, Elisabeth Morin-Chartier, Siiri Oviir, Antonyia Parvanova, Raúl Romeva i Rueda, Nicole Sinclair, Joanna Katarzyna Skrzydlewska, Marc Tarabella, Britta Thomsen, Marina Yannakoudakis, Anna Záborská
<b>Substitute(s) present for the final vote</b>	Anne Delvaux, Cornelia Ernst, Sylvie Guillaume, Kartika Tamara Liotard, Mariya Nedelcheva, Norica Nicolai, Antigoni Papadopoulou, Rovana Plumb
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Carmen Romero López