



2020/0259(COD)

26.11.2020

AMENDMENTS

58 - 218

Draft report
Birgit Sippel
(PE660.288v01-00)

on the proposal for a regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards as the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual abuse online

Proposal for a regulation
(COM(2020)0568 – C9-0288/2020 – 2020/0259(COD))

Amendment 58
Cornelia Ernst
on behalf of the GUE/NGL Group

Proposal for a regulation

–

Proposal for rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Amendment 59
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation

–

Proposal for rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Justification

The proposal does not protect children but exposes law-abiding citizens to major risks (such as AI algorithms falsely flagging legal intimate depictions and conversations of children and adults relating to their health and sexual life) and violates the fundamental rights of millions of children and adults according to relevant jurisprudence. Analysing the content of all private messages is as unacceptable as if the post office opened all letters to check for illegal content. According to EDPS, neither the necessity nor the proportionality of the instrument have been demonstrated.

Amendment 60
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation

Title

Text proposed by the Commission

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary **derogation from** certain **provisions** of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal **and other** data for the purpose of combatting child sexual abuse online

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary **restriction of** certain **rights and obligations** of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal data for the purpose of combatting child sexual abuse **and exploitation material** online

Or. en

Justification

The change of title aligns the proposed regulation with Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography. In line with recital 9 of that Directive, the legal instruments cover both recordings of sexual abuse and other recordings exploited with or without the child's knowledge.

Amendment 61

Javier Zarzalejos Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Title

Text proposed by the Commission

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal **and other** data for the purpose of combatting child sexual abuse online

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal data for the purpose of combatting child sexual abuse online

Or. en

Amendment 62

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik AzmaniMichal Šimečka, Ramona Strugariu, Sophia in 't Veld, Anna Júlia Donáth, Nathalie Loiseau, Fabienne Keller, Dragoş Pîslaru

Proposal for a regulation

Citation 4 a (new)

Text proposed by the Commission

Amendment

having regard to the principles established by the 1989 United Nations Convention on the Rights of the Child and its optional protocol on sale of children, child prostitution and child pornography,

Or. en

Amendment 63

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

(2) Directive 2002/58/EC applies to the processing of personal data in connection with the provision of publicly available electronic communication services. The definition of electronic communication service **is currently to be found** in Article 2, point (c), of Directive 2002/21/EC of the European Parliament and of the Council⁴. Directive (EU) 2018/1972 of the European Parliament and of the Council⁵ **repeals Directive 2002/21/EC with effect from 21 December 2020. From that date**, the definition of electronic communications services **will be replaced by a new definition**, in Article 2(4) of Directive (EU) 2018/1972, **which** includes number-independent interpersonal communications

(2) Directive 2002/58/EC applies to the processing of personal data in connection with the provision of publicly available electronic communication services. **Up until 21 December 2020**, the definition of electronic communication service **set out** in Article 2, point (c), of Directive 2002/21/EC of the European Parliament and of the Council⁴ **applied. On that date**, Directive (EU) 2018/1972 of the European Parliament and of the Council⁵ **repealed** Directive 2002/21/EC. The definition of electronic communications services in Article 2(4) of Directive (EU) 2018/1972 includes number-independent interpersonal communications services as defined in Article 2(7) of that Directive. Those

services as defined in Article 2(7) of that Directive. Those services, which include, for example, voice over IP, messaging and web-based e-mail services, **will** therefore **fall** within the scope of Directive 2002/58/EC, as of 21 December 2020

services, which include, for example, voice over IP, messaging and web-based e-mail services, **have** therefore **been** within the scope of Directive 2002/58/EC, as of 21 December 2020

⁴ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

⁴ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

⁵ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

⁵ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

Or. en

Amendment 64

Hilde Vautmans, Caterina Chinnici, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura FerraraDavid LegaJuan Ignacio Zoido ÁlvarezBrando BenifeiAntonio López-Istúriz WhiteIoan-Rareş BogdanMilan BrglezOlivier ChastelMalik AzmaniMichal ŠimečkaRamona StrugariuSophia in 't VeldAnna Júlia DonáthNathalie LoiseauFabienne Keller

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) In accordance with Article 6(1) of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union. Article 7 of the Charter of Fundamental Rights of the European Union (“the Charter”) protects the fundamental right of everyone to the respect for his or her private and family life, home and communications, which includes the confidentiality of communications. Article

Amendment

(3) In accordance with Article 6(1) of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union. Article 7 of the Charter of Fundamental Rights of the European Union (“the Charter”) protects the fundamental right of everyone to the respect for his or her private and family life, home and communications, which includes the confidentiality of communications. Article

8 of the Charter contains the right to protection of personal data. Article 24(2) of the Charter *provides* that, in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

8 of the Charter contains the right to protection of personal data. Article **3(1) of the 1989 United Nations Convention on the Rights of the Child ("UNCRC")** and Article 24(2) of the Charter *provide* that, in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. **Articles 3(3) of the UNCRC and 24(1) of the Charter furthermore evoke the right of children to protection and care as is necessary for their well-being.**

Or. en

Amendment 65

Javier Zarzalejos Jeroen Lenaers Lena Düpont

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Sexual abuse and sexual exploitation of children constitute serious violations of *human* rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges *including* an increase of child sexual abuse online. ***The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse⁶ ("the Strategy"), which aims to provide an effective response, at Union level, to the crime of child sexual abuse***

Amendment

(4) Sexual abuse and sexual exploitation of children constitute serious violations of *fundamental* rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges, ***notably*** an increase of child sexual abuse online ***resulting from broader access to potential victims and a sharp rise in the exchange of child sexual abuse material between child sexual offenders. Moreover, the increased misuse of privacy-enhancing technologies by offenders to disguise their horrendous actions has made it more difficult for law-enforcement authorities to prevent, detect, investigate and prosecute child sexual abuse and exploitation online. According to Europol, the proliferation of anonymisation tools and the higher***

amount of child sexual abuse material may also lead to a higher risk of repeat victimisation^{6a}.

⁶ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.*

^{6a} *Europol report ,Exploiting isolation: Offenders and victims of online child sexual abuse during the Covid-19 pandemic', published on 19 June 2020.*

Or. en

Amendment 66

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Sexual abuse and sexual exploitation of children constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse *online*. ***The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse***⁶ (“*the Strategy*”), which aims to

Amendment

(4) ***The protection of children is one of the Union's priorities.*** Sexual abuse and sexual exploitation of children constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse ***and exploitation material*** online. Child sexual abuse ***material is based on actual abuse in the offline world, where most abuses are committed by persons belonging*** to the

provide an effective response, at Union level, to the crime of child sexual abuse.

family or being close to it. The rise in reported numbers is also partially due to the emerging practice of teenagers who, in the development of their sexual identity and experiences, take explicit pictures of videos of themselves and send them to peers, or share such material without a sexual motivation.

⁶ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.*

Or. en

Amendment 67
Maria Grapini

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) Sexual abuse **and** sexual exploitation of children constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse online. The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse⁶ (“the Strategy”), which aims to provide an effective response, at Union

Amendment

(4) Sexual abuse, sexual exploitation of children **and child pornography** constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse online. The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse⁶ (“the Strategy”), which aims to provide an effective response, at Union

level, to the crime of child sexual abuse.

level, to the crime of child sexual abuse, ***the sexual exploitation of children, child pornography, as these abuses have become more widespread in recent times and have become more widespread through the use of new technologies and the Internet.***

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.

Or. en

Amendment 68

Hilde Vautmans Caterina Chinnici David Lega Javier Moreno Sánchez Dragos Tudorache Evin Incir Pietro Bartolo Laura Ferrara Juan Ignacio Zoido Álvarez Brando Benifei Antonio López-Istúriz White Ioan-Rareş Bogdan Milan Brglez Olivier Chastel Malik Azmani Michal Šimečka Ramona Strugariu Anna Júlia Donáth Nathalie Loiseau Fabienne Keller

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Sexual abuse and sexual exploitation of children constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse online. The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a

Amendment

(4) Sexual abuse and sexual exploitation of children constitute serious violations of human rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the 1989 United Nations Convention on the Rights of the Child and by the Charter. Digitisation has brought about many benefits for society and the economy, but also challenges including an increase of child sexual abuse online. The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a

more effective fight against child sexual abuse⁶ (“the Strategy”), which aims to provide an effective response, at Union level, to the crime of child sexual abuse.

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.

more effective fight against child sexual abuse⁶ (“the Strategy”), which aims to provide an effective response, at Union level, to the crime of child sexual abuse **and child sexual exploitation**.

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.

Or. en

Amendment 69
Javier Zarzalejos, Jeroen Lenaers, Eva Maydell
Lena Düpont

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse^{1a} (the ‘Strategy’), which aims to provide an effective response, at Union level, to the crime of child sexual abuse. As part of the Strategy, the Commission announced that it would propose sector-specific legislation, including “clear mandatory obligations to detect and report child sexual abuse online to bring more clarity and certainty to the work of both law enforcement and relevant actors in the private sector to tackle online abuse”. The new legislation should fully respect fundamental rights, notably the rights to freedom of expression, to private life and data protection, and include mechanisms to ensure accountability and

transparency.

1^a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM(2020) 607 final.

Or. en

Amendment 70

Fabienne Keller, Ramona Strugariu, Nathalie Loiseau, Hilde Vautmans, Laurence Farreng

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Whereas this proposal does not undermine the principal of end-to-end encryption, since the aim of this proposal is to allow providers of communications to continue their voluntary detection and reporting of child sexual abuse online and removal of child sexual abuse material. Thus, limitations to end-to-end encryptions should not be addressed here.

Or. en

Amendment 71

Sophia in 't Veld, Michal Šimečka, Ramona Strugariu, Yana Toom, Abir Al-SahlaniHilde Vautmans

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Teenagers have the right to discover their sexual identity in a safe and private environment.

Amendment 72**Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont****Proposal for a regulation****Recital 5***Text proposed by the Commission*

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, **are already** using specific technologies to detect **and report** child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. **Those organisations** refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a **valuable** role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse offences.

Amendment

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, **have been** using specific technologies, **notably hashing technology for images and videos, tools using classifiers and artificial intelligence, and technologies analysing text and/or metadata**, to detect child sexual abuse online **on their services and report it** to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to **detect**, remove **and report** child sexual abuse material. **Those measures have been applied** on a voluntary basis, **while relying on Article 6 of Regulation (EU) 2016/679 as the legal basis for processing. The providers** refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a **crucial** role in enabling the identification and rescue of victims, **whose fundamental rights to human dignity and to physical and mental integrity were severely violated**, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention, **detection, investigation and prosecution** of child sexual abuse offences.

Amendment 73**Patrick Breyer**

on behalf of the Verts/ALE Group

Proposal for a regulation**Recital 5***Text proposed by the Commission*

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, **are already** using **specific** technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. Those **organisations** refer to national hotlines **for reporting child sexual abuse material**, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a **valuable** role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse offences.

Amendment

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, **have been** using technologies to detect and report child sexual abuse **and exploitation material** online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse **and exploitation material**, on a voluntary basis, **by scanning either the content, such as pictures and text, or the metadata of communications using, in some instances, historical data**. Those **providers** refer **detected child sexual abuse and exploitation material** to national hotlines **dedicated to this task**, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries, **in particular the National Center for Missing and Exploited Children (NCMEC) in the United States. When they are established in third countries, they do not fall into the scope of the EU data protection acquis**. Collectively, those voluntary activities play a role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse **and exploitation material**, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse **and exploitation** offences.

Amendment 74

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau, Fabienne Keller

Proposal for a regulation**Recital 5***Text proposed by the Commission*

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. Those organisations refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse offences.

Amendment

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse **and child sexual exploitation**, or to remove child sexual abuse **and child sexual exploitation** material, on a voluntary basis. Those organisations refer to national hotlines for reporting child sexual abuse **and child sexual exploitation** material, as well as to organisations whose purpose is to reduce **child sexual abuse and child sexual exploitation**, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse **and child sexual exploitation** material, **which constitutes a gross violation of the right to privacy of the child**, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse **and child sexual exploitation** offences.

Amendment 75
Cornelia Ernst

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. Those organisations refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse offences.

Amendment

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis ***by scanning either the content, such as pictures and text, or the meta data of communications using, in some instances, historical data*** . Those organisations refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification and investigation of offenders, and the prevention of child sexual abuse offences.

Or. en

Amendment 76
Maria Grapini

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. Those organisations refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification *and* investigation of offenders, and the prevention of child sexual abuse offences.

Amendment

(5) Certain providers of number-independent interpersonal communications services, such as webmail and messaging services, are already using specific technologies to detect and report child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, or to remove child sexual abuse material, on a voluntary basis. Those organisations refer to national hotlines for reporting child sexual abuse material, as well as to organisations whose purpose is to *identify, to* reduce child sexual exploitation, and prevent child victimisation, located both within the Union and in third countries. Collectively, those voluntary activities play a valuable role in enabling the identification and rescue of victims, and reducing the further dissemination of child sexual abuse material, while also contributing to the identification, investigation *and punishment* of offenders, and the prevention of child sexual abuse offences.

Or. en

Amendment 77

Javier Zarzalejos
Jeroen Lenaers,
Lena Düpont

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Notwithstanding their legitimate objective, those measures unequivocally interfere with the fundamental rights to respect for private life and data protection of the individuals concerned, namely users, perceived perpetrators and victims.

Such interference is only possible under certain conditions. It needs to be provided for by law, respect the essence of the rights to data protection and privacy and, in compliance with the principle of proportionality, be necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others as enshrined in Article 52 (1) of the Charter.

Or. en

Amendment 78

Fabienne Keller, Ramona Strugariu, Nathalie Loiseau, Abir Al-Sahlani, Olivier Chastel, Hilde Vautmans, Laurence Farreng

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *The Covid-19 crisis has significantly exacerbated the production and distribution of child sexual abuse material (CSAM) online which hit a record level during the spring lockdown within Europe^{1a}. A 106 % increase of such activity across the globe was detected^{2a}. About one in five children falls victim to violence including sexual abuse.*

^{1a} *Exploiting isolation: offenders and victims of online child sexual abuse during the COVID-19 pandemic, EUROPOL, 2020.*

^{2a} *Exploiting isolation: offenders and victims of online child sexual abuse during the COVID-19 pandemic, EUROPOL, 2020.*

Or. en

Amendment 79

Sophia in 't VeldMichal ŠimečkaAnna Júlia Donáth

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Certain providers of number-independent interpersonal communications services are deploying such technologies on basis of Regulation (EU) 2016/679, referring to legitimate interest, which is a very questionable legal basis for processing sensitive data. Nevertheless, data protection authorities have not taken any enforcement action.

Or. en

Amendment 80

Jadwiga WiśniewskaMargarita de la Pisa Carrión

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Acting in the child's best interest should be a priority; therefore underlines the necessity to ensure the safety of using new technologies, electronic communication services, in particular the protection of children against sexual exploitation on the Internet.

Or. en

Amendment 81

Sophia in 't VeldMichal ŠimečkaRamona StrugariuAnna Júlia DonáthYana ToomFabienne Keller

Proposal for a regulation

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) Directive 2011/93/EU obliges Member States to take measures against child sexual abuse, at the latest by 18 December 2013. 23 Member States have failed to implement this Directive, and the Commission has failed to act as custodian of the treaties by starting infringement procedures against these Member States only in July and October 2019, almost six years after the deadline of transposition, and has failed to act following the calls by Parliament in its resolution of 14 December 2017¹.

¹ ***European Parliament resolution of 14 December 2017 on the implementation of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography (OJ C 369, 11.10.2018, p. 96).***

Or. en

Amendment 82

Jadwiga WiśniewskaMargarita de la Pisa Carrión

Proposal for a regulation

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) Patterns of on-line criminalities are changing rapidly and the activity by sexual predators seeking child exploitation materials, especially during COVID-19 increased online, therefore there is a priority need to implement solution protecting children from on-line exploitation;

Amendment 83
Javier ZarzalejosJeroen LenaersLena Düpont

Proposal for a regulation
Recital 6

Text proposed by the Commission

Amendment

(6) Until 20 December 2020, the processing of personal data by providers of number-independent interpersonal communications services by means of voluntary measures for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material is governed by Regulation (EU) 2016/679.

deleted

Or. en

Justification

The purpose of this derogation is to ensure that GDPR continues to apply

Amendment 84
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 6

Text proposed by the Commission

Amendment

6) Until 20 December 2020, the processing of personal data by providers of number-independent interpersonal communications services by means of voluntary measures for the purpose of detecting and reporting child sexual abuse **online** and removing **child sexual abuse material** is **governed by** Regulation (EU) 2016/679.

(6) Until 20 December 2020, the processing of personal data by providers of number-independent interpersonal communications services by means of voluntary measures for the purpose of detecting and reporting child sexual abuse **and exploitation material** and removing **such** material is **subject to** Regulation (EU) 2016/679 **(GDPR)**. **The data protection authorities are investigating a complaint**

for non-compliance of current voluntary measures with the GDPR, and data subjects have so far not been informed in accordance with Articles 13 and 14 of that Regulation. Directive (EU) 2018/1972 will have no direct effect on providers which apply such voluntary measures.

Or. en

Amendment 85

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The voluntary measures applied by providers so far constitute an interference with the fundamental rights to respect for private life and data protection of all users of popular electronic communications services, such as instant messaging platforms and applications. Where such measures permanently involve a general and indiscriminate monitoring and analysis of content of communications of all users, they violate the right to confidentiality of communications, as the Court of Justice has ruled in the joined Cases C-511/18, C-512/18 and C-520/18 - La Quadrature et al.

Or. en

Amendment 86

Cornelia Ernst

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) *The measures provided for in this Regulation constitute an interference with the fundamental rights to respect for private life and data protection of all users of popular electronic communications services, such as instant messaging platforms and applications. Even voluntary measures by private companies constitute an interference with those rights when the measures involve monitoring and analysis of content of communications and processing of personal data.*

Or. en

Amendment 87

Fabienne KellerRamona Strugariu,

Nathalie LoiseauAbir Al-SahlaniOlivier ChastelHilde VautmansLaurence Farreng

Proposal for a regulation

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) *Any limitation to the right of the confidentiality of communications must register within the very specific aim of this proposal, which is the fight against child sexual abuse online.*

Or. en

Amendment 88

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) *Any limitation to the fundamental right to the confidentiality of communications cannot be justified merely on the ground that certain technologies were previously deployed when the services concerned did not, from a legal perspective, constitute electronic communications services.*

Or. en

Amendment 89
Cornelia Ernst

Proposal for a regulation
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) *Any limitation to the fundamental right to the confidentiality of communications cannot be justified merely on the ground that certain technologies were previously deployed when the services concerned did not, from a legal perspective, constitute electronic communications services.*

Or. en

Amendment 90
Cornelia Ernst

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in

connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse. ***In the absence of such legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level as announced in the Strategy, there would be no legal basis for providers of number-independent interpersonal communications services to continue to detect and report child sexual abuse online and remove child sexual abuse material in their services beyond 21 December 2020.***

connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse.

Or. en

Amendment 91

Sophia in 't VeldMichal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Yana Toom, Fabienne Keller

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member

Amendment

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member

States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse. ***In the absence of*** such legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level as announced in the Strategy, there would be no legal basis for providers of number-independent interpersonal communications services to continue to detect and report child sexual abuse online and remove child sexual abuse material in their services beyond 21 December 2020.

States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse. ***Since most Member States have failed to adopt*** such legislative measures, ***the Commission has failed to respond to warnings given during the legislative process of the European Electronic Communications code and has failed to provide a legal basis for processing personal data in this context***, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level as announced in the Strategy, there would be no legal basis for providers of number-independent interpersonal communications services to continue to detect and report child sexual abuse online and remove child sexual abuse material in their services beyond 21 December 2020.

Or. en

Amendment 92
Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal ***and other*** data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative

Amendment

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative measures to

measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse. In the absence of such legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level as announced in the Strategy, **there would be no legal basis for** providers of number-independent interpersonal communications services to **continue to** detect and report child sexual abuse online and remove child sexual abuse material in their services **beyond** 21 December 2020.

restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse. In the absence of such **national** legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level as announced in the Strategy, **those voluntary measures of** providers of number-independent interpersonal communications services to detect and report child sexual abuse online and **to detect**, remove **and report** child sexual abuse material in their services **would be illegal after** 21 December 2020.

Or. en

Amendment 93

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of prevention, investigation, detection and

Amendment

(7) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal and other data in connection with the provision of electronic communication services for the purpose of detecting and reporting child sexual abuse **and exploitation material** online and removing child sexual abuse **and exploitation** material. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern confidentiality of communications and traffic data, for the purpose of

prosecution of criminal offences linked to child sexual abuse. In the absence of such legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse effectively at Union level ***as announced in the Strategy***, there ***would be*** no legal basis for providers of number-independent interpersonal communications services to ***continue to*** detect and report child sexual abuse ***online and remove child sexual abuse*** material in their services ***beyond 21 December 2020***.

prevention, investigation, detection and prosecution of criminal offences linked to child sexual abuse ***and exploitation***. In the absence of such legislative measures, and pending the adoption of a new longer-term legal framework to tackle child sexual abuse ***and exploitation*** effectively at Union level, there ***is*** no legal basis for providers of number-independent interpersonal communications services to detect, ***remove*** and report child sexual abuse material ***online*** in their services.

Or. en

Amendment 94
Birgit Sippel

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The processing of photographs and videos under this Regulation should always be considered to be processing of special categories of personal data, as defined in Article 9 of Regulation (EU) 2016/679 as they are biometric data that are processed through a specific technical means allowing the unique identification or authentication of a natural person.

Or. en

Amendment 95
Maria Grapini

Proposal for a regulation

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In order to eliminate and block child sexual abuse material, cooperation between national public authorities should be strengthened, in order to ensure as accurate national lists as possible of websites containing child pornography material in order to restrict access to these sites and to block them.

Or. en

Amendment 96

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Recital 8

Text proposed by the Commission

Amendment

(8) This Regulation therefore provides for a temporary derogation from Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.

(8) This Regulation therefore provides for a temporary derogation from Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. ***Voluntary measures applied by providers offering number-independent interpersonal communications services in the Union for the sole purpose of detecting and reporting child sexual abuse online and detecting, removing and reporting child sexual abuse material therefore become subject to the safeguards and conditions set out in this Regulation as well as Regulation (EU) 2016/679.*** Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions

in accordance with Article 15(1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market **and the protection of fundamental rights, notably the rights of children who fall victim to child sexual abuse online across the Union and beyond.**

Or. en

Amendment 97
Cornelia Ernst

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation therefore provides for a temporary **derogation from** Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. **Moreover, not all Member States have adopted** legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, **and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.**

Amendment

(8) This Regulation therefore provides for a temporary **restriction of** Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. **Where** Member States **adopt** legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, **they should respect Regulation (EU) 2016/679.**

Or. en

Amendment 98
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation therefore provides for a temporary **derogation from** Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. **Moreover, not all** Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, **and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.**

Amendment

(8) This Regulation therefore provides for a temporary **restriction of** Article 5(1) and Article **6(1)** of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. **This Regulation should also create the legal basis for clearly defined and limited voluntary measures.** Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. **Where** Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, **they should respect Regulation (EU) 2016/679, and in particular Article 23 thereof.**

Or. en

Amendment 99
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) Given that electronic communications involving natural persons will normally qualify as personal data, this Regulation should also be based on Article 16 of the Treaty, which provides a specific legal basis for the adoption of rules relating to the protection of individuals with regard to the processing of personal data by Union institutions and by the Member States

Amendment

(9) Given that **data related to** electronic communications involving natural persons will normally qualify as personal data, this Regulation should also be based on Article 16 of the Treaty **on the Functioning of the European Union**, which provides a specific legal basis for the adoption of rules relating to the protection of individuals with regard to the

when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

processing of personal data by Union institutions and by the Member States when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

Or. en

Amendment 100

Cornelia Ernst

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Given that electronic communications involving natural persons will normally qualify as personal data, this Regulation should also be based on Article 16 *of the Treaty*, which provides a specific legal basis for the adoption of rules relating to the protection of individuals with regard to the processing of personal data by Union institutions and by the Member States when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

Amendment

(9) Given that electronic communications involving natural persons will normally qualify as personal data, this Regulation should also be based on Article 16 *TFEU*, which provides a specific legal basis for the adoption of rules relating to the protection of individuals with regard to the processing of personal data by Union institutions and by the Member States when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

Or. en

Amendment 101

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) To the extent that processing of personal data in connection with the provision of electronic communications services by number-independent interpersonal communications services for

Amendment

(10) To the extent that processing of personal data in connection with the provision of electronic communications services by number-independent interpersonal communications services for

the sole purpose of detecting and reporting child sexual abuse **online** and removing child sexual abuse material falls within the scope of the derogation provided for by this Regulation, Regulation (EU) 2016/679 applies to such processing, including the requirement to carry out an assessment of the impact of the envisaged processing operations where appropriate pursuant to Article 35 of that Regulation prior to the deployment of the technologies concerned.

the sole purpose of detecting and reporting child sexual abuse **and exploitation material** and removing child sexual abuse **and exploitation** material falls within the scope of the derogation provided for by this Regulation, Regulation (EU) 2016/679 applies to such processing, including the requirement to carry out an assessment of the impact of the envisaged processing operations where appropriate pursuant to Article 35 of that Regulation prior to the deployment of the technologies concerned, **and the requirement pursuant to Article 36 thereof to consult the competent supervisory authority prior to the processing.**

Or. en

Amendment 102

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Since this Regulation provides for a restriction to the right of confidentiality of communications, the consultation of the supervisory authority pursuant to Article 36 of Regulation (EU) 2016/679 should be mandatory.

Or. en

Amendment 103

Cornelia Ernst

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Since this Regulation provides for a restriction to the right of confidentiality of communications, the consultation of the supervisory authority pursuant to Article 36 of Regulation (EU) 2016/679 should be mandatory.

Or. en

Amendment 104

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is ***regularly*** used by number-independent interpersonal communications services for the purpose of detecting ***and reporting child sexual abuse online*** and removing child sexual abuse material ***before the entry into force of this Regulation***. The reference to the technology includes ***where necessary any*** human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be ***immaterial*** whether or not a particular provider that seeks to rely on ***this***

(11) Since the sole objective of this Regulation is to enable the ***limited and targeted, modified*** continuation of certain existing activities aimed at combating child sexual abuse ***and exploitation*** online, the derogation provided for by this Regulation should be limited to well-established technology that is used by number-independent interpersonal communications services for the purpose of detecting, reporting and removing child sexual abuse ***and exploitation*** material, ***which functions by matching images and videos against a database of unique, non-reconvertible digital signatures (“hashes”) of known child sexual abuse and exploitation material. This database should be operated by public authorities in the Union, so as to not be dependent on private entities in third countries with unclear legal grounds and obligations.*** The reference to the technology includes human review directly relating to the use of the technology and overseeing it, ***and human review for each case of reporting***

derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art *in the industry* and should not include *systematic* filtering and scanning of communications containing text *but only look into specific communications in case of concrete elements of suspicion of child sexual abuse*.

detected child sexual abuse and exploitation material to law enforcement authorities. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be *irrelevant* whether or not a particular provider that seeks to rely on *the restriction provided for by this Regulation* itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art and should not include filtering and scanning of communications containing text *or audio*.

Or. en

Amendment 105

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Since the sole objective of this Regulation is to enable the continuation of *certain existing* activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to *well-established* technology that is *regularly* used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material *before the entry into force of this Regulation*. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing *it*. The use of the technology in question should

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of activities aimed at combating child sexual abuse online *which comply with Regulation (EU) 2016/679*, the derogation provided for by this Regulation should be limited to technology that is used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and *detecting, removing and reporting* child sexual abuse material *and has been subject to prior consultation in line with Article 36 of Regulation (EU) 2016/679*. The reference to the technology includes where necessary any human review directly relating to the use of the

therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The **types of technologies** deployed should be ***the least privacy-intrusive in accordance with the state of the art in the industry and should not include systematic filtering and scanning of communications containing text but only look into specific communications in case of concrete elements of suspicion of child sexual abuse.***

technology and overseeing ***its functioning with a view to avoid unnecessary interference with fundamental rights.*** The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The technologies deployed should be ***in conformity with the principle of data protection by design and by default as defined in Regulation (EU) 2016/679. To the extent that they are used to scan communications containing text, they should not be able to understand the substance of the content but solely detect patterns which point to possible child sexual abuse.***

Or. en

Amendment 106

Fabienne Keller, Nathalie LoiseauHilde Vautmans, Laurence Farreng

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material ***before the entry into force of this***

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material. The reference to the technology

Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should **not** include *systematic* filtering and scanning of communications containing text **but only look into specific communications in case of concrete elements of suspicion of child sexual abuse**.

includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should include *in particular* filtering and scanning of communications containing text **in cases where these key indicators are present (keywords and objectively identified risk factors)**.

Or. en

Amendment 107

Maria Grapini

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse

material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should not include systematic filtering and scanning of communications containing text but only look into specific communications in case of concrete elements of suspicion of child sexual abuse.

material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should not include systematic filtering and scanning of communications containing text but only look into specific communications in case of concrete elements of suspicion of child sexual abuse *and child pornography*.

Or. en

Amendment 108

Cornelia Ernst

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at **combating** child sexual abuse online, the derogation provided for by this Regulation should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at **detecting, reporting and removing** child sexual abuse **material** online, the derogation provided for by this Regulation should be limited to well-established technology that **has been subject to prior evaluation by data protection supervisory authorities**, is regularly used by number-

online and removing child sexual abuse material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should not include systematic filtering and scanning of communications containing text *but only look into specific communications in case of concrete elements of suspicion of child sexual abuse*.

independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry and should not include systematic filtering and scanning of communications containing text.

Or. en

Amendment 109

Hilde Vautmans, Caterina Chinnici, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Fabienne Keller, Pietro Bartolo, Laura Ferrara, David Lega, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation

Amendment

(11) Since the sole objective of this Regulation is to enable the continuation of certain existing activities aimed at combating child sexual abuse online, the derogation provided for by this Regulation

should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry *and* should not *include systematic filtering and scanning of communications containing text but only look into specific communications in case of concrete elements of suspicion of* child sexual abuse.

should be limited to well-established technology that is regularly used by number-independent interpersonal communications services for the purpose of detecting and reporting child sexual abuse online and removing child sexual abuse material before the entry into force of this Regulation. The reference to the technology includes where necessary any human review directly relating to the use of the technology and overseeing it. The use of the technology in question should therefore be common in the industry, without it necessarily being required that all providers use the technology and without precluding the further evolution of the technology in a privacy-friendly manner. In this respect, it should be immaterial whether or not a particular provider that seeks to rely on this derogation itself already uses such technology on the date of entry into force of this Regulation. The types of technologies deployed should be the least privacy-intrusive in accordance with the state of the art in the industry. *The technologies deployed* should not *be able to understand the content of the communications but solely be able to detect patterns of possible* child sexual abuse.

Or. en

Amendment 110

Jadwiga Wiśniewska, Margarita de la Pisa Carrión

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In order to ensure the effectiveness of the declared objectives, providers of number-independent interpersonal communications services should be

encouraged to incorporate effective measures for proper supervision in families.

Or. en

Amendment 111
Maria Grapini

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) EU Member States should provide for severe criminal penalties in their national law to more effectively combat sexual abuse of children, sexual exploitation of children and child pornography and to deter such crimes.

Or. en

Amendment 112
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) In order to ensure accuracy and reliability as much as possible, the technology used should, in accordance with the state of the art in the industry, be such as to limit the error rate of false positives to *the maximum extent possible* and, where necessary, to rectify without delay any such errors that may nonetheless occur.

(12) In order to ensure accuracy and reliability as much as possible, the technology used should, in accordance with the state of the art in the industry, be such as to limit the error rate of false positives to *at most 1 in 50 billion* and, where necessary, to rectify without delay any such errors that may nonetheless occur.

Or. en

Justification

This is the rate of false positives Microsoft claims for PhotoDNA.

Amendment 113

Sophia in 't Veld, Michal Šimečka, Yana Toom, Abir Al-Sahlani

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Providers of number-independent interpersonal communications services should respect the different rules regarding the age of consent in the Member States. If users have reached the age of consent according to the Member State of which they are citizens, no reporting on child solicitation to law enforcement authorities should be done.

Or. en

Amendment 114

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) The personal ***and other*** data used when carrying out the activities covered by the derogation set out in this Regulation, ***as well as the period during which the data is subsequently retained in case of positive results***, should be minimised so as to ensure that the ***derogation remains*** limited to what is strictly necessary.

(13) The personal data used when carrying out the activities covered by the derogation set out in this Regulation should be minimised so as to ensure that the ***interference with the confidentiality of communications as well as the period during which the relevant data is subsequently preserved in case of positive results remain*** limited to what is strictly necessary ***and proportionate. The preservation is necessary and justified for reporting to law enforcement and other relevant public authorities, including***

organisations acting in the public interest against child sexual abuse, and for responding to their requests, for the blocking of the account of the user concerned, for the creation of a unique, non-reconvertible digital signature ('hash') in relation to data reliably identified as child pornography, for improving and measuring the accuracy of the technology used, and for proceedings of administrative or judicial review or remedy. To ensure proportionality, the period of preservation should not exceed nine months but may be prolonged in justified cases.

Or. en

Amendment 115

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The personal and other data used when carrying out the activities covered by the **derogation set out** in this Regulation, as well as the period during which the data is subsequently retained in case of positive results, should be minimised so as to ensure that the **derogation** remains limited to what is strictly necessary.

Amendment

(13) The personal and other data used when carrying out the activities covered by the **restriction provided for** in this Regulation, as well as the period during which the data is subsequently retained in case of positive results, should be minimised so as to ensure that the **restriction** remains limited to what is strictly necessary **and proportionate**. **Therefore the providers should be allowed to scan the content of the communications only where this has been ordered by a judicial authority. Such orders should be strictly limited to the communication of persons for whom a prior suspicion based on factual evidence exists that they are involved in the distribution of child sexual abuse and exploitation material. These orders should also be limited in time to the shortest period possible for fulfilling**

the purpose.

Or. en

Justification

Following CJEU case-law on Digital Rights Ireland, La Quadrature du Net, and others.

Amendment 116

Jadwiga Wiśniewska, Margarita de la Pisa Carrión

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) While implementing solutions aimed to protect children from on-line exploitation, it is necessary to take into account approach that assumes protection of individual rights, including the right to privacy and data protection.

Or. en

Amendment 117

Birgit Sippel

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the ***derogation, the*** providers should publish reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, number of cases identified, ***measures applied to select and improve key indicators***, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the ***restriction, provided for by this Regulation, interpersonal communications service*** providers should publish ***and submit*** reports ***within six months after the entry into force of this Regulation, and thereafter*** on an annual basis, on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, ***the legal basis***

limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

for the processing of data pursuant to Article 6 of Regulation (EU) 2016/679, the legal basis for the transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, the number of cases identified, the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied pursuant to Regulation (EU) 2016/679. Providers should also submit their reports to the supervisory authorities in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 118

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the **derogation, the** providers should publish reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data

Amendment

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the **restriction provided for by this Regulation, interpersonal communications service** providers should publish reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, number of cases identified, **number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings**, measures applied to select

protection safeguards applied.

and improve key indicators, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Or. en

Amendment 119

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation, the providers should **publish** reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Amendment

(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation, the providers should **make publicly available** reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and volumes of data processed, **the legal basis for processing**, number of cases identified, measures applied to select and improve key indicators, the numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Or. en

Amendment 120

Cornelia Ernst

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In order to support the responsible supervisory authorities in their task, the European Data Protection Board should issue guidelines on compliance with Regulation (EU) 2016/679 of the processing falling within the scope of the restriction laid down in this Regulation. Those guidelines should in particular assist the supervisory authorities in providing advice in the framework of the prior consultation procedure set out in Article 36 of Regulation (EU) 2016/679, that should be carried out when assessing whether an established or new technology to be used is state-of-the-art, the least privacy-intrusive and operating on an adequate legal basis under Regulation (EU) 2016/679.

Or. en

**Amendment 121
Cornelia Ernst**

**Proposal for a regulation
Recital 15**

Text proposed by the Commission

Amendment

(15) This Regulation should enter into force on the third day following that of its publication in the Official Journal of the European Union, in order to ensure that it is applicable as from 21 December 2020.

deleted

Or. en

**Amendment 122
Patrick Breyer
on behalf of the Verts/ALE Group**

Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) This Regulation should enter into force on the third day following that of its publication in the Official Journal of the European Union, in order to ensure that it is applicable as from 21 December 2020.

deleted

Or. en

Amendment 123

Hilde Vautmans, Caterina Chinnici, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, David Lega

Proposal for a regulation
Recital 16

Text proposed by the Commission

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December 2025, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, **with** more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December 2025, that is to say for a time period reasonably required for the adoption of a new long-term legal framework. ***This new legal framework will provide a new legal basis and mandatory requirements for companies to detect and report child sexual abuse online and remove child sexual abuse and child sexual exploitation material online. The new legal framework should also incorporate*** more elaborate safeguards, ***as***

well as the creation of a European Centre to prevent and counter child sexual abuse, to improve transparency and accountability. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Or. en

Amendment 124

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) This Regulation restricts the right to protection of the confidentiality of communications *and derogates from* the decision taken in Directive (EU) 2018/1972 to subject *number-independent interpersonal communications services* to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, *therefore*, be limited until 31 December 2025, *that is to say for a time period reasonably required* for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications *for the sole purpose of combatting child sexual abuse and child sexual abuse material online. For all other activities by providers of number-independent interpersonal communications services that fall within the scope of Directive 2002/58/EC*, the decision taken in Directive (EU) 2018/1972 to subject *those providers* to the same rules *and specific obligations* as all other electronic communications services as regards privacy *apply*. The period of application of this Regulation should be limited until 31 December 2025 *in order to provide for reasonable time* for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Or. en

Amendment 125

Fabienne Keller, Ramona Strugariu, Nathalie Loiseau, Hilde Vautmans, Laurence Farreng

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December 2025, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December 2025, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards, ***such as the creation of a European Centre to prevent and counter child sexual abuse, to improve transparency and accountability***. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Or. en

Amendment 126

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent

interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December **2025**, *that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards*. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

interpersonal communications services to the same rules as all other electronic communications services as regards privacy, *for the sole purpose of removing child sexual abuse and exploitation material and detecting or reporting child sexual abuse and exploitation material online to law enforcement authorities*. The period of application of this Regulation should, therefore, be limited until 31 December **2022**. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Or. en

Justification

Following the EDPS opinion.

Amendment 127 **Cornelia Ernst**

Proposal for a regulation **Recital 16**

Text proposed by the Commission

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December **2025**, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December **2022**, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment 128**Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom****Proposal for a regulation****Recital 16***Text proposed by the Commission*

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December **2025**, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment

(16) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken in Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules as all other electronic communications services as regards privacy. The period of application of this Regulation should, therefore, be limited until 31 December **2022**, that is to say for a time period reasonably required for the adoption of a new long-term legal framework, with more elaborate safeguards. In case the long-term legislation is adopted and will enter into force before that date, that legislation should repeal this Regulation.

Amendment 129**Javier Zarzalejos, Jeroen Lenaers, Lena Düpont****Proposal for a regulation****Recital 17***Text proposed by the Commission*

(17) Providers of number-independent interpersonal communications services should be subject to the specific obligations set out in Directive 2002/58/EC with regard to any other activities that fall within its scope.

*Amendment****deleted***

Amendment 130
Cornelia Ernst

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The supervisory authorities responsible for monitoring the application of this Regulation should be the same as the independent supervisory authorities designated pursuant to Chapter VI of Regulation (EU) 2016/679.

Or. en

Amendment 131
Cornelia Ernst

Proposal for a regulation
Recital 17 b (new)

Text proposed by the Commission

Amendment

(17b) End-to-end encryption is an important tool to guarantee secure and confidential communications of users, including that of children. Any weakening of encryption can potentially be abused by malicious third parties. Nothing in this Regulation should therefore be interpreted as prohibiting or weakening end-to-end encryption.

Or. en

Amendment 132
Cornelia Ernst

Proposal for a regulation

Recital 17 c (new)

Text proposed by the Commission

Amendment

(17c) The confidentiality of communications is a fundamental right guaranteed under Article 7 of the Charter. It is thus also a prerequisite for secure communications between victims of child sexual abuse and a trusted adult or organisations active in the fight against child sexual abuse as well as in communications between victims and their lawyers.

Or. en

**Amendment 133
Cornelia Ernst**

**Proposal for a regulation
Recital 17 d (new)**

Text proposed by the Commission

Amendment

(17d) All communications between an accused or convicted person and their lawyer should be protected, in order to guarantee the fundamental rights to an effective remedy and to a fair trial pursuant to Article 47 of the Charter as well as the right to the presumption of innocence and the right of defence pursuant to Article 48 thereof.

Or. en

**Amendment 134
Cornelia Ernst**

Proposal for a regulation

Recital 17 e (new)

Text proposed by the Commission

Amendment

(17e) This Regulation should apply only to videos or images exchanged over messaging or email services. It should not apply to the scanning of text or audio communication.

Or. en

Amendment 135

Fabienne Keller, Ramona Strugariu, Nathalie Loiseau, Hilde Vautmans, Laurence Farreng

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Images and videos depicting child sexual abuse material concern the child's intimacy, and are therefore special categories of data; the acts of sharing, processing and disseminating those contents are unlawful. Thus there should be a clear legal basis allowing companies to take measures in order to prevent that processing, ensure that their services are not abused for the purpose of disseminating images and videos of child sexual abuse online, and delete those contents. The practices of those companies should register within the specific context of this Regulation, and respect the safeguards included in it.

Or. en

Amendment 136

Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The images and videos depicting child sexual abuse material concern the child's intimacy, and are therefore special categories of data whose processing to enable its dissemination is unlawful. Companies should not be prevented from taking measures to prevent that processing and ensure that their services are not abused for the purpose of disseminating images and videos of child sexual abuse.

Or. en

Amendment 137
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 19

Text proposed by the Commission

Amendment

(19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷ and delivered its opinion on [...],

(19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷ and delivered its opinion on ***10 November 2020***,

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

Amendment 138

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷ and delivered its opinion on [...],

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

Amendment

(19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷ and delivered its opinion on **10 November 2020**,

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

Amendment 139

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent

Amendment

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent

interpersonal communications services to ***continue the use of*** technologies for the processing of personal and other data to the extent necessary to detect ***and report child sexual abuse online*** and remove child sexual abuse material on their services.

interpersonal communications services to ***use specific*** technologies ***in limited cases*** for the processing of personal and other data to the extent ***strictly*** necessary to detect, report and remove child sexual abuse ***and exploitation*** material ***consisting of images or videos*** on their services. ***This Regulation therefore creates a legal basis for the processing of that data pursuant to Article 6(1)(e) of Regulation (EU) 2016/679, and is without prejudice to that Regulation.***

This Regulation shall not apply to text or audio communications.

Or. en

Justification

Clarification on legal basis following the EDPS opinion.

Amendment 140

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to ***continue the use of*** technologies for the processing of personal ***and other*** data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.

Amendment

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to ***use*** technologies for the processing of personal data to the extent necessary ***and proportionate*** to detect and report child sexual abuse online ***and to detect, report*** and remove child sexual abuse material on their services, ***while fully respecting the rights and obligations laid down in Regulation (EU) 2016/679. It shall apply to the analysis of images, video, text and audio exchanged via number-independent interpersonal communications services.***

Amendment 141
Birgit Sippel

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down temporary and strictly limited rules **derogating from** certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to continue the use of technologies for the processing of personal **and other** data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.

Amendment

This Regulation lays down temporary and strictly limited rules **restricting** certain **rights and** obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of **certain** number-independent interpersonal communications services, **i.e. providers of messaging or web-based emailing services**, to continue, **without prejudice to Regulation (EU) 2016/679**, the use of **specific** technologies, **i.e. the use of a non-reconvertible digital signature ('hash')**, for the processing of personal data to the extent **strictly** necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.

Amendment 142
Cornelia Ernst

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down temporary and strictly limited rules **derogating from** certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to **continue the use of** technologies for the

Amendment

This Regulation lays down temporary and strictly limited rules **restricting** certain **rights and** obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to **use** technologies for the

processing of personal and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.

processing of personal and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services, ***without prejudice to Regulation (EU) 2016/679.***

Or. en

Amendment 143

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Fabienne Keller, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to continue the use of technologies for the processing of personal and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.

Amendment

This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of number-independent interpersonal communications services to continue the use of technologies for the processing of personal and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse ***and child sexual exploitation*** material on their services.

Or. en

Amendment 144

Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1– point 2 – introductory part

Text proposed by the Commission

Amendment

(2) ‘child sexual abuse **online**’ means:

(2) ‘child sexual abuse **and exploitation material**’ means:

Or. en

Justification

Aligned with Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography. In line with recital 9 of that Directive, the legal instruments cover both recordings of sexual abuse and other recordings exploited with or without the child’s knowledge

Amendment 145

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point a

Text proposed by the Commission

Amendment

(a) material constituting child pornography as defined in Article 2, point (c), of Directive 2011/93/EU of the European Parliament and of the Council;

deleted

Or. en

Justification

included in the definition of child sexual abuse material.

Amendment 146

Jadwiga Wiśniewska, Margarita de la Pisa Carrión

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point a

Text proposed by the Commission

Amendment

(a) material constituting child pornography as defined in Article 2, point (c), of Directive 2011/93/EU of the

(a) material constituting child pornography as defined in Article 2, point (c), of Directive 2011/93/EU of the

European Parliament and of the Council;

European Parliament and of the Council,
this concept being extended to include any obscene image which shows or exhibits any intimate part of a child regardless of their gender and which promotes or incites a disruptive emotional disturbance, thereby violating one's dignity as a human being;

Or. en

Amendment 147

Cornelia Ernst

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b

Text proposed by the Commission

Amendment

(b) solicitation of children for the purpose of engaging in sexual activities with a child or of producing child pornography by any of the following:

Deleted

(i) luring the child by means of offering gifts or other advantages;

(ii) threatening the child with a negative consequence likely to have a significant impact on the child;

(iii) presenting the child with pornographic materials or making them available to the child.

Or. en

Amendment 148

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b

Text proposed by the Commission

Amendment

(b) solicitation of children for the purpose of engaging in sexual activities with a child or of producing child pornography by any of the following:

Deleted

(i) luring the child by means of offering gifts or other advantages;

(ii) threatening the child with a negative consequence likely to have a significant impact on the child;

(iii) presenting the child with pornographic materials or making them available to the child.

Or. en

Justification

The automated analysis of private communications content in search of possible solicitation is error-prone and would also expose legal intimate conversations of both children and adults to disclosure and risks of abuse.

Amendment 149

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau, Fabienne Keller

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b – introductory part

Text proposed by the Commission

Amendment

(b) solicitation of children for the purpose of engaging in sexual activities with a child or of producing child pornography by any of the following:

(b) solicitation as:

Or. en

Amendment 150

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b – introductory part

Text proposed by the Commission

(b) solicitation of children *for the purpose of engaging in sexual activities with a child or of producing child pornography by any of the following:*

Amendment

(b) ‘solicitation of children’ *means any intentional conduct constituting a criminal offense under Article 6 of Directive 2011/93/EU;*

Or. en

Amendment 151

Hilde Vautmans, Caterina Chinnici, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, David Lega, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau, Fabienne Keller

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b – point i

Text proposed by the Commission

(i) *luring* the child *by means of offering gifts or other advantages;*

Amendment

(i) the *proposal by an adult to meet a child for the purpose of committing any of the offences referred to in Articles 3(4) and 5(6) of Directive 2011/93/EU;*

Or. en

Amendment 152

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Fabienne Keller, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b – point ii

Text proposed by the Commission

Amendment

(ii) *threatening the child with a negative consequence likely to have a significant impact on the child;*

(ii) *an attempt to commit the offences provided for in Article 5(2) and (3) of Directive 2011/93/EU by an adult soliciting a child to provide child pornography depicting that child;*

Or. en

Amendment 153

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b – point iii

Text proposed by the Commission

Amendment

(iii) *presenting the child with pornographic materials or making them available to the child.*

deleted

Or. en

Amendment 154

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point c

Text proposed by the Commission

Amendment

(c) *‘pornographic performance’ as defined in Article 2(e) of Directive 2011/93/EU.*

deleted

Or. en

Justification

included in the definition of child sexual abuse material.

Amendment 155

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point c

Text proposed by the Commission

Amendment

(c) ‘pornographic performance’ as defined in Article 2(e) of Directive 2011/93/EU. **deleted**

Or. en

Justification

Live performances cannot be detected by comparing with a hash database of known material.

Amendment 156

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) ‘child prostitution’ as defined in Article 2(d) of Directive 2011/93/EU.

Or. en

Amendment 157

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 2 – paragraph 1 – point ca (new)

Text proposed by the Commission

Amendment

(ca) ‘child prostitution’ as defined in Article 2, point (d), of Directive 2011/93/EU.

Or. en

Amendment 158

Birgit Sippel

Proposal for a regulation

Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘positive hit’ means a match resulting from a comparison between an image or a video and a unique, non-reconvertible digital signature (a ‘hash’) from a data base containing verified child sexual abuse material online and maintained by an organisation recognised by the Commission pursuant to Article [...] of this Regulation.

Or. en

Justification

The square brackets are meant to reference to Art. 3 f NEW draft report: "Public register of organisations acting in the public interest against child sexual abuse"

Amendment 159

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘child sexual abuse material’ means:

(a) material constituting 'child pornography' as defined in Article 2, point (c), of Directive 2011/93/EU;

(b) material constituting 'pornographic performance' as defined in Article 2(e) of Directive 2011/93/EU.

Or. en

Amendment 160

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – Title

Text proposed by the Commission

Amendment

Scope of the *derogation*

Scope of the *restriction*

Or. en

Amendment 161

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall ***not apply to*** the processing of personal and other data in connection with the ***provision of*** number-independent interpersonal communications services strictly necessary for the use of technology for the sole purpose of removing child sexual abuse material ***and detecting or reporting child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, provided that:***

The scope of the specific ***rights and obligations*** set out in Article 5(1) and Article 6(1) of Directive 2002/58/EC shall ***be restricted with regard to the confidentiality of communications involving*** the processing of personal and other data in connection with the ***exchange of videos or images through messaging or web-based email services by*** number-independent interpersonal communications services, ***provided that such restriction is*** strictly necessary for the use of technology for the sole purpose of ***detecting, reporting***

to the judicial authority that ordered the processing, and removing child sexual abuse and exploitation material.

Or. en

Justification

Disclosing the content of private communications to non-governmental organizations, often in countries that lack an adequate level of data protection, is not strictly necessary for the purpose of law enforcement and does not comply with the GDPR.

Amendment 162
Cornelia Ernst

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall ***not apply*** to the processing of personal and other data in connection with the provision of number-independent interpersonal communications services strictly necessary for the use of technology for the sole purpose of removing child sexual abuse material and detecting or reporting child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, provided that:

Amendment

The scope of the specific rights and obligations set out in Article 5(1) and Article 6(1) of Directive 2002/58/EC shall be restricted with regard to the processing of personal and other data in connection with the provision of number-independent interpersonal communications services, provided that such a restriction is strictly necessary for the use of technology for the sole purpose of removing child sexual abuse material and detecting or reporting child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, provided that:

Or. en

Amendment 163
Maria Grapini

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing of personal and other data in connection with the provision of number-independent interpersonal communications services strictly necessary for the use of technology for the sole purpose of removing child sexual abuse material and detecting or reporting child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, provided that:

Amendment

The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing of personal and other data in connection with the provision of number-independent interpersonal communications services strictly necessary for the use of technology for the sole purpose of removing child sexual abuse material and ***block these websites and*** detecting or reporting child sexual abuse online to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, provided that:

Or. en

Amendment 164

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that purpose before the entry into force of this Regulation, and that are in accordance with the state of the art used in the industry and are the least privacy-intrusive;

Amendment

deleted

Or. en

Justification

Moved to paragraph 1a(new) and amended.

Amendment 165
Birgit Sippel

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that purpose ***before the entry into force of this Regulation, and that are in accordance with the state of the art used in the industry and are the least privacy-intrusive;***

Amendment

a) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that ***sole*** purpose and ***provided that they fulfil all of the following conditions:***

(i) they are in accordance with state of the art used in the industry and are the least privacy-intrusive;

(ii) a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 of Regulation (EU) 2016/679 have been conducted in accordance with Article 3a of this Regulation;

iii) the processing is based on point (d) or (e) of Article 6(1) of Regulation (EU) 2016/679, provided that, without prejudice to Regulation (EU) 2016/679, all the conditions laid down in this Regulation have been complied with;

iv) the categories of personal data to be processed for each processing operation are the content data, related traffic data as well as data generated through such processing;

(v) the scope of the restriction to the rights to confidentiality and protection of personal data is clearly defined;

(vi) there are internal procedures within the number-independent interpersonal communications service to

prevent abuse, unauthorised access or transfers;

(vii) the identity and categories of the controller or controllers are clearly specified;

viii) following a 'positive hit', the maximum storage period of the content data, related traffic data and data generated through such processing is one month after which the data have to be automatically and permanently deleted, unless they are required for the establishment, exercise or defence of legal claims;

ix) human oversight and intervention is ensured by the provider of number-independent interpersonal communications services for any processing of personal data, and no 'positive hit' is sent to law enforcement authorities or organisations acting in the public interest without prior human oversight;

(x) appropriate procedures and redress mechanisms are in place to ensure that individuals can lodge complaints with the provider of a number-independent interpersonal communications service within a reasonable timeframe for the user to present their views in accordance with Article 3c;

xi) without prejudice to the information provided for in Article 13 of Regulation (EU) 2016/679, the data subjects are informed about the restriction of the confidentiality of their communications for the sole purpose of removing child sexual abuse material and detecting or reporting child sexual abuse material, including the possibility that personal data is shared with law enforcement authorities and organisations acting in the public interest against child sexual abuse;

xii) in the event of a 'positive hit', unless prejudicial to an ongoing

investigation, in which case information may be delayed to the extent strictly necessary and the data subjects are informed without delay after the investigation is closed and without prejudice to the information provided for in Article 13 of Regulation (EU) 2016/679, the data subjects are given the following information:

a) the competent law enforcement authorities and organisations acting in the public interest against child sexual abuse with whom their personal data have been shared;

b) the avenues for redress with the provider of number-independent interpersonal communications services; and

c) the possibility of lodging a complaint with the competent supervisory authority and of a judicial remedy, and the identity of those authorities in the case;

(xiii) there is no interference with any communication protected by professional secrecy, such as between doctors and their patients, journalists and their sources or lawyers and their clients;

(xiv) any transfer of personal data to third countries or international organisations complies with Chapter V of Regulation (EU) 2016/679;

Or. en

Amendment 166
Cornelia Ernst

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the processing is proportionate and limited to *well-established* technologies

Amendment

(a) the processing is proportionate and limited to technologies *that fulfil all of the*

regularly used by providers of number-independent interpersonal communications services for that purpose before the entry into force of this Regulation, and that are in accordance with the state of the art used in the industry and are the least privacy-intrusive;

following conditions:

- i) they are in accordance with the state of the art used in the industry and are the least privacy-intrusive;*
- ii) a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 of Regulation (EU) 2016/679 have been conducted in accordance with Article 3a of this Regulation;*
- iii) the processing is based on point (d) or (e) of Article 6(1) of Regulation (EU) 2016/679;*
- iv) the categories of personal data to be processed are clearly defined for each processing operation;*
- v) the scope of the restriction to the rights to confidentiality and protection of personal data is clearly defined;*
- vi) there are internal procedures within the number-independent interpersonal communications service to prevent abuse, unauthorised access or transfers;*
- vii) the identity and categories of the controller or controllers are clearly specified;*
- viii) the storage periods and the applicable safeguards are clearly specified;*
- ix) human oversight and intervention is ensured for any processing of personal data, and no 'positive hit' is sent to law enforcement authorities or organisations acting in the public interest without prior human review;*

x) appropriate procedures and redress mechanisms are in place to ensure that individuals can lodge complaints with the provider of a number-independent interpersonal communications service within a reasonable timeframe for the user to present their views in accordance with Article 3c;

xi) unless prejudicial to an ongoing investigation, in which case information may be delayed to the extent strictly necessary and the data subjects are informed without delay after the investigation is closed and without prejudice to the information provided for in Article 13 of Regulation (EU) 2016/679, the data subjects are informed about the following:

a) the restriction of the confidentiality of their communications for the sole purpose of removing child sexual abuse material and detecting or reporting child sexual abuse material, including the possibility that personal data is shared with law enforcement authorities and organisations acting in the public interest against child sexual abuse;

b) in the event of a ‘positive hit’, the following information is given to the data subjects;

c) the competent law enforcement authorities and organisations acting in the public interest against child sexual abuse with whom their personal data have been shared;

d) the avenues for redress with the provider of number-independent interpersonal communications services; and

e) the possibility of lodging a complaint with the competent supervisory authority and of a judicial remedy, and the identity of those authorities in the case.

Amendment 167

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Laurence Farreng, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Sophia in 't Veld, Anna Júlia Donáth, Nathalie Loiseau

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that purpose ***before the entry into force of this Regulation***, and that are in accordance with the state of the art used in the industry and are the least privacy-intrusive;

Amendment

(a) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that purpose and that are in accordance with the state of the art used in the industry and are the least privacy-intrusive;

Amendment 168

Javier Zarzalejos, Jeroen Lenaers, Eva Maydell, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the processing is proportionate and limited to ***well-established*** technologies ***regularly*** used by providers of number-independent interpersonal communications services for that purpose ***before the entry into force of this Regulation***, and that are in ***accordance*** with the ***state of the art used in the industry and are the least privacy-intrusive***;

Amendment

(a) the processing is proportionate and limited to technologies used by providers of number-independent interpersonal communications services for that purpose, and that are in ***conformity*** with the ***principle of data protection by design and by default as enshrined in Article 25 of Regulation (EU) 2016/679***;

Amendment 169

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) where the technology was not used before the entry into force of this Regulation, the prior consultation procedure set out in Article 36 of Regulation (EU) 2016/679 was conducted;

Or. en

Amendment 170

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Sophia in 't Veld, Anna Júlia Donáth

Proposal for a regulation

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the provider clarifies, in its annual reporting, the legal basis for the processing of personal data pursuant to Regulation (EU) 2016/679;

Or. en

Amendment 171

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay; *deleted*

Or. en

Justification

Moved to paragraph 1a(new) and amended.

Amendment 172

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Nathalie Loiseau, Anna Júlia Donáth

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of *content representing* child sexual abuse, *and where such occasional errors occur, their consequences are rectified without delay;*

(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of child sexual abuse *online*;

Or. en

Amendment 173

Fabienne Keller, Ramona Strugariu, Nathalie Loiseau, Olivier Chastel, Sophia in 't Veld, Hilde Vautmans, Laurence Farreng

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) the technology used **is** in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay;

Amendment

(b) the technology used, **while** in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay, ***should be used in combination with human review***;

Or. en

Amendment 174

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of ***content representing*** child sexual abuse, and where ***such occasional*** errors occur, their consequences are rectified without delay;

Amendment

(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of ***child sexual abuse or*** child sexual abuse ***material***, and where errors occur, their consequences are rectified ***to the extent possible*** without delay;

Or. en

Amendment 175

Hilde Vautmans, Caterina Chinnici, Fabienne Keller, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Nathalie Loiseau, Sophia in 't Veld, Anna Júlia Donáth

Proposal for a regulation

Article 3 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the provider puts in place redress mechanisms to ensure that users who believe that they have been wrongfully included in a report of child sexual abuse online can refer their cases to the provider for review, and, where an error has occurred, its consequences are rectified without delay;

Or. en

Amendment 176

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Nathalie Loiseau, Laurence Farreng, Anna Júlia Donáth Fabienne Keller

Proposal for a regulation

Article 3 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) all the instances of possible child sexual abuse online, after accurate human review, are reported to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, to enable the identification of the child victims and as a safeguard to identify detection errors by the providers;

Or. en

Amendment 177

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the technology used to detect solicitation of children is limited to the use of relevant key indicators, such as keywords and objectively identified risk factors such as age difference, without prejudice to the right to human review;

deleted

Or. en

Amendment 178

Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the technology used to detect solicitation of children is limited to the use of relevant key indicators, such as keywords and objectively identified risk factors such as age difference, without prejudice to the right to human review;

deleted

Or. en

Amendment 179

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the processing is limited to what is strictly necessary for the purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material and, unless child sexual abuse online has been detected and

deleted

confirmed as such, is erased immediately;

Or. en

Amendment 180

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) the processing is limited to what is strictly necessary for the purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material **and, unless** child sexual abuse online has been detected and confirmed as such, **is** erased immediately;

Amendment

(d) the processing is limited to what is strictly necessary for the purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material.

Where no child sexual abuse online has been detected and confirmed as such, ***the relevant data shall be*** erased immediately ***after the processing.***

Where child sexual abuse has been detected and confirmed, the relevant data shall be preserved solely for the following purposes and only for the time period necessary:

– for its reporting and transfer to law enforcement and other relevant public authorities, including organisations acting in the public interest against child sexual abuse, pursuant to Regulation (EU) 2016/679, and to respond to requests of these entities;

– for the blocking of the concerned user’s account;

– in relation to data reliably identified as child sexual abuse material, for the creation of a unique, non-reconvertible digital signature (‘hash’);

– for improving and measuring the accuracy of the technology used;

– for proceedings of administrative, or judicial review or remedy.

The preservation period shall not exceed nine months, except in duly justified cases.

Or. en

Amendment 181
Birgit Sippel

Proposal for a regulation
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) the processing is limited to what is strictly necessary for the purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, is erased immediately;

Amendment

(d) the processing ***allowed by the restriction provided for in this Regulation*** is limited to what is strictly necessary for the ***sole*** purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, ***content data, related traffic data and data generated through such processing*** is erased immediately; ***in any case these data shall be erased automatically after one month following the date of a positive hit, unless they are required for the establishment, exercise or defence of legal claims;***

Or. en

Amendment 182
Cornelia Ernst

Proposal for a regulation
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) the processing is limited to what is strictly necessary for the purpose of

Amendment

(d) the processing ***allowed by this Regulation*** is limited to what is strictly

detection and reporting of child sexual abuse online and removal of child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, is erased immediately;

necessary for the *sole* purpose of detection and reporting of child sexual abuse online and removal of child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, *data generated through such processing* is erased immediately;

Or. en

Amendment 183

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the provider annually publishes a report on its related processing, including on the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

deleted

Or. en

Justification

Turned into paragraph 1b(new) and amended.

Amendment 184

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth , Yana Toom

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) the provider ***annually publishes*** a report ***on its related*** processing, including ***on*** the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Amendment

(e) the provider ***makes publicly available and submits*** a report ***to the supervisory authority in accordance with Regulation (EU) 2016/679 by ... [six months after the date of entry into force of this Regulation] and to the European Commission, and annually thereafter, of the processing of personal data allowed by the restriction provided for in this Regulation***, including the type and volumes of data processed, ***the legal basis for the processing pursuant to Article 6 of Regulation (EU) 2016/679, the legal basis for the transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, the number of cases identified, the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings***, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied ***pursuant to Regulation (EU) 2016/679***.

Or. en

Justification

Adds the Commission as recipient of such reports to amendment 44

Amendment 185
Birgit Sippel

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) the provider **annually** publishes a report **on its related** processing, including **on** the type and volumes of data processed, number of cases identified, **measures applied to select and improve key indicators**, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Amendment

(e) the provider publishes **and submits** a report **to the supervisory authority in accordance with Regulation (EU) 2016/679 by ... [six months after the date of entry into force of this Regulation], and annually thereafter, of the processing of personal data allowed by the restriction provided for in this Regulation**, including the type and volumes of data processed, **the legal basis for the processing pursuant to Article 6 of Regulation (EU) 2016/679, the legal basis for the transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, the** number of cases identified, **the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings**, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied **pursuant to Regulation (EU) 2016/679.**

Or. en

Amendment 186 Cornelia Ernst

Proposal for a regulation Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) the provider **annually** publishes a report **on its related** processing, including on the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, numbers and ratios of errors

Amendment

(e) the provider publishes **and submits** a report **to the supervisory authority in accordance with Regulation (EU) 2016/679 by ..., and annually thereafter, on the processing of personal data allowed by this Regulation**, including on the type

(false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

and volumes of data processed, ***the legal basis for the processing pursuant to Article 6 of Regulation (EU) 2016/679, the legal basis for the transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, the number of cases identified, the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings***, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied ***pursuant to Regulation (EU) 2016/679.***

Or. en

Amendment 187

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) the provider ***annually publishes*** a report on its ***related*** processing, including on the type and volumes of data processed, number of cases identified, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Amendment

(e) the provider ***makes publicly available*** a report on ***an annual basis on its processing of personal data within the scope of this Regulation***, including on the type and volumes of data processed, ***the legal basis for processing***, the number of cases identified, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Or. en

Amendment 188
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of number-independent interpersonal communications services shall be permitted to process electronic communication data for the sole purpose of detecting, deleting and reporting to the judicial authority that ordered the processing child sexual abuse and exploitation material if:

(a) they have been ordered to do so by a judicial authority of the Member State in which the provider is established; such orders and the processing of electronic communications data shall be strictly limited to the communications of persons for whom a prior suspicion based on factual evidence exists that they have communicated or are communicating child sexual abuse and exploitation material, and shall be limited in time to the shortest period possible for fulfilling the purpose;

(b) the processing is proportionate and limited to well-established technologies regularly used by providers of number-independent interpersonal communications services for that sole purpose, and fulfil all of the following conditions:

(i) they are state of the art used in the industry and are the least privacy-intrusive;

(ii) the technology used is in itself sufficiently reliable in that it limits the rate of errors where content is wrongly identified as content representing child sexual abuse and exploitation material (“false positives”) to at most 1 in 50 billion, and where such occasional errors

occur, their consequences are rectified without delay;

(iii) the technology creates immediately a unique, non-reconvertible digital signature ('hash') of electronically communicated pictures or videos for the sole purpose of immediately comparing that hash with a database containing hashes of material previously reliably identified as child sexual abuse and exploitation material, pursuant to Article 3a;

(iv) a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 of Regulation (EU) 2016/679 have been conducted in accordance with Article 3a of this Regulation. The prior consultation shall include access of the supervisory authority to the algorithm and the databases the content is matched against; and

(c) the processing is limited to what is strictly necessary for the purpose of detection, reporting and removal of child sexual abuse and exploitation material and, unless child sexual abuse and exploitation material has been detected and confirmed as such, the data is erased immediately;

(d) the processing does not interfere with or weaken the security of encrypted communications, and only applies to unencrypted communications; and

(e) the data subjects are informed by the provider about the following:

(i) the restriction of the confidentiality of their communications for the sole purpose of removing, detecting or reporting child sexual abuse and exploitation material, including the possibility that personal data is shared with law enforcement authorities;

(ii) in the event personal data has been reported to the competent law

enforcement authority, the following information is given to the data subjects;

(iii) the fact that their data have been reported to the competent law enforcement authority as well as the name of that authority;

(iv) the avenues for redress with the provider of number-independent interpersonal communications services; and

(v) the possibility of seeking redress, and the identity of the competent authority;

Or. en

Justification

Clearer criteria as called for in the EDPS opinion. It is necessary to create a legal basis for the processing because it is not covered by the GDPR. According to the European Court of Justice the permanent automated analysis of communications is proportionate only if limited to suspects and subject to a prior independent review (case La Quadrature et al). The language on hashes and their error rate was already proposed by the Council Presidency in document 12293/19. Secure encryption is imperative to protect personal secrets, business secrets and state secrets from interception.

Amendment 189

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Regulation shall not apply to the scanning of text or audio communications, other than on the basis of an appropriate legal base.

Or. en

Amendment 190

Cornelia Ernst

Proposal for a regulation
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Regulation shall not apply to the scanning of text or audio communications.

Or. en

Amendment 191
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Providers using such technology shall annually publish a report on their related processing, including on the type and volumes of data processed, number of cases identified, number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of those proceedings, measures applied to select and improve key indicators, numbers and ratios of errors (false positives) of the different technologies deployed, measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied.

Or. en

Amendment 192
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

As regards point (c) of paragraph 1a, where child sexual abuse or exploitation material has been detected and confirmed as such, the traffic data related to these communications may be preserved solely for the following purposes and for a period of no more than three months:

- for its reporting to law enforcement authorities in the Member State where the provider is established, and to the authority or authorities operating the database pursuant to Article 3a, after human review in each case;

- for the blocking of the concerned user's account;

Or. en

Amendment 193

Patrick Breyer

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period necessary:

— for its reporting and to respond to proportionate requests by law enforcement and other relevant public authorities;

— for the blocking of the concerned user's account;

— in relation to data reliably identified as child pornography, for the creation of a

deleted

unique, non-reconvertible digital signature ('hash').

Or. en

Justification

Turned into paragraph 1c(new) and amended.

Amendment 194

Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period necessary:

deleted

— for its reporting and to respond to proportionate requests by law enforcement and other relevant public authorities;

— for the blocking of the concerned user's account;

— in relation to data reliably identified as child pornography, for the creation of a unique, non-reconvertible digital signature ('hash').

Or. en

Amendment 195

Birgit Sippel

Proposal for a regulation

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant *data* may be retained solely for the following purposes and only for the time period necessary:

Amendment

With regard to point (d) of the first subparagraph, where child sexual abuse online has been detected and confirmed as such, the ***strictly*** relevant ***personal data, i.e. the content data, the related traffic data and any result of processing of these data***, may be retained solely for the following purposes and only for the time period ***strictly*** necessary, ***but in any case no longer than a month, after which they shall be deleted immediately, unless they are required for the establishment, exercise or defence of legal claims:***

Or. en

Amendment 196 Cornelia Ernst

Proposal for a regulation Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period necessary:

Amendment

As regards point (d) ***of the first subparagraph***, where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period necessary, ***after which it shall be deleted immediately:***

Or. en

Amendment 197 Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 2 – indent 1

Text proposed by the Commission

— for its reporting and *to respond to proportionate requests by law enforcement and other relevant public authorities*;

Amendment

— for its reporting and *transfer, pursuant to Directive (EU) 2016/680, to the competent authorities without undue delay*;

Or. en

Amendment 198

Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 2 – indent 2

Text proposed by the Commission

— for the blocking of the concerned user's account;

Amendment

— for the blocking *or suspension* of the concerned user's account;

Or. en

Amendment 199

Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 2 – indent 3

Text proposed by the Commission

— in relation to data reliably identified as child *pornography*, for the creation of a unique, non-reconvertible digital signature ('hash').

Amendment

— in relation to data reliably identified as child *sexual abuse material*, for the creation of a unique, non-reconvertible digital signature ('hash').

Or. en

Amendment 200

Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 2 – indent 3 a (new)

Text proposed by the Commission

Amendment

— *for the purpose of seeking redress from the provider or pursuing administrative review or judicial proceedings.*

Or. en

Amendment 201

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom

Proposal for a regulation

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Obligation for a data protection impact assessment and a prior consultation and authorisation of the supervisory authorities

Providers of number-independent interpersonal communications services shall, in order to rely on the restriction provided for by this Regulation, conduct a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 thereof by ... [three months after the date of entry into force of this Regulation].

Providers of number-independent interpersonal communications services deploying anti-grooming activities shall request prior authorisation from the supervisory authorities by ... [six months after the entry into force of this Regulation].

The Member States shall ensure that the supervisory authorities have sufficient resources for these procedures, in line with the requirements set out by

Justification

If anti-grooming activities are included in the scope of this Regulation, providers using these activities have to request prior authorisation from the DPAs within 6 months. The DPAs must have sufficient resources to perform these procedures swiftly

Amendment 202

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Nathalie Loiseau, Laurence Farreng, Sophia in 't Veld, Fabienne Keller

Proposal for a regulation

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Obligation for a data protection impact assessment

In order to rely on the derogation provided for by this Regulation, providers of number-independent interpersonal communications services shall conduct a data protection impact assessment where required by Article 35 of Regulation (EU) 2016/679 where:

(a) processing falling within the requirements of Article 3 is already underway, by ... [three months after the date of entry into force of this Regulation]; or

(b) processing falling within the requirements of Article 3 is not already underway, prior to commencing such processing.

Point (a) shall not apply where a data protection impact assessment has been conducted prior to the entry into force of this Regulation. Point (a) shall not have

the effect of requiring the suspension of such processing while the data protection impact assessment is conducted.

Or. en

Amendment 203
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Databases of known child sexual abuse and exploitation material

- 1. Member States may designate a public authority that operates a database of known sexual abuse and exploitation material. The database shall contain no actual images or videos, but only the unique, non-reconvertible digital signatures ('hashes') of known child sexual abuse and exploitation material.***
- 2. Before entering new data into the database, there shall be human review. For this purpose, the providers shall report the original material and the hashes pursuant to Article 3(4) to the authority. The authority shall review the content, and where it constitutes child sexual abuse or exploitation material, add the respective hash to the database, and store the original content separately, in a hardened secure environment, and offline.***

Or. en

Justification

To ensure democratic control and judicial oversight, and to prevent abuse, only public authorities in the EU should take decisions about illegal child abuse and exploitation

material, and provide this information to providers for matching the hashes.

Amendment 204
Cornelia Ernst

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Obligation for a data protection impact assessment and a prior consultation of the supervisory authorities

By ... [three months after the date of entry into force of this Regulation], providers of number-independent interpersonal communications services shall, in order to rely on the restriction provided for by this Regulation, conduct a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 thereof by ... [three months after the date of entry into force of this Regulation].

Or. en

Amendment 205
Javier Zarzalejos, Jeroen Lenaers, Lena Düpont

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Complaint mechanism

Providers of number-independent interpersonal communications services using technologies for the processing of personal data to detect and report child

sexual abuse online and detect, report and remove child sexual abuse material shall establish an effective and accessible mechanism allowing users whose content has been removed or reported to law enforcement authorities or an organisation acting in the public interest against child sexual abuse to submit a complaint against the action of the provider.

Or. en

Amendment 206

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom, Fabienne Keller, Hilde Vautmans

Proposal for a regulation

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Complaint mechanism

Providers of number-independent interpersonal communications services shall establish an effective and accessible mechanism allowing users to submit a complaint against the action of the provider where:

- their content or identity has been reported to an organisation acting in the public interest against child sexual abuse or to law enforcement authorities or which has been removed, where the material reported or removed does not constitute child sexual abuse online in accordance with this Regulation, or;*
- their identity has been reported to an organisation acting in the public interest against child sexual abuse or to law enforcement authorities, where the user received unsolicited child sexual abuse material.*

Amendment 207

Hilde Vautmans, Caterina Chinnici, David Lega, Javier Moreno Sánchez, Dragoş Tudorache, Evin Incir, Pietro Bartolo, Laura Ferrara, Juan Ignacio Zoido Álvarez, Brando Benifei, Antonio López-Istúriz White, Ioan-Rareş Bogdan, Milan Brglez, Olivier Chastel, Malik Azmani, Michal Šimečka, Ramona Strugariu, Nathalie Loiseau, Laurence Farreng, Fabienne Keller

Proposal for a regulation

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Public interest and legitimate interest of providers

For the purposes of this Regulation, the detection and reporting of child sexual abuse online and the removal of child sexual abuse material online shall be considered to be (a) a legitimate interest of providers of number-independent interpersonal communications services, within the meaning of point (f) of Article 6(1) of Regulation (EU) 2018/679; and (b) a task carried out in the public interest, within the meaning of point (e) of Article 6(1) of Regulation (EU) 2018/679.

Amendment 208

Cornelia Ernst

Proposal for a regulation

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

European Data Protection Board guidelines

Pursuant to Article 70 GDPR, the Commission shall request the European Data Protection Board to publish guidelines for the purpose of assisting the supervisory authorities responsible in accordance with Regulation (EU) 2016/679 to assess whether the processing falling within the scope of this Regulation, for existing as well as future technologies used for the sole purpose of combatting child sexual abuse online complies with Regulation (EU) 2016/679.

Or. en

Amendment 209
Cornelia Ernst

Proposal for a regulation
Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3c

Complaint mechanism

Providers of number-independent interpersonal communications services shall establish an effective and accessible mechanism allowing users whose content has been reported to an organisation acting in the public interest against child sexual abuse or to law enforcement authorities or which has been removed to submit a complaint against the action of the provider where the material reported or removed does not constitute child sexual abuse online in accordance with this Regulation.

Or. en

Amendment 210
Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom, Fabienne Keller, Hilde Vautmans

Proposal for a regulation
Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3c

Reporting back by law enforcement authorities and organisations acting in the public interest against child sexual abuse to the providers of number-independent interpersonal communications services

Law enforcement authorities and organisations acting in the public interest against child sexual abuse shall report back to the providers of number-independent interpersonal communications services with general information to improve the accuracy of their activities, without providing personal data.

Or. en

Amendment 211

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom, Abir Al-Sahlani, Fabienne Keller, Hilde Vautmans

Proposal for a regulation
Article 3 d (new)

Text proposed by the Commission

Amendment

Article 3d

Statistics

By ... [six months after entry into force of Regulation] the Member States shall make publicly available and submit reports to the Commission, and thereafter on an annual basis, with statistics on all of the following elements:

(a) the total number of reports with detected child sexual abuse provided by number-independent interpersonal

communications services and/or organisations acting in the public interest against child sexual abuse to law enforcement authorities in the Member States;

(b) the number of children rescued by means of the activities mentioned in Article 3;

(c) the number of perpetrators arrested and convicted;

(d) the number of false positives;

(e) the breakdown of methods used to detect child sexual abuse;

The Commission shall aggregate these statistics and take them into account when reviewing this Regulation, pursuant to [Article 3f (new)].

Or. en

Amendment 212
Cornelia Ernst

Proposal for a regulation
Article 3 d (new)

Text proposed by the Commission

Amendment

Article 3d

Effective remedies

Users who have been adversely affected by the use of specific technologies for the processing of personal data to detect and report child sexual abuse online and remove child sexual abuse material from number-independent interpersonal communications services on their services, shall have the right to an effective remedy. Member States shall put in place effective procedures for the exercise of that right.

Or. en

Amendment 213

Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom, Fabienne Keller, Hilde Vautmans

Proposal for a regulation

Article 3 e (new)

Text proposed by the Commission

Amendment

Article 3e

Review

- 1. On the basis of the reports provided by the data protection authorities pursuant to [Article 3(1)(e)] and the statistics provided by Member States pursuant to [Article 3d (new)], the Commission shall by ... [one year after entry into force of Regulation], and thereafter annually, conduct a review of this Regulation and submit and present a report to the European Parliament and Council.**
- 2. In conducting its review, the Commission shall pay special attention to:**
 - (a) all conditions for processing data enumerated under [Article 3 (1)(a)];**
 - (b) the proportionality of activities set out in this Regulation, including an assessment of the statistics submitted by the Member States under [Article 3d];**
 - (c) developments in technological progress regarding such activities, and the extent to which these improve accuracy and reduce false positives.**

Or. en

Justification

2(a) applies to all conditions listed under amendments 28-41.

Amendment 214

Cornelia Ernst

Proposal for a regulation
Article 3 e (new)

Text proposed by the Commission

Amendment

Article 3e

Supervisory authorities

The supervisory authorities responsible for monitoring the application of this Regulation shall be the same as the independent supervisory authorities designated pursuant to Chapter VI of Regulation (EU) 2016/679.

Or. en

Amendment 215
Cornelia Ernst

Proposal for a regulation
Article 3 f (new)

Text proposed by the Commission

Amendment

Article 3f

Terms and conditions

Providers of number-independent interpersonal communications services that use technologies falling within the scope of this Regulation shall include in their terms and conditions clear and exhaustive information on the functioning of such measures and the impact on users' confidentiality of communications

Or. en

Amendment 216
Sophia in 't Veld, Michal Šimečka, Anna Júlia Donáth, Yana Toom

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

It shall apply from 21 December 2020 until 31 December **2025**.

Amendment

It shall apply from 21 December 2020 until 31 December **2022**.

Or. en

Amendment 217
Cornelia Ernst

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

It shall apply from 21 December 2020 until 31 December **2025**.

Amendment

It shall apply from 21 December 2020 until 31 December **2022**.

Or. en

Amendment 218
Patrick Breyer
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

It shall apply from 21 December 2020 until 31 December **2025**.

Amendment

It shall apply from 21 December 2020 until 31 December **2022**.

Or. en