



A7-0000/2011

16.2.2011

*****I**

ORIENTATION VOTE RESULTS

Orientation vote held on 14 February 2011 during the extraordinary meeting of the Committee on Civil Liberties, Justice and Home Affairs on the proposal for a directive of the European Parliament and of the Council on combating sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA (COM(2010)0094 – C7-0088/2010 – 2010/0064(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Roberta Angelilli
Based on the orientation vote the text would read as follows:

Horizontal amendment (Comp 6 covering AMs 70, 72, 73, 28 and 218)
replacing the words "activities involving regular contacts with children" with "professional activities involving direct and regular contact with children and volunteer activities related to the supervision and/or care of children"

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0095),
 - having regard to Article 294(2) and **Articles 16**, 82(2) and 83(1) of the Treaty on the Functioning of the EU, pursuant to which the Commission submitted the proposal to Parliament (C7-0087/2010),
 - **having regard to Articles 7, 8, 11 and 24 of the Charter of Fundamental Rights of the European Union,**
 - **having regard to Articles 8 and 10 of the European Convention on Human Rights,**
 - **having regard to the 1989 UN Convention on the Rights of the Child, particularly Articles 19 and 34 thereof,**
 - **having regard to the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,**
 - having regard to Article 294(3) of the Treaty on the Functioning of the EU,
 - having regard to the reasoned opinions sent to its President by national parliaments on the compliance of the draft act with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee,
 - having regard to Rules 55 and 37 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Women's Rights and Gender Equality and the Committee on Culture and Education (A7-0000/2010),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission, the national parliaments **and the European Data Protection Supervisor.**

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Sexual abuse and sexual exploitation of children, including child pornography constitute serious violations of fundamental rights, in particular the rights of the child to protection and care as is necessary for his or her well-being as stipulated by the UN Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union.

Amendment

(1) Sexual abuse and sexual exploitation of children, including child pornography constitute serious violations of fundamental rights, in particular the rights of the child to protection and care as is necessary for his or her well-being as stipulated by the UN Convention on the Rights of the Child ***and its Optional Protocols thereto, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*** and the Charter of Fundamental Rights of the European Union (***Charter***).

Or. en

Justification

Additional internal instruments have to be listed here, especially the 2007 Council of Europe Convention on the Protection of children against Sexual Exploitation and Sexual Abuse as the most modern international instrument in that field.

Amendment 44

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Sexual abuse and sexual exploitation of children, including child pornography constitute serious violations of fundamental rights, in particular the rights of the child to protection and care as is necessary for his or her well-being as stipulated by the UN Convention on the Rights of the Child and the Charter of Fundamental Rights of the European

Amendment

(1) Sexual abuse and sexual exploitation of children, including child pornography constitute serious violations of ***the law and of*** fundamental rights, in particular the rights of the child to protection and care as is necessary for his or her well-being as stipulated by the UN Convention on the Rights of the Child and the Charter of Fundamental Rights of the European

Union.

Union.

Or. en

Amendment 2

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The legally binding nature of the provisions of the Charter, in accordance with Article 6 of the Treaty on European Union, introduced a new stage in the level of protection of children, as Article 24(2) of the Charter provides for the mainstreaming of child protection. Moreover, the multiannual Stockholm Programme - an open and Secure Europe Serving and Protecting Citizens¹, adopted by the European Council, gives a clear priority to combating the sexual abuse and sexual exploitation of children, and child pornography.

¹ OJ L 115, 4.5.2010, p. 1.

Or. en

Justification

With the entry into force of the Treaty of Lisbon the EU Charter of Fundamental Rights acquired full legally binding nature, whereby Article 24 of the Charter demands do take into account the child's best interest in all activities related to children undertaken by public authorities or private institutions.

Amendment 1 FEMM

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) All stakeholders should have a zero-tolerance approach to combating the

sexual abuse and exploitation of children and child pornography.

Amendment 4 CULT

**Proposal for a directive
Recital 1 b (new)**

Text proposed by the Commission

Amendment

(1b) Due note should be taken, in that connection, of the importance of Article 16 of the Treaty on the Functioning of the European Union, which lays down the right to protection of personal data.

Amendement 5 CULT

**Proposal for a directive
Recital 1 c (new)**

Text proposed by the Commission

Amendment

(1c) Due note should be taken, in that connection, of the importance of Articles 7, 8, 11 and 24 of the Charter of Fundamental Rights of the European Union, which lay the right to respect for private and family life, the right to protection of personal data, the right to freedom of expression and information and the rights of the child.

Amendement 6 CULT

**Proposal for a directive
Recital 1 d (new)**

Text proposed by the Commission

Amendment

(1d) Due note should be taken in that connection, of the importance of Articles 8 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which lay down the right to respect for private and family life and the right to freedom of

expression.

Amendment 45

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Sexual abuse of children takes place most frequently in the direct environment of children, during a longer period, by figures of authority, such as parents, relatives, teachers, child minders, or religious leaders. The relationship of dependence between the victim and the perpetrator, strict social or moral conventions with the community, feelings of guilt and fear of retribution or exclusion by the community, make it extremely difficult for young victims to speak out, and sometimes they remain silent far into adulthood. This is an important obstacle to effective prosecution of child abuse. Child abuse therefore often goes unreported or unpunished.

Or. en

Justification

A recent study (to be published in February 2011) shows that in about 30% of all cases parents were the abuser, 10% aunts and uncles, 10% grandparents and in about 8% of the cases their own brothers and sisters. Additionally 19% of the boys and about 10% of the girls have been abused by their own friends. In 10 to 20% of the cases children are being abused in institutions like school, sports clubs and the church.

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Rights of child victims in criminal proceedings should be strengthened, including, in addition to the rights set out in Framework Decision 2001/220/JHA, rights such as obligatory and free legal counselling and representation in all cases of sexual abuse and sexual exploitation of children.

Or. en

Justification

The legal counselling to and representation of child victims of sexual abuse and exploitation should be mandatory and free of costs in all cases, as a child needs such counselling and representation to fully understand and use his rights.

Amendment 2 FEMM

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

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

Amendment 3 FEMM

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

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

Amendment 48

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Calls upon those signatories to the Convention on the Rights of the Child (Convention) that have not met the reporting obligations of Article 44 of the Convention, most notably Belgium, Cyprus, Greece, the Holy Seat, and Portugal, to submit to the Committee on the Rights of the Child, reports on the measures they have adopted to give effect to the rights recognized in the Convention and on the progress made on the enjoyment of those rights.

Or. en

Amendment 4 FEMM

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 49

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Member States are encouraged to create mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection in line with the Council of Europe Convention CETS No. 201 on the Protection of Children against Sexual Exploitation and Sexual Abuse. In order to be able to properly evaluate the results of actions to combat sexual abuse, sexual exploitation and child pornography, the Union should continue to develop its work on methodologies and data collection methods to produce comparable statistics.

Or. en

Justification

There is a lack of reliable data on and knowledge of the magnitude of the crime and the effectiveness of policy measures to fight child sexual abuse and exploitation.

Amendment 50

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The procedural position of children should be enhanced in accordance with their rights under the UN Convention on the Rights of the Child.

Or. sv

Amendment 51

Proposal for a directive Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The authorities have a duty to acquire a good understanding of children and how they behave when faced with traumatic experiences, so as to ensure a high quality of evidence-taking and to reduce the stress placed on children when carrying out the necessary measures. This requires increased international cooperation and needs the authorities to ensure that sufficient resources are made available for investigations involving children.

Or. sv

Amendment 5 FEMM

Proposal for a directive Recital 6

Text proposed by the Commission

Amendment

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

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

Amendment 11 CULT

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) If the sexual abuse and sexual exploitation of persons under the age of 18 years and the depiction of sexual acts involving such persons is to be combated effectively, a holistic approach is needed which combines punishment of the perpetrators with comprehensive protection of the victims and effective preventive measures in the Member States. The preventive approach should, above all, have a clear and lasting impact on the way people are taught to use new means of communication, e.g. the internet.

Amendment 52

**Proposal for a directive
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6a) Member States should ensure that children are protected against any form of sexual abuse and sexual exploitation. For that purpose, school should be the preferred institution for preventing this type of crime, through the introduction of information and awareness-raising programmes. This means that school staff should be suitably trained to inform children about their rights, teach them to recognise and avoid high-risk situations and encourage them to speak out if they have been victims of such crimes.

Or. fr

Amendment 4

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Member States should ensure the promotion and protection of children's rights against any form of sexual abuse and sexual exploitation by reaching the highest level of prevention. This directive should be seen as part of integrated action to ensure prevention, in particular through appropriate school education programmes, including in the framework of the regular educational system, awareness-raising campaigns, research, exchanges of best practices and cooperation between public authorities and non-governmental organisations, service providers and tour operators, as regards the danger of sexual abuse, sexual exploitation and child pornography, as well as regards the rights of victims and steps to be taken in the case of such abuse or suspected abuse. Those measures should be addressed to all parties concerned, including children, parents and education practitioners. The same objectives should be considered as an integral part of Union negotiations with third countries.

Or. en

Justification

The provisions which cover the criminal aspects and the preventive measures for the defence of children against abuse should be seen as part of an integrated approach to reach objectives in line with the 2007 Council of Europe Lanzarote Convention to encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities.

Amendment 55

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Member States should be encouraged to provide the necessary training during the education of future and current teachers and educational staff on the causes of behavioural changes in children and the possible changes in behaviour to look for.

Or. en

Amendment 56

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) When combating sexual abuse, sexual exploitation of children and child pornography full use should be made of existing instruments on seizure and confiscation of the proceeds of crime, such as the UN Convention against Transnational Organized Crime and its Protocols, the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime¹ and Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property². The use of seized and confiscated instrumentalities and proceeds from the offences referred to in this Directive to support victims' assistance and protection, including compensation of victims, should be

encouraged.

¹ *OJ L 182, 5.7.2001, p. 1.*

² *OJ L 68, 15.3.2005, p. 49.*

Or. en

Amendment 13 CULT

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) At the same time, it should be pointed out that differing cultural and legal traditions cannot justify the sexual harassment of persons under the age of 18 years or the depiction of sexual acts involving them.

Amendment 5

Proposal for a directive Recital 8

Text proposed by the Commission

Amendment

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

(8) Investigating offences and bringing charges in criminal proceedings should be facilitated, to take into account the difficulty for child victims of denouncing abuse and the anonymity of offenders in cyberspace. To ensure successful investigations and prosecutions of the offences referred to in this Directive, ***Member States should encourage any person who has, in good faith, a suspicion or knowledge about sexual abuse or exploitation of a child, to report the matter to the competent services. Regarding the system of reporting sexual abuse and sexual exploitation of children and helping children in need, Union hotlines under the number 116 000 for missing children, 116 006 for victims of crime and 116 111 for children, as introduced by Commission Decision 2007/116/EC of 15 February 2007 on***

reserving the national numbering beginning with 116 for harmonised numbers for harmonised services of social value¹ as amended by Decision 2009/884/EC of 30 November 2009², should be promoted and experience with their functioning taken into account.

¹ OJ L 49, 17.2.2007, p. 30.

² OJ L 317, 3.12.2009, p. 46.

Or. en

Justification

Encouragement of reporting cases of sexual abuse and exploitation of children should be highlighted. In that regard existing EU mechanisms (telephone numbers of social value) have to be analysed and taken into account.

Amendment 60

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) As preventive measures, Member States should ensure that information and awareness-raising campaign are accessible to everyone, taking particular care to ensure that they can be understood by children who are not yet able to read. To this end, notices which are sufficiently easy to understand and tailored to each age group should be displayed in all educational establishments (nursery, primary and secondary schools), and more generally in all places frequented by children.

Or. fr

Amendment 8 FEMM

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

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

Amendment 7

Proposal for a directive
Recital 9

Text proposed by the Commission

Amendment

(9) Rules on jurisdiction should be amended to ensure that child sexual abusers or exploiters from the European Union face prosecution even if they commit their crimes outside the European Union, in particular via so-called sex tourism.

(9) Rules on jurisdiction should be amended to ensure that child sexual abusers or exploiters from the European Union face prosecution even if they commit their crimes outside the European Union, in particular via so-called ***child*** sex tourism. ***Offences committed against children in the context of travel abroad should be considered as having been committed in aggravating circumstances.***

Or. en

Justification

Child sex tourism grows at an alarming rate and inflicts devastating consequences on millions of children around the globe. In the recital it should be already stressed that in order to strengthen the prevention of this practice it is essential to reinforce deterrence by providing higher sanctions for the crimes if committed abroad in the context of travelling.

Amendment 62

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 8

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) Measures to protect child victims should be adopted in their best interest, taking into account an assessment of their needs. Child victims should have easy access to legal remedies, including free legal counselling and representation and measures to address conflicts of interest where abuse occurs in the family. Moreover, child victims should be protected from sanctions, for example under national legislation on immigration or prostitution, if they bring their case to the attention of competent authorities. Furthermore, participation in criminal proceedings by child victims should not cause additional trauma as a result of interviews or visual contact with offenders.

(10) Measures to protect child victims ***and measures to adapt the justice system dealing with them*** should be adopted in their best interest, taking into account an assessment of their needs, ***and of their right to be protected against the risk of repeated victimisation, especially through violation of their privacy, and giving their opinions and views due weight, as envisaged, for example, in the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and in the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice.*** Child victims should have easy access to legal remedies, including free legal counselling and representation and measures to address conflicts of interest where abuse occurs in the family. ***In that regard they should be fully informed about their rights, the services at their disposal, the progress and outcome of the proceedings, and legal counselling and representation should***

also be provided for claiming compensation. Moreover, child victims should be protected from sanctions, for example under national legislation on immigration or prostitution, if they bring their case to the attention of competent authorities. Furthermore, participation in criminal proceedings by child victims should not cause additional trauma as a result of interviews or visual contact with offenders.

Or. en

Justification

Secondary victimisation has to be avoided. It should be also highlighted that justice dealing with children and especially with child victims has to be adapted to their needs, as envisaged by the recently adopted Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, welcomed by the European Commission and the EU Fundamental Rights Agency.

Amendment 9

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Child victims of sexual abuse and sexual exploitation should receive short and long-term assistance. Any harm caused by the sexual abuse and sexual exploitation of a child is significant and should be addressed. Because of the nature of the harm caused by sexual abuse and sexual exploitation, such assistance should continue for as long as necessary for the child's complete physical and psychological recovery and may last into adulthood if necessary.

Or. en

Justification

The long-term need of aid for victims of sexual abuse and exploitation of children has to be highlighted.

Amendment 65

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Given the serious nature of the psychological damage that sexual abuse can cause and the fact that child victims find it difficult - and are sometimes afraid - to talk, Member States should ensure that limitation periods take account of the exceptional nature of the offences. This period should be sufficiently long to ensure that, after coming of age, adults who lodge a complaint regarding offences committed against them in their childhood will not have their complaints rejected owing to the amount of time that has elapsed since the offences were committed. Similarly, adults who have been victims of sexual abuse in their childhood should be provided with suitable psychological support and legal assistance throughout - and if necessary after - the criminal proceedings.

Or. fr

Amendment 66

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Child victims should be protected from sanctions and should receive the adequate legal support and counselling even where no criminal proceedings

started.

Or. en

Amendment 12 FEMM

Proposal for a directive

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) For full victim protection, child victims should be informed of their rights and the services at their disposal, the general progress of the investigation or proceedings, their role in the investigation or proceedings and the outcome thereof. Furthermore, measures should be adopted which should ensure that children are educated about their rights to protection from abuse, how to protect themselves and what to do if they are or have been abused.

Amendment 10

Proposal for a directive

Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) Member States should put in place preventive protection measures in accordance with their national law to avoid contact between the child victims and the offenders after the start of criminal proceedings, even before conviction. Child victims and their families should have the benefit of cross-border protection against their offenders within the framework of a European Protection Order.

Or. en

Justification

It is important to stress the need for children's protection and of their families already at the moment of the reporting of the crime before the conviction.

Amendment 67

Proposal for a directive Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) Child victims should not be confronted with visual contact with the offender during criminal proceedings.

Or. en

Amendment 69

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) To prevent and minimise recidivism, offenders should be subject to an assessment of the danger posed by the offenders and the possible risks of repetition of sexual offences against children, and should have access to effective intervention programmes or measures on a voluntary basis.

(11) To prevent and minimise recidivism, offenders should be subject to an assessment of the danger posed by the offenders and the possible risks of repetition of sexual offences against children, and should have access to effective intervention programmes or measures on a voluntary basis. ***In order to ensure the effectiveness of the intervention measures, Member States are encouraged to regularly conduct assessments of methods and practises that give the best results, as well as to fund studies at EU-level that allow for comparisons and the exchange of best practises.***

Or. en

Justification

Better knowledge about the efficiency of prevention efforts is needed, since it is necessary to know that actions taken to prevent abuse are really working. At the same time it can be difficult for an individual Member State to independently conduct studies that are broad enough to provide reliable answers. Research at EU-level would therefore be useful.

Compromise Amendment 6 (AM(70), (72) and (73))

Proposal for a directive

Recital 12

Text proposed by the Commission

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

Amendment

(12) Where the danger posed by the offenders and the possible risks of repetition of the offences make it appropriate, convicted offenders **may** be temporarily or permanently prevented from exercising **professional** activities involving **direct and** regular **contact** with children **and volunteer activities related to the supervision and/or care of children**, where appropriate. Implementation of such prohibitions throughout the EU should be facilitated.

Amendment 14 FEMM

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

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

Compromise Amendment 8 (AM (11), AM(77), AM(78), AM(80), AM (85))

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Child pornography, which constitutes *sex* abuse *images*, is a specific type of content which cannot be construed as the expression of an opinion. To combat it, it is necessary *to reduce the circulation of child abuse material by making it more difficult for offenders to upload such content onto the publicly accessible Web. Action is therefore necessary to remove the content at source and apprehend those guilty of making distributing or downloading child abuse images.* The EU, in particular through increased cooperation with third countries and international organisations, should seek to facilitate the effective removal by third country authorities of websites containing child pornography, which are hosted in their territory. However *as*, despite such efforts, the removal *of child pornography content at its source proves to be difficult* where the original materials are not located within the EU, *mechanisms should also be put in place to block access from the Union's territory to internet pages identified as containing or disseminating child pornography. For that purpose, different mechanisms can be used as appropriate, including facilitating the competent judicial or police authorities to order such blocking, or supporting and stimulating Internet Service Providers on a voluntary basis to develop codes of conduct and guidelines for blocking access to such Internet pages. Both with a view to the removal and the blocking of child abuse content*, cooperation between public authorities *should be established and strengthened*, particularly in the interest of ensuring that *national lists of* websites containing child pornography material *are* as complete as possible and of avoiding

Amendment

(13) Child pornography, which constitutes *child* abuse *material*, is a specific type of content which cannot be construed as the expression of an opinion. To combat it, it is necessary *to ensure as quickly as possible the full removal at source of Internet pages containing or disseminating child pornography or child abuse material and to identify the offenders to start procedures against them, as the investigation and prosecution of such crimes should be a priority. Any webpage originating from an EU Member State and containing sexual abuse material of children should be removed.* The EU, in particular through increased cooperation with third countries and international organisations *and with the help of bilateral or multilateral agreements*, should seek to facilitate the effective removal by third country authorities of websites containing child pornography *or child abuse material*, which are hosted in their territory, *as well as concurrent criminal prosecution of persons who placed such content on or distributed it over the internet. In that regard international cooperation between judicial and police authorities should be strengthened and reporting points put in place.* However, *should* despite such efforts the removal *at source of Internet pages containing or disseminating child pornography or child abuse material prove impossible to achieve* where the original materials are not located within the EU, *either because the State where the servers are hosted is not willing to cooperate or because the procedure for removal of the material in the State concerned proves to be particularly long, Member States may take the necessary*

duplication of work. Any such *developments* must *take account of* the rights of the end users, adhere to existing legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.

measures in accordance with national legislation to prevent access to such content in their territory. There should be strengthened cooperation between public authorities, particularly in the interest of ensuring that *information regarding* websites containing child pornography *or child abuse* material *is* as complete as possible and of avoiding duplication of work. Any such *measure* must *be in accordance with national legislation, respect* the rights of the end users, adhere to legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.

Amendment 12

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Any possible personal data processed when implementing this Directive should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters¹ and in accordance with the principles laid down in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which all Member States have ratified.

¹ OJ L 350, 30.12.2008, p. 60.

Justification

Any processing of personal data in the framework of the present directive has to fully comply with EU and Council of Europe data protection standards.

Amendment 16 FEMM

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

Text proposed by the Commission

Amendment

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

Amendment 13

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

Text proposed by the Commission

Amendment

(13b) This Directive should be fully complementary with Directive 2011/.../EU of the European Parliament and the Council on preventing and combating trafficking in human beings, and protecting victims, replacing Framework Decision 2002/629/JHA, as some victims of human trafficking have also been child victims of sexual abuse and sexual exploitation.

Justification

It should be highlighted that the present directive and the directive on trafficking form part of

the same fight against crime, especially as trafficking can be part of sexual abuse and exploitation of children.

Amendment 17 FEMM

Proposal for a directive Recital 13 b (new)

Text proposed by the Commission

Amendment

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

Amendment 89

Proposal for a directive Recital 15

Text proposed by the Commission

Amendment

(15) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably human dignity, the prohibition of torture and inhuman or degrading treatment or punishment, the rights of the child, the right to liberty and security, freedom of expression and information, protection of personal data, the right to an effective remedy and to a fair trial and the principles of legality and proportionality of criminal offences and penalties. In particular, this Directive seeks to ensure full respect for those rights and has to be implemented accordingly.

(15) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably human dignity, the prohibition of torture and inhuman or degrading treatment or punishment, the rights of the child, the right to liberty and security, freedom of expression and information, protection of ***privacy and*** personal data, the right to an effective remedy and to a fair trial and the principles of legality and proportionality of criminal offences and penalties. In particular, this Directive seeks to ensure full respect for those rights and has to be implemented accordingly.

Or. en

Amendment 21 CULT

Proposal for a directive Recital 15

Text proposed by the Commission

(15) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably human dignity, the prohibition of torture and inhuman or degrading treatment or punishment, the rights of the child, the right to liberty and security, freedom of expression and information, protection of personal data, the right to an effective remedy and to a fair trial and the principles of legality and proportionality of criminal offences and penalties. In particular, this Directive *seeks to ensure* full respect for those rights and has to be implemented accordingly.

Amendment

(15) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably human dignity, the prohibition of torture and inhuman or degrading treatment or punishment, the rights of the child, the right to liberty and security, freedom of expression and information, protection of personal data, the right to an effective remedy and to a fair trial and the principles of legality and proportionality of criminal offences and penalties. In particular, this Directive *ensures* full respect for those rights and has to be implemented accordingly.

Compromise Amendment 1 (AM 14 and 90)

Proposal for a directive
Article 1

Text proposed by the Commission

This Directive aims to establish minimum rules concerning the definition of criminal offences and sanctions in the area of sexual exploitation of children. It also aims to introduce common provisions to strengthen the prevention of the crime and the protection of its victims.

Amendment

This Directive aims *to prevent the sexual abuse and sexual exploitation of children and to* establish minimum rules concerning the definition of criminal offences and sanctions in the area of sexual *abuse and sexual* exploitation of children, *as well as the presentation of child pornography*. It also aims to introduce common provisions to strengthen the prevention of the crime and the protection of its victims.

Amendment 15

Proposal for a directive
Article 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) ‘age of sexual consent’ shall mean the legal age according to national law to engage in sexual activities;

Justification

As requested by the Council of Europe Lanzarote Convention and to exactly define the content of the provisions on offences from Articles 3 to 7 it is need to clarify what the age of sexual consent is.

Compromise Amendment 2 (AM 16, 92, 93, 94 and 95)**Proposal for a directive****Article 2 – point b - introductory part***Text proposed by the Commission**Amendment*(b) ‘child pornography’ *shall* mean(b) ‘child pornography’ *or 'child abuse material'* shall mean:**Amendment 99****Proposal for a directive****Article 2 – paragraph 1 – point b – subpoint iv***Text proposed by the Commission**Amendment*(iv) realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, ***regardless of the actual existence of such child***, for primarily sexual purposes;(iv) realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child ***or of a virtual image thereof*** for primarily sexual purposes;

Or. fr

Amendment 100**Proposal for a directive****Article 2 – paragraph 1 – point b – subpoint iv***Text proposed by the Commission**Amendment*

(iv) realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, regardless of the actual existence of such child, for primarily sexual purposes;

(iv) realistic images of a child engaged ***or depicted as being engaged*** in sexually explicit conduct or realistic images of the sexual organs of a child, regardless of the actual existence of such child, for primarily sexual purposes;

Amendments 102, 103 and 104

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) 'child sexual exploitation in travel and tourism' shall mean the sexual exploitation of children by a person or persons who travel from their usual environment to a destination where they have sexual contact with children;

Or. en

Justification

UNWTO definition of tourist, 1997.

Amendment 116

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure that the ***intentional*** conduct referred to in paragraphs 2 to 11 is punishable.

1. Member States shall take the necessary measures to ensure that the conduct referred to in paragraphs 2 to 11 is punishable.

Or. en

Amendment 123

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. Causing a child to participate in pornographic performances shall be

2. Causing a child to participate in pornographic performances shall be

punishable by a maximum term of imprisonment of at least two years.

punishable by a maximum term of imprisonment of at least two years *and an appropriate fine*.

Or. en

Amendment 128

Proposal for a directive Article 4 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 133

Proposal for a directive Article 4 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 138

Proposal for a directive Article 4 – paragraph 5

Text proposed by the Commission

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

Amendment

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

appropriate fine.

Or. en

Amendment 143

Proposal for a directive

Article 4 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 148

Proposal for a directive

Article 4 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 150

Proposal for a directive

Article 4 – paragraph 8

Text proposed by the Commission

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

Amendment

8. Engaging in sexual activities with a child, where recourse is made to child prostitution shall be punishable by a maximum term of imprisonment of at least five years ***if the child has not reached the age of sexual consent and of at least two years of imprisonment if the child is over that age.***

Amendment 151

Proposal for a directive Article 4 – paragraph 8

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 155

Proposal for a directive Article 4 – paragraph 9

Text proposed by the Commission

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

Amendment

9. Coercing ***or forcing*** a child to participate in pornographic performances, ***or threatening a child for such purposes*** shall be punishable by a maximum term of imprisonment of at least eight years ***if the child has not reached the age of sexual consent, or of at least five years if the child is over that age.***

Or. en

Amendment 158

Proposal for a directive Article 4 – paragraph 9

Text proposed by the Commission

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

Amendment

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

appropriate fine.

Or. en

Amendment 164

Proposal for a directive Article 4 – paragraph 10

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 166

Proposal for a directive Article 4 – paragraph 11

Text proposed by the Commission

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

Amendment

11. Coercing ***or forcing*** a child into child prostitution, ***or threatening a child for such purposes,*** shall be punishable by a maximum term of imprisonment of at least ten years ***if the child has not reached the age of sexual consent and of at least five years of imprisonment if the child is over that age.***

Or. en

Amendment 169

Proposal for a directive Article 4 – paragraph 11

Text proposed by the Commission

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

Amendment

11. Coercing a child into child prostitution shall be punishable by a maximum term of imprisonment of at least ten years ***and an appropriate fine.***

Or. en

Amendment 174

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Acquisition or possession of child pornography shall be punishable by a maximum term of imprisonment of at least one year.

Amendment

2. Acquisition or possession of child pornography shall be punishable by a maximum term of imprisonment of at least one year ***and an appropriate fine.***

Or. en

Amendment 175

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. Knowingly obtaining access, ***by means of information and communication technology,*** to child pornography shall be punishable by a maximum term of imprisonment of at least one year.

Amendment

3. Knowingly obtaining access to child pornography shall be punishable by a maximum term of imprisonment of at least one year.

Or. en

Amendment 178

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. Knowingly obtaining access, by means of information and communication technology, to child pornography shall be punishable by a maximum term of imprisonment of at least one year.

Amendment

3. Knowingly obtaining access, by means of information and communication technology, to child pornography shall be punishable by a maximum term of imprisonment of at least one year ***and an appropriate fine.***

Or. en

Amendment 182

Proposal for a directive Article 5 – paragraph 4

Text proposed by the Commission

4. Distribution, dissemination or transmission of child pornography shall be punishable by a maximum term of imprisonment of at least two years.

Amendment

4. Distribution, dissemination or transmission of child pornography shall be punishable by a maximum term of imprisonment of at least two years **and an appropriate fine.**

Or. en

Amendment 185

Proposal for a directive Article 5 – paragraph 5

Text proposed by the Commission

5. Offering, supplying or making available child pornography shall be punishable by a maximum term of imprisonment of at least two years.

Amendment

5. Offering, supplying or making available child pornography shall be punishable by a maximum term of imprisonment of at least two years **and an appropriate fine.**

Or. en

Amendment 188

Proposal for a directive Article 5 – paragraph 6

Text proposed by the Commission

6. Production of child pornography shall be punishable by a maximum term of imprisonment of at least five years.

Amendment

6. Production of child pornography shall be punishable by a maximum term of imprisonment of at least five years **and an appropriate fine.**

Or. en

Amendment 189

Proposal for a directive Article 5 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. It shall be within the discretion of the Member States to decide whether this Article applies to cases involving child pornography, as referred to in Article 2(b)(iii), where the person appearing to be a child was in fact 18 years of age or older at the time of depiction.

Or. en

Compromise Amendment 3 (AM 23, 192, 193, 194, 196, 197, 198)

Proposal for a directive Article 6

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that the following intentional conduct is punishable:

Member States shall take the necessary measures to ensure that the following intentional conduct ***with the aim to attract the confidence and to manipulate a child*** is punishable:

The proposal, by means of information and communication technology, ***by an adult*** to meet a child ***who has not reached the age of sexual consent under national law***, for the purpose of committing any of the offences referred to in ***Articles 3(3) and Article 5(6)***, where this proposal has been followed by material acts leading to such a meeting, shall be punishable by a maximum term of imprisonment of at least two years.

The proposal ***by an adult to a child***, by ***any*** means, ***including*** information and communication technology, to meet ***or otherwise solicit*** a child, for the purpose of committing any of the offences referred to in ***Article 3(3), Article 4(2) and (3) and Article 5(6)***, where this proposal has been followed by material acts leading to such a meeting ***or contact***, shall be punishable by a maximum term of imprisonment of at least two years.

Amendment 200

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

Amendment

The proposal, by means of information and communication technology, by an adult to meet a child who has not reached the age

The proposal, by means of information and communication technology, by an adult to meet a child who has not reached the age

of sexual consent under national law, for the purpose of committing any of the offences referred to in Articles 3 (3) and Article 5 (6), where this proposal has been followed by material acts leading to such a meeting, shall be punishable by a maximum term of imprisonment of at least two years.

of sexual consent under national law, for the purpose of committing any of the offences referred to in Articles 3 (3) and Article 5 (6), where this proposal has been followed by material acts leading to such a meeting, shall be punishable by a maximum term of imprisonment of at least two years ***and an appropriate fine.***

Or. en

Amendment 205, 206, 207 and FEMM37

Proposal for a directive

Article 7 – paragraph 3 – point b

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

In relation to the organisation of child sex tourism, it must be recalled that actors facilitating sexual abuse and exploitation of a child include not only those who arrange travels (such as tour operators and travel agencies) but also a number of intermediaries which provide other services (such as hotels, hostels, tour guides, translation services etc.).

Amendments 208 and 209

Proposal for a directive

Article 7 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) material acts in connection with travel for the purpose of having sexual intercourse with a child leading to a meeting, regardless of the actual sexual abuse and exploitation of the child.

Or. en

Justification

Punishing the intent to commit offences related to child sexual exploitation in travel and tourism serves to strengthen preventive measures and stop travelling offenders before they act upon their malevolent intents.

Compromise Amendment 5 (AM 24, 210, 211 and 212)

Proposal for a directive

Article 8

Text proposed by the Commission

The provisions of Article 3(2), with regard to witnessing sexual activities, and (3); Article 4(2) and (4) and Article 5 do not govern consensual sexual activities between **children** or involving persons who are **close** in age and degree of psychological and physical development or maturity, insofar as the acts did not involve any abuse.

Amendment

1. The provisions of Article 3(2), with regard to witnessing sexual activities, and (3); Article 4(2) and (4) and Article 5, do not govern consensual sexual activities between children or involving persons who are close in age and degree of psychological and physical development or maturity, insofar as the acts did not involve any abuse, **exploitation, coercion, force or threats, including that defined in Article 3(4) and (5).**

1a. Judicial prerogatives of national courts to make a case-by-case evaluation of the relationship mentioned above are fully preserved.

1b. Member States shall ensure that where offences referred in Articles 3 to 5 are committed by a child, they shall be, subject to appropriate alternative measures adapted to specific re-educational needs under national law, having due regard to the age of the offender, the need to avoid criminalisation and the objective of social reintegration of the child.

Or. en

Amendment 213

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

Text proposed by the Commission

(a) the child has not reached the age of sexual consent under national law;

Amendment

(a) the child has not reached the age of sexual consent under national law, ***or exhibits signs of slower physical and psychological development;***

Or. en

Amendment 214

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

Text proposed by the Commission

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

Amendment

(b) the offence was committed against a child in a particularly vulnerable situation, notably because of a mental or physical disability or a situation of dependence ***or of a temporary alteration in psychophysical perception connected with taking drugs, drinking alcohol, or any other recognised type of dependence;***

Or. it

Amendment 215

Proposal for a directive Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) the offence was committed by a member of the family, a person cohabiting with the child or a person having abused their authority;

Amendment

(c) the offence was committed by a member of the family, a person cohabiting with the child or a person having abused their ***recognised position of trust,*** authority ***or influence over the child;***

Or. fr

Amendment 26

Proposal for a directive Article 9 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the offence has been committed as part of an organised activity for the main purpose of economic revenue;

Or. en

Justification

It is important to stop the economic exploitation of abused children.

Amendment 27

Proposal for a directive Article 9 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the offence was committed in the context of travel abroad, where such travel was organised or undertaken for the main purpose of committing any of the offences referred to in Articles 3 to 6;

Or. en

Justification

Child sex tourism grows at an alarming rate and inflicts devastating consequences on millions of children around the globe. In the recital it should be already stressed that in order to strengthen the prevention of this practice it is essential to reinforce deterrence by providing higher sanctions for the crimes if committed abroad in the context of travelling.

Amendment 217

Proposal for a directive Article 9 – paragraph 1 – point h

Text proposed by the Commission

(h) the offence involved serious violence or caused serious harm to the child.

Amendment

(h) the offence involved serious violence or ***threat or*** caused ***or was likely to cause*** serious harm to the child.

Or. en

Compromise Amendment 4

Proposal for a directive Article 9 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the offender has intentionally used different means to target a great number of children to multiply his chances of committing the crime.

Or. en

Compromise Amendment 6 (AM 28 and 218)

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. In order to avoid the risk of repetition of offences, Member States shall take the necessary measures to ensure that a natural person who has been convicted of any of the offences referred to in Articles 3 to 7 may be temporarily or permanently prevented from exercising activities involving regular contacts with children.

1. In order to avoid the risk of repetition of offences, Member States shall take the necessary measures to ensure that a natural person who has been convicted of any of the offences referred to in Articles 3 to 7 may be temporarily or permanently prevented from exercising ***professional*** activities involving ***direct and*** regular contact with children ***and volunteer activities related to the supervision and/or care of children. The measures referred to in this paragraph shall be entered in the criminal record of the convicting Member State.***

Compromise Amendment 7 (AM 29, 222 and 226)

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall take the necessary measures to ensure that ***employers, when recruiting for professional activities involving direct and regular contact with children and volunteer activities related to the supervision and/or care of children, are entitled to obtain information in accordance with national law, by any appropriate way, such as access upon request or via the person concerned, concerning the existence of convictions for an offence referred to in Articles 3 to 7 or of any additional measure related to those convictions which prevents them from exercising activities involving contacts with children. If serious suspicion should arise during working relations, employers may, in accordance with national law, request such information even after the recruitment procedure. Member States authorities shall ensure, by any appropriate means and in accordance with national law, that such information may also be obtained from the criminal records held in other Member States.***

Or. en

Amendment 227

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall take the necessary measures to ensure that the measure referred to in paragraph 1 is entered in the criminal record of the convicting Member State ***and in the European Criminal Records Information System (ECRIS)***

when operational. Member States shall work together to establish a European certificate of good conduct.

Or. en

Amendment 30

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. By way of derogation from Articles 7(2) and 9(2) of the Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from criminal records between Member States, Member States shall *take the necessary measures to ensure that, for the purpose of effectively implementing the measure consisting in temporarily or permanently preventing the person from exercising activities involving regular contacts with children, in particular insofar as the requesting Member State subjects access to certain activities to conditions to ensure that candidates have not been convicted of any of the offences referred to in Articles 3 to 7 of this Directive, information concerning the disqualification arising from conviction of any of the offences referred to in Articles 3 to 7 of this Directive is transmitted when requested under Article 6 of that Framework Decision from the central authority of the Member State of the person's nationality, and that personal* data concerning such disqualification provided under Article 7(2) and (4) of that Framework Decision may in *all cases* be used for such purpose.

Amendment

3. By way of derogation from Articles 7(2) and 9(2) of the Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from criminal records between Member States, Member States shall *ensure full cooperation and availability of all information when replying to requests by competent authorities of other Member States submitted according to Article 10(2). Personal* data concerning such disqualification provided under Article 7(2) and (4) of that Framework Decision may in *any case* be used for such purpose.

Or. en

Justification

Full cooperation and information exchange on request between Member States has to be insured.

Amendment 232

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

Text proposed by the Commission

Amendment

3a. Member States shall take the necessary measures to ensure that when recruiting for professional activities involving direct and regular contact with children and volunteer activities related to the supervision and/or care of children, employers shall be entitled to obtain from competent authorities, which shall take into account the necessary safeguards, a national or when appropriate a European certificate of good conduct concerning the absence of convictions for an offence referred to in Articles 3 to 7 or of any additional measure related to those convictions which prevents them from exercising such activities. If serious suspicion should arise during working relations, employers may, in accordance with national law, request such a certificate even after the recruitment procedure.

Or. en

Amendment 40 FEMM

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

Text proposed by the Commission

Amendment

3a. Member States should ensure that state and private organisations exercising professional activities involving direct and

regular contact with children and volunteer activities related to the supervision and/or care of children check systematically the criminal records of new employees, and that organisations, including schools, providing services for children have in place strong and active child protection policies.

Justification

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

Amendment 233

**Proposal for a directive
Article 10 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. Member States may consider adopting other measures in relation to perpetrators, such as the registration of persons convicted for offences referred to in Articles 3 to 7 in sex offenders registers. These registers should only be accessible to the judiciary and/or law enforcement agencies.

Or. en

Justification

Sex offenders registers should also be put in place with limitations on high risk convicted offenders from leaving their countries. This would allow more rapid apprehension of re-offenders while preventing the crime by deterring existing and future offenders.

Amendment 234

**Proposal for a directive
Article 10 a (new)**

Text proposed by the Commission

Amendment

Article 10a

Seizure and Confiscation

Member States shall take the necessary measures to ensure that their competent authorities are entitled to seize and confiscate instrumentalities and proceeds from the offences referred to in this Directive.

Or. en

Amendment 235

Proposal for a directive

Article 12, paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Member States shall undertake to use the economic revenue arising from confiscation in respect of established crimes for the purpose of prevention, rehabilitation and support for victims and their families.

Or. it

Amendment 237

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

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

Member States shall ***ensure that*** child victims of the offences referred to in Articles 4 and Article 5 (4) to (6) ***will not be prosecuted and will not have penalties imposed on them*** for their involvement in unlawful activities as a direct consequence of being subjected to those offences.

Or. en

Justification

In order to provide the abused children with the best protection, Member States should ensure and not only provide for the possibility that children who are involved in unlawful activities as a consequence of being subjected to these offences are not prosecuted and do not have penalties imposed on them.

Amendment 243

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall take the necessary measures to ensure that investigations ***should be carried out bearing in mind the best interests and the rights of the child at all times and that investigation*** into or the prosecution of the offences referred to in Articles 3 to 7 are not dependent on a report or accusation being made by the victim, and that the criminal proceedings may continue even if the victim has withdrawn their statements.

Or. en

Justification

Article 3 of the UN Convention on the Rights of the Child states that the “best interest of the child” must be the central principle in all legal instruments protecting children’s rights, including the legislation to combat child sexual abuse and exploitation and child abuse images.

Amendment 246

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to enable the prosecution of any of the offences referred to in Articles 3, Article 4 (2) to (3) and (5) to (11), and

Amendment

2. Member States shall take the necessary measures to enable the prosecution of any of the offences referred to in Articles 3, Article 4 (2) to (3) and (5) to (11), and

Article 5 (6) for a sufficient period of time after the victim has reached the age of majority and which is commensurate with the gravity of the offence concerned.

Article 5 (6) for a sufficient period of time *of minimum 15 years* after the victim has reached the age of majority and which is commensurate with the gravity of the offence concerned.

Or. en

Amendment 248

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Member States shall take the necessary measures to ensure that effective investigative tools are available to persons, units or services responsible for investigating or prosecuting offences referred to in Articles 3 to 7.

Or. en

Amendment 250

Proposal for a directive Article 14 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 45FEMM

Proposal for a directive

Article 14 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In line with action to combat terrorism, monitoring and prevention measures should be taken vis-à-vis perpetrators of offences within the meaning of Articles 3 to 7 of this Directive. To that end, the Commission shall look into the feasibility of establishing a European early warning system (EWS) to coordinate anti-cyber crime activities conducted by Member State authorities and prevent offences by paedophiles and sex offenders, as called for by the European Parliament in its recommendation of 23 June 2010 on setting up a European early warning system (EWS) for paedophiles and sex offenders¹, which was adopted by an absolute majority.

Amendment 255

Proposal for a directive

Article 14 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that for the offences referred to in Articles 3 to 7, authorities responsible for persecution and investigation of such offences under criminal law are not circumvented by internal investigations by other institutions without the same authority under criminal law. Such investigations may be of informatory nature but are in no means equalling or substituting of investigation by authorities under criminal law.

Or. en

Amendment 46FEMM

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

Text proposed by the Commission

Amendment

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

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

Justification

A holistic approach that shares best practice between Member States and relevant stakeholders is essential to combat the cross border nature of this crime.

Amendment 47FEMM

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 48FEMM

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 49FEMM

Proposal for a directive Article 15 – paragraph 2

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 257

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

PE456.647v02-00

54/77

AM854749EN.doc

Text proposed by the Commission

Amendment

2a. Member States shall create information campaigns advertising the hotline 116, to ensure that children are aware of the existence of the hotline.

Or. en

Amendment 50FEMM

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

Text proposed by the Commission

Amendment

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

Amendment 82CULT

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

Text proposed by the Commission

Amendment

2b. The Member States shall take the necessary measures to ensure that prevention campaigns are mounted in primary and secondary schools with a view to enabling persons under the age of 18 years to enhance their understanding of the rights of every individual, of self-respect and respect for others, and helping them recognise awkward, intrusive or abusive situations.

Amendment 33

Proposal for a directive Article 16 – paragraph 1 – point d

Text proposed by the Commission

(d) the offence is committed for the benefit of a legal person **established** in the territory of that Member State.

Amendment

(d) the offence is committed for the benefit of a legal person **having the legal seat or place of establishment** in the territory of that Member State.

Or. en

Justification

Sometimes the place of establishment and the legal seat do not coincide. In both cases jurisdiction should be ensured.

Amendment 52FEMM

Proposal for a directive Article 16 – paragraph 3

Text proposed by the Commission

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

Amendment

Deleted

Amendment 261

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Victims of the offences referred to in Articles 3 to 7 shall be provided assistance, support and protection, taking into account the best interests of the child.

Amendment

1. Victims of the offences referred to in Articles 3 to 7 shall be provided assistance, support and protection, taking into account the best interests of the child. **Assistance and training should be extended to the parents or guardians of the child, in case they are not implicated as suspects in**

relation to the offence concerned, in order to help them assist their child throughout the proceedings and the recovery period.

Or. en

Amendment 53 FEMM

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

Text proposed by the Commission

Amendment

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

Amendment 34

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

Text proposed by the Commission

Amendment

2a. Member States shall ensure in case of sexual abuse and sexual exploitation committed within a family context that the necessary measures are undertaken to protect and provide assistance to the child victim as well as to other family members who were not involved in the offence.

Or. en

Justification

To underline the need to preserve the psychological balance and the right of abused children to maintain contacts with their families.

Amendments 262 and 268

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

2a. Member States shall ensure that the rights of victims are fully realised through:

(a) informing child victims of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases;

(b) ensuring, at least in cases where the victims and their families might be in danger, that they may be informed, if necessary, when the person prosecuted or convicted is released temporarily or definitively;

(c) protecting the privacy of child victims, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification;

(d) providing for their safety, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation;

(e) ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.

Or. en

Justification

In order to ensure that the rights of victims are fully ensured, that element needs to be set out in Article 30 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007).

Amendment 54 FEMM

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

Text proposed by the Commission

Amendment

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

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

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

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

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

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

Amendment 271

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise the rights set forth in Council Framework Decision 2001/220/JHA¹² on the standing of victims in criminal proceedings, and in this Directive.

Amendment

1. Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise the rights set forth in Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings, and in this Directive. ***Member States shall in particular take the necessary steps to ensure protection for children who report cases of abuse taking place within their familiar environment of friends or family.***

Or. el

Amendments 272 and 275

Proposal for a directive Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall take the necessary measures to ensure that a child is provided with assistance and support as soon as the competent authorities have an indication that the child might have been subject to an offence referred to in Articles 3 to 7.

Or. en

Justification

Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal. That Directive Proposal should be amended to ensure that child protection systems and multi-

disciplinary systems are put in place in each Member State.

Amendments 273 and 276

Proposal for a directive

Article 18 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall take the necessary measures to ensure that a child has access to information about its rights, in particular in relation to assistance and support, as soon as competent authorities have an indication that the child might have been subject to an offence referred to in Articles 3 to 7.

Or. en *Justification*

Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal. That Directive Proposal should be amended to ensure that child protection systems and multi-disciplinary systems are put in place in each Member State.

Amendment 274

Proposal for a directive

Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall take the necessary measures to ensure that assistance and support for a child victim are not made conditional on the child victim's willingness to cooperate in the criminal investigation, prosecution and trial.

Or. en

Amendment 277

Proposal for a directive

Article 18 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the specific actions to assist and support victims in the short and long term, in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, *taking* due account of the child's views, needs and concerns.

Amendment

2. Member States shall take the necessary measures to ensure that the specific actions to assist and support victims, in the short and long term, in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, ***and shall to that end devise individual rehabilitation programmes that take*** due account of the child's views, needs and concerns.

Or. it

Amendments 278 and 279

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

Text proposed by the Commission

Amendment

2a. Member States shall take the necessary measures to establish effective child protection systems and multidisciplinary structures to ensure the necessary assistance and support to victims in the short and long term, whether through the provision of specially trained personnel within its public services or through recognition and funding of victim support organisations, including non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

Or. enJustification

Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal. That Directive Proposal should be amended to ensure that child protection systems and multi-disciplinary systems are put in place in each Member State.

Amendment 55FEMM

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

Text proposed by the Commission

Amendment

2a. Member States are encouraged to use the confiscated assets from criminals to fund additional therapeutic and integration services for child pornography victims.

Amendment 280

Proposal for a directive
Article 18 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take measures, where appropriate and possible, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate **and possible**, apply Article 4 of Council Framework Decision 2001/220/JHA to the family.

4. Member States shall take measures, where appropriate and possible, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate, apply Article 4 of Council Framework Decision 2001/220/JHA to the family, **regardless of whether a criminal investigation or proceedings have been instituted.**

Or. en

Justification

Solid national child protection and child friendly judicial systems constitute the very foundation of protecting children against the crimes governed by the Directive Proposal. That Directive Proposal should be amended to ensure that child protection systems and multi-disciplinary systems are put in place in each Member State.

Amendment 281

Proposal for a directive
Article 18 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take measures,

4. Member States shall take measures,

where appropriate *and possible*, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate *and possible*, apply Article 4 of Council Framework Decision 2001/220/JHA to the family.

where appropriate, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate, apply Article 4 of Council Framework Decision 2001/220/JHA to the family.

Or. fr

Amendments 283 and 284

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

Text proposed by the Commission

Amendment

4a. Member States shall take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advise to callers, even confidentially or with due regard for their anonymity.

Or. en

Amendment 87 CULT

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

Text proposed by the Commission

Amendment

4a. Member States shall take the necessary measures to launch information campaigns and other campaigns aimed at preventing the risks of the depiction of sexual acts involving persons under the age of 18 years, focusing in particular on the ways of detecting and preventing offences.

Amendment 56 FEMM

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 88 CULT

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

Text proposed by the Commission

Amendment

4b. Member States shall take the necessary measures to help and encourage teachers, social workers, youth leaders and all those working with persons under the age of 18 years to develop, within their syllabuses or activities, media and internet education in order to teach persons under the age of 18 years to react in ways that might save them from harm. It is vital that persons under the age of 18 years be taught how to navigate the internet safely.

Amendment 57 FEMM

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

Text proposed by the Commission

Amendment

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

Amendment 89 CULT

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

Text proposed by the Commission

Amendment

4c. Member States shall take the necessary measures to ensure that educational measures are included in the aims and values that underpin all levels of primary and secondary schooling. It is vital to develop attitudes that are shaped by respect and justice, enabling persons under the age of 18 years to develop self-respect and respect for others, as well as respect for institutions and for their environment. Only if someone is ready to listen to them will persons under the age of 18 years be able to become aware of any abuse they may have been subjected to or recognise an awkward or intrusive situation they may have experienced.

Amendment 285

**Proposal for a directive
Article 19 – title**

Text proposed by the Commission

Amendment

Protection of child victims in criminal investigations and proceedings

Assistance, support and protection of child victims in criminal investigations and proceedings

Amendment 286

Proposal for a directive Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall take the necessary measures to inform victims of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are missing from article 19.

Amendment 287

Proposal for a directive Article 19 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise the rights set forth in Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings and in this Directive.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are missing from article 19.

Amendment 288

**Proposal for a directive
Article 19 – paragraph 1 c (new)**

Text proposed by the Commission

Amendment

1c. Member States shall take the necessary measures to ensure that criminal investigations and proceedings are carried out in the best interest of the child.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are missing from article 19.

Amendment 289

**Proposal for a directive
Article 19 – paragraph 1 d (new)**

Text proposed by the Commission

Amendment

1d. Member States shall take the necessary measures to ensure that investigations are conducted promptly and without unjustified delay.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are

missing from article 19.

Amendment 290

Proposal for a directive

Article 19 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

1e. Member States shall take the necessary measures to ensure that investigations and criminal proceedings do not aggravate the trauma experienced by the child.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are missing from article 19.

Amendment 291

Proposal for a directive

Article 19 – paragraph 1 f (new)

Text proposed by the Commission

Amendment

1f. Each Member State shall, in the context of investigations and proceedings, apply Articles 13(1) and 13(2) of Framework Decision 2001/220/JHA.

Or. en

Justification

Based on extensive experience of NGOs working with child victims, a number of important appropriate measures to protect victims in criminal investigations and proceedings are missing from Article 19.

Amendment 293

Proposal for a directive Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Victims of any of the offences referred to in Articles 3 to 7 shall be considered as particularly vulnerable victims pursuant to Article 2 (2), Article 8 (4) and Article 14(1) of Framework Decision 2001/220/JHA.

Or. en

Amendment 294

Proposal for a directive Article 19 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall take measures, where appropriate and possible, to provide assistance and support to the victim's family. In particular, Member States shall, where appropriate and possible, apply Article 4 of Council Framework Decision 2001/220/JHA to the family.

Or. en

Amendment 295

Proposal for a directive Article 19 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, judicial authorities appoint a special representative for the child victim where, by national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the

child victim, or where the child is unaccompanied or separated from the family.

Or. en

Amendment 297

Proposal for a directive Article 19 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise the rights set forth in Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings and in this Directive.

Or. en

Amendment 58 FEMM

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

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 59 FEMM

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

Text proposed by the Commission

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

Amendment

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

Amendment 306

Proposal for a directive Article 19 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 3 to 7 **all** interviews with the child victim or, where appropriate, with a child witness, may be videotaped and that these videotaped interviews may be used as evidence in criminal court proceedings, according to the rules under its national law.

Amendment

4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 3 to 7 interviews with the child victim or, where appropriate, with a child witness – **if examination of the individual case shows this to be necessary** – may be videotaped and that these videotaped interviews may be used as evidence in criminal court proceedings, according to the rules under its national law.

Or. de

Justification

The directive should not prescribe videotaping of all interviews as a general rule, including therefore interviews by the police or public prosecutor. Moreover, it is not automatically in the child's interests that an interview should be videotaped.

Amendment 61 FEMM

Proposal for a directive
Article 19 – paragraph 5 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 307
Cecilia Wikström

Proposal for a directive
Article 19 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall take the necessary measures, where in the interest of the child victims and taking into account other overriding interests, to protect their privacy, their identity and their image and to prevent the public dissemination of any information that could lead to their identification.

Or. en

Amendment 309

Proposal for a directive
Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective intervention programmes or measures are made available with a view to preventing and minimising the risks of repeated offences of a sexual nature against children. ***These programmes or measures shall be accessible at any time during the***

Amendment

Member States shall take the necessary measures to ensure that effective intervention programmes or measures are made available with a view to preventing and minimising the risks of repeated offences of a sexual nature against children.

criminal proceedings, inside and outside prison, according to the conditions laid down in national law.

Or. de

Justification

Therapeutic measures during pre-trial detention are problematic. They need to continue for a certain length of time, and there is little likelihood that they can be organised meaningfully in view of the uncertain duration of pre-trial detention. Moreover, when the judgment becomes irrevocable, this will as a rule result in a move, so that there would be no guarantee of continuity of therapy. In addition, this might conflict with the presumption of innocence and the rights of offenders in criminal proceedings (e.g. the right to remain silent).

Amendment 101 CULT

Proposal for a directive Article 20 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 310

Proposal for a directive Article 20 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure **that persons convicted** of offences referred to in Articles 3 to 7, **where appropriate considering the assessment referred to in paragraph 1:**

Amendment

3. Member States shall take the necessary measures to ensure, **in criminal court proceedings relating to any of the** offences referred to in Articles 3 to 7, **that in order as far as possible to prevent any secondary victimisation it may be ordered that:**

Or. en

Amendment 64 FEMM

Proposal for a directive Article 20 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 308

Proposal for a directive Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20a

Prevention Measures

1. Member States shall take appropriate actions such as information and awareness raising campaigns, research and education programmes, where appropriate in cooperation with civil society organisations and local support networks, aimed at raising awareness and reducing the risk of children becoming victims of sexual abuse, sexual exploitation or sexual abuse images. These measures must be addressed to all parties concerned, including children, parents and education practitioners, in

order for them to learn how to recognise the signs of sexual abuse, both online and offline.

2. Help-lines shall be set up create a safe and anonymous communication channel between children that are or may be victims and members of relevant civil society organisations or local support networks.

Or. en

Compromise Amendment 8 (AM (37), AM (313), AM (314), AM (320), AM (323), AM (329), AM (336), AM (337), AM (341), AM (342))

**Proposal for a directive
Article 21**

Text proposed by the Commission

Amendment

Article 21

Article 21

Blocking access to websites containing child pornography

Measures addressing websites containing ***or disseminating*** child pornography ***or child abuse material***

1. Member States shall take the necessary measures to obtain the ***blocking of access by Internet users in their territory to*** Internet pages containing or disseminating child pornography. ***The blocking of access shall be subject to adequate safeguards in particular to ensure that the blocking is limited to what is necessary, that users are informed of the reason for the blocking and that content providers, as far as possible, are informed of the possibility of challenging it.***

1. Member States shall take the necessary ***legislative*** measures to obtain the ***removal at source of*** Internet pages containing or disseminating child pornography ***or child abuse material. Internet pages containing such material shall be removed, especially when originating from an EU Member State. In addition, the EU shall cooperate with third countries in securing the prompt removal of such content from servers in their territory.***

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

2. ***When removal at source of Internet pages containing or disseminating child pornography or child abuse material is impossible to achieve, Member States may take the necessary measures in accordance with national legislation to prevent access to such content in their territory. These measures must be set by***

transparent procedures and provide adequate safeguards, in particular to ensure that the restriction is limited to what is necessary and proportionate, and that users are informed of the reason for the restriction. Content providers and users shall be informed of the possibility to whom to appeal under a judicial redress procedure.

2a. Any measure under paragraphs 1 and 2 shall respect fundamental rights and freedoms of natural persons, as guaranteed by the European Convention of the Protection of Human Rights and Fundamental Freedoms, the EU Charter of Fundamental Rights and general principles of Union law. Those measures shall provide for prior authorisation in accordance with national law, and the right to an effective and timely judicial redress.

2b. The European Commission shall submit to the European Parliament an annual report on the activities undertaken by Member States to remove child sexual abuse material from Internet pages.

Amendment 67 FEMM

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

Text proposed by the Commission

Amendment

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