Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

DATE: 29 April 2021

The amendments made by the EP and the Council on the text of the proposal compared to the Commission's proposal are marked as follows:

- the new text is marked in *bold italics*;

- the deleted parts of the text are marked in strikethrough.

- where full paragraphs of the Commission's proposal were not amended by the EP they are not repeated in the columns reflecting their respective positions, but are marked with a diagonal line. When The Commission's proposal is not amended by the Council, it is repeated in the Council column. - if the three texts are the same, a diagonal line is marked on the 4th column.

Parts provisionally agreed at the trilogue are marked in green.

Parts provisionally agreed at the technical meetings and to be confirmed at the trilogue are marked in blue. Parts to be further discussed are marked in yellow.

Parts needed legal confirmation from each Institution are marked in pink.

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	Proposal for a	AM 1	Proposal for a	4 th Trilogue (25/03/21)
	REGULATION OF THE		REGULATION OF THE	4 IIII0gue (23/03/21)
1.	EUROPEAN	Proposal for a		Proposal for a
	PARLIAMENT AND OF	REGULATION OF THE	PARLIAMENT AND OF	REGULATION OF THE
	THE COUNCIL on a	EUROPEAN PARLIAMENT AND	THE COUNCIL on a	EUROPEAN PARLIAMENT AND
	temporary derogation	OF THE COUNCIL on a temporary	temporary derogation from	OF THE COUNCIL on a temporary
	from certain provisions of	derogation from restriction of certain	certain provisions of	
	Directive 2002/58/EC of	provisions of rights and obligations	Directive 2002/58/EC of the	[derogation/ restriction] from certain
	the European Parliament	under Directive 2002/58/EC of the	European Parliament and of	[provisions/ rights and obligations]
	and of the Council as	European Parliament and of the	the Council as regards the	of Directive 2002/58/EC of the
	regards the use of	Council as regards the use of specific	use of technologies by	European Parliament and of the
	technologies by number-	technologies by number-independent	number-independent	Council as regards the use of
	independent interpersonal	interpersonal communications	interpersonal	technologies by number-
	communications service	service providers for the processing	communications service	independent interpersonal
	providers for the	of personal data for the purpose of	providers for the processing	communications service providers
	processing of personal	combatting online child sexual abuse	of personal and other data for	for the processing of personal [and
	and other data for the	online	the purpose of combatting	other data] for the purpose of
	purpose of combatting		child sexual abuse online	combatting child sexual abuse
	child sexual abuse online			online.

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			2 nd Trilogue (23/02/2021)
2.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2), in conjunction with Article 114(1) thereof, Having regard to the	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2), in conjunction with Article 114(1) thereof, Having regard to the	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2), in conjunction with Article 114(1) thereof,Having regard to the proposal from the European Commission,
	proposal from the European Commission,	proposal from the European Commission,	After transmission of the draft legislative act to the national
	After transmission of the draft legislative act to the national parliaments, Having regard to the	After transmission of the draft legislative act to the national parliaments, Having regard to the opinion	parliaments, Having regard to the opinion of the European Economic and Social Committee ³ ,
	opinion of the European Economic and Social Committee ¹ ,	of the European Economic and Social Committee ² , Acting in accordance with	Acting in accordance with the ordinary legislative procedure,
	Acting in accordance with the ordinary legislative procedure,	the ordinary legislative procedure, Whereas:	Whereas:
	Whereas:		

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3.	(1) Directive	(1) Directive	2 nd Trilogue (23/02/2021)
	2002/58/EC of the	2002/58/EC of the European	
	European Parliament and	Parliament and of the	(1) Directive 2002/58/EC of the
	of the Council ⁴ lays down	Council ⁶ lays down rules	European Parliament and of the
	rules ensuring the right	ensuring the right to privacy	Council ⁸ lays down rules ensuring
	to privacy and	and confidentiality with	the right to privacy and
	confidentiality with	respect to the processing of	confidentiality with respect to the
	respect to the processing	personal data in exchanges	processing of personal data in
	of personal data in	of data in the electronic	exchanges of data in the electronic
	exchanges of data in the	communication sector. That	communication sector. That
	electronic communication	Directive particularises and	Directive particularises and
	sector. That Directive	complements Regulation	complements Regulation (EU)
	particularises and	(EU) 2016/679 of the	2016/679 of the European
	complements Regulation	European Parliament and of	Parliament and of the Council ⁹ .
	(EU) 2016/679 of the	the Council ⁷ .	

¹ OJ C , , p. .

⁴ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

² OJ C , , p. .

³ OJ C , , p. .

⁶ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

⁹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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	European Parliament and			
	of the Council ⁵ .			
4	(2) Directive	AM 2	(2) Directive	3 rd Trilogue (09/03/2021)
	2002/58/EC applies to the		2002/58/EC applies to the	5 IIII0gue (07/05/2021)
		(2) Directive 2002/58/EC applies	11	$(2) \qquad \text{Directive } 2002/58/EC$
	processing of personal	(2) Directive 2002/58/EC applies	processing of personal data	(2) Directive 2002/58/EC
	data in connection with	to the processing of personal data in	in connection with the	applies to the processing of personal
	the provision of publicly	connection with the provision of	provision of publicly	data in connection with the
	available electronic	publicly available electronic	available electronic	provision of publicly available
	communication services.	communication services. Up until 21	communication services.	electronic communication services.
	The definition of	December 2020, the definition of	The definition of electronic	Up until 21 December 2020, the
	electronic communication	electronic communication service set	communication service is	definition of electronic
	service is currently to be	out is currently to be found in Article	currently to be found in	communication service set out is
	found in Article 2, point	2, point (c), of Directive 2002/21/EC	Article 2, point (c), of	currently to be found in Article 2,
	(c), of Directive	of the European Parliament and of	Directive 2002/21/EC of the	point (c), of Directive 2002/21/EC
	2002/21/EC of the	the Council ⁴ applied. On that date,	European Parliament and of	of the European Parliament and of
	European Parliament and	Directive (EU) 2018/1972 of the	the Council ¹² . Directive	the Council ⁴ applied. On that date,
	of the Council ¹⁰ .	European Parliament and of the	(EU) 2018/1972 of the	Directive (EU) 2018/1972 of the
	Directive (EU)	Council ⁵ repealed repeals Directive	European Parliament and of	European Parliament and of the
	2018/1972 of the	2002/21/EC with effect from 21	the Council ¹³ repeals	Council ⁵ <i>repealed</i> repeals Directive
	European Parliament and	December 2020. The definition of	Directive 2002/21/EC with	2002/21/EC with effect from 21
	of the Council ¹¹ repeals	electronic communications services	effect from 21 December	December 2020. The definition of

⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

¹⁰ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

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

¹² Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

¹³ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321,

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with effect from 212018/1972 includes number- independent interpersonaldefinition of electronic communications servicesin Article 2(4) of 2018/1972 includeDecember 2020. From that date, the definition of that date, the definition ofcommunications services as definedwill be replaced by a newindependent interpendent interpende	ides number-
December 2020. From that date, the definition ofindependent interpersonal communications services as definedcommunications services will be replaced by a new2018/1972 include independent interp	udes number- erpersonal
that date, the definition of communications services as defined will be replaced by a new independent inter	erpersonal
	±
	s services as defined
electronic in Article 2(7) of that Directive. definition, in Article 2(4) of communications	
communications services Those services, which include, for Directive (EU) 2018/1972, in Article 2(7) of	of that Directive.
will be replaced by a new example, voice over IP, messaging which includes number-	which include, for
definition, in Article 2(4) and web-based e-mail services, <i>have</i> independent interpersonal example, voice o	over IP, messaging
of Directive (EU) will therefore <i>been</i> fall within the communications services as and web-based e-	e-mail services,
2018/1972, which scope of Directive 2002/58/EC, as of defined in Article 2(7) of <i>have</i> will therefore	Fore <i>been</i> fall within
includes number- 21 December 2020. that Directive. Those the scope of Dire	rective 2002/58/EC,
independent interpersonal services, which include, for as of 21 December	ber 2020.
communications services example, voice over IP,	
as defined in Article 2(7) messaging and web-based e-	
of that Directive. Those mail services, will therefore	
services, which include, fall within the scope of	
for example, voice over Directive 2002/58/EC, as of	
IP, messaging and web- 21 December 2020.	
based e-mail services,	
will therefore fall within	
the scope of Directive	
2002/58/EC, as of 21	
December 2020.	
5(3)In accordanceAM 3(3)In accordance with3 rd Trilogue	ue (09/03/2021)
with Article 6(1) of the Article 6(1) of the Treaty on	
Treaty on European(3) In accordance with Article 6(1)European Union, the Union(3) In accordance	ce with Article 6(1)
Union, the Union of the Treaty on European Union, the recognises the rights, of the Treaty on I	European Union,

^{17.12.2018,} p. 36).

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recognises the rights,	Union recognises the rights,	freedoms and principles set	the Union recognises the rights,
freedoms and principles	freedoms and principles set out in the	out in the Charter of	freedoms and principles set out in
set out in the Charter of	Charter of Fundamental Rights of the	Fundamental Rights of the	the Charter of Fundamental Rights
Fundamental Rights of	European Union. Article 7 of the	European Union. Article 7	of the European Union. Article 7 of
the European Union.	Charter of Fundamental Rights of the	of the Charter of	the Charter of Fundamental Rights
Article 7 of the Charter of	European Union ("the Charter")	Fundamental Rights of the	of the European Union ("the
Fundamental Rights of	protects the fundamental right of	European Union ("the	Charter") protects the fundamental
the European Union ("the	everyone to the respect for his or her	Charter") protects the	right of everyone to the respect for
Charter") protects the	private and family life, home and	fundamental right of	his or her private and family life,
fundamental right of	communications, which includes the	everyone to the respect for	home and communications, which
everyone to the respect	confidentiality of communications.	his or her private and family	includes the confidentiality of
for his or her private and	Article 8 of the Charter contains the	life, home and	communications. Article 8 of the
family life, home and	right to protection of personal data.	communications, which	Charter contains the right to
communications, which	Article 3(1) of the 1989 United	includes the confidentiality	protection of personal data. Article
includes the	Nations Convention on the Rights	of communications. Article	3(1) of the 1989 United Nations
confidentiality of	of the Child ("UNCRC") and	8 of the Charter contains the	Convention on the Rights of the
communications. Article	Article 24(2) of the Charter provide	right to protection of	Child ("UNCRC") and Article
8 of the Charter contains	that, in all actions relating to	personal data. Article 24(2)	24(2) of the Charter <i>provide</i> that, in
the right to protection of	children, whether taken by public	of the Charter provides that,	all actions relating to children,
personal data. Article	authorities or private institutions, the	in all actions relating to	whether taken by public authorities
24(2) of the Charter	child's best interests must be a	children, whether taken by	or private institutions, the child's
provides that, in all	primary consideration. Articles 3(3)	public authorities or private	best interests must be a primary
actions relating to	of the UNCRC and 24(1) of the	institutions, the child's best	consideration. Articles 3(3) of the
children, whether taken	Charter furthermore evoke the right	interests must be a primary	UNCRC and 24(1) of the Charter
by public authorities or	of children to protection and care as	consideration.	furthermore evoke the right of
private institutions, the	is necessary for their well-being.		children to protection and care as
child's best interests must			is necessary for their well-being.
be a primary			
consideration.			

6	(4) Sexual abuse and	AM 4	(4) Sexual abuse and	4 th Trilogue (25/03/21)
0	sexual exploitation of			4 Inogue (25/05/21)
	children constitute	(1) The meteodies of children is	sexual exploitation of	(1) The motestice of shildren
		(4) <i>The protection of children is</i>	children constitute serious	(4) The protection of children
	serious violations of	one of the Union's priorities. Sexual	violations of human rights,	is one of the Union's priorities.
	human rights, in	abuse and sexual exploitation of	in particular of the rights of	Sexual abuse and sexual
	particular of the rights of	children constitute serious violations	children to be protected	exploitation of children constitute
	children to be protected	of human <i>and fundamental</i> rights, in	from all forms of violence,	serious violations of human and
	from all forms of	particular of the rights of children to	abuse and neglect,	<i>fundamental</i> rights, in particular of
	violence, abuse and	be protected from all forms of	maltreatment or	the rights of children to be protected
	neglect, maltreatment or	violence, abuse and neglect,	exploitation, including	from all forms of violence, abuse
	exploitation, including	maltreatment or exploitation,	sexual abuse, as provided	and neglect, maltreatment or
	sexual abuse, as provided	including sexual abuse, as provided	for by the 1989 United	exploitation, including sexual abuse,
	for by the 1989 United	for by the 1989 United Nations	Nations Convention on the	as provided for by the 1989 United
	Nations Convention on	Convention on the Rights of the	Rights of the Child and by	Nations Convention on the Rights
	the Rights of the Child	Child and by the Charter.	the Charter. Digitisation has	of the Child and by the Charter.
	and by the Charter.	Digitisation has brought about many	brought about many benefits	Digitisation has brought about many
	Digitisation has brought	benefits for society and the economy,	for society and the economy,	benefits for society and the
	about many benefits for	but also challenges including an	but also challenges	economy, but also challenges
	society and the economy,	increase of <i>online</i> child sexual abuse	including an increase of	including an increase of <i>online</i>
	but also challenges	online resulting from broader access	child sexual abuse online.	child sexual abuse online.
	including an increase of	to potential victims and a sharp rise	The protection of children	The protection of children online is
	child sexual abuse online.	in the exchange of online child	online is one of the Union's	one of the Union's priorities. On 24
	The protection of	sexual abuse material. Online child	priorities. On 24 July 2020,	July 2020, the Commission adopted
	children online is one of	sexual abuse material is based on	the Commission adopted an	an EU strategy for a more effective
	the Union's priorities. On	actual abuse in the offline world,	EU strategy for a more	fight against child sexual abuse6
	24 July 2020, the	where most abuses are committed	effective fight against child	("the Strategy"), which aims to
	Commission adopted an		sexual abuse ¹⁴ ("the	provide an effective response, at

¹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU strategy for a more effective fight against child sexual abuse, 24.7.2020 COM (2020) 607 final.

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	EU strategy for a more effective fight against child sexual abuse ⁶ ("the Strategy"), which aims to provide an effective response, at Union level, to the crime of child sexual abuse.	by persons belonging to the family or being close to it. The protection of children online is one of the Union's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse6 ("the Strategy"), which aims to provide an effective response, at Union level, to the crime of child sexual abuse.	Strategy"), which aims to provide an effective response, at Union level, to the crime of child sexual abuse.	Union level, to the crime of child sexual abuse.
7		AM 5		Outcome of technical meeting (19/04/2021)
		(4a) Teenagers have the right to		(1)/04/2021)
		discover their sexual identity in a		(4a) In line with Directive (EU)
		safe and private environment. The		2011/93/EU, this Regulation does
		rise in reported numbers of online		not govern Member States' policies
		child sexual abuse material is also		with regard to consensual sexual
		partially due to the emerging		activities in which children may be
		practice of teenagers who, in the		involved and which can be regarded
		development of their sexual identity		as the normal discovery of sexuality
		and experiences, take explicit		in the course of human development,
		pictures of videos of themselves and		taking account of the different
		send them to peers, or share such material without a sexual		cultural and legal traditions and of new forms of establishing and
		material without a sexual motivation. In addition, the age of		maintaining relations among
		sexual consent differs across		children and adolescents, including
		Member States. If users have		through information and
		reached the age of sexual consent		communication technologies.

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		under national law, no reporting on solicitation of children should be		
		reported to law enforcement		
		authorities.		
8	(5) Certain providers	AM 6	(5) Certain providers of	Outcome of technical meeting of
	of number-independent		number-independent	19/04/2021
	interpersonal	(5) Certain providers of number-	interpersonal	
	communications services,	independent interpersonal	communications services,	
	such as webmail and	communications services, such as	such as webmail and	(5) Certain providers of
	messaging services, are	webmail and messaging services, are	messaging services, are	number-independent interpersonal
	already using specific	already using specific technologies,	already using specific	communications services, such as
	technologies to detect and	to detect online child sexual abuse	technologies to detect and	webmail and messaging services,
	report child sexual abuse	online on their services and report it	report child sexual abuse	are already using specific
	online to law	to law enforcement authorities and to	online to law enforcement	technologies, to detect online child
	enforcement authorities	organisations acting in the public	authorities and to	sexual abuse online on their
	and to organisations	interest against child sexual abuse on	organisations acting in the	services and report it to law
	acting in the public	a voluntary basis by scanning either	public interest against child	enforcement authorities and to
	interest against child	the content, such as images and	sexual abuse, or to remove	organisations acting in the public
	sexual abuse, or to	text, or the traffic data of	child sexual abuse material,	interest against child sexual abuse
	remove child sexual	communications using, in some	on a voluntary basis. Those	on a voluntary basis <i>by scanning</i>
	abuse material, on a	instances, historical data. The	organisations refer to	either the content, such as images
	voluntary basis. Those	technology used for these activities	national hotlines for	and text, or the traffic data of
	organisations refer to	could be hashing technology for	reporting child sexual abuse	communications using, in some
	national hotlines for	images and videos and classifiers	material, as well as to	instances, historical data. The
	reporting child sexual	and artificial intelligence for	organisations whose purpose	technology used for these activities
	abuse material, as well as	analysing text or traffic data. Those	is to reduce child sexual	could be hashing technology for
	to organisations whose	organisation The providers refer to	exploitation, and prevent	images and videos and classifiers
	purpose is to reduce child	national hotlines for reporting online	child victimisation, located	and artificial intelligence for
	sexual exploitation, and	child sexual abuse material, as well	both within the Union and in	analysing text or traffic data. Those

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prevent child	as to organisations whose purpose is	third countries.	organisation The providers refer to
victimisation, located	to <i>identify children and</i> reduce child	Collectively, those voluntary	national hotlines for reporting
both within the Union	sexual exploitation and sexual	activities play a valuable	online child sexual abuse material,
and in third countries.	<i>abuse</i> , and prevent child	role in enabling the	as well as to organisations whose
Collectively, those	victimisation, located both within the	identification and rescue of	purpose is to <i>identify children and</i>
voluntary activities play a	Union and in third countries, <i>in</i>	victims, and reducing the	reduce child sexual exploitation and
valuable role in enabling	particular the National Center for	further dissemination of	sexual abuse, and prevent child
the identification and	Missing and Exploited Children	child sexual abuse material,	victimisation, located both within
rescue of victims, and	(NCMEC) in the United States.	while also contributing to	the Union and in third countries ,
reducing the further	Such organisations usually do not	the identification and	
dissemination of child	fall within the scope of Regulation	investigation of offenders,	in particular the National Center
sexual abuse material,	(EU) 2016/679. Collectively, those	and the prevention of child	for Missing and Exploited Children
while also contributing to	such voluntary activities play a	sexual abuse offences.	(NCMEC) in the United States.
the identification and	valuable role in enabling the		
investigation of	identification and rescue of victims,		Such organisations may usually do
offenders, and the	whose fundamental rights to human		not fall within the scope of
prevention of child sexual	dignity and to physical and mental		<i>Regulation (EU) 2016/679.</i>
abuse offences.	<i>integrity are severely violated</i> , and		Collectively, those such voluntary
	reducing the further dissemination of		activities play a valuable role in
	online child sexual abuse material,		enabling the identification and
	while also contributing to the		rescue of victims, whose
	identification and investigation of		fundamental rights to human
	offenders, and the prevention,		dignity and to physical and mental
	detection, investigation and		<i>integrity are severely violated</i> , and
	prosecution of child sexual abuse		reducing the further dissemination
	offences.		of online child sexual abuse
			material, while also contributing to
			the identification and investigation
			of offenders, and the prevention,

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		<i>detection, investigation and</i> <i>prosecution</i> of child sexual abuse offences.
9	AM 7	Derogation vs. restriction is a horizontal issue, amongst others.
	(5a) Notwithstanding their legitimate objective, these activities constitute an interference with the fundamental rights to respect for private and family life and protection of personal data of the individuals concerned, namely all users, potential offenders and victims.	Outcome of technical meeting of 19/04/2021 EP text proposal for first sentence and keep the first part of last sentence (19/04/2021)
	Any limitation to the fundamental right to respect for private and family life, including the confidentiality of communications, cannot be justified merely on the ground that certain technologies were previously deployed when the services concerned did not, from a legal perspective, constitute electronic communications services.	(5a) Notwithstanding their legitimate objective, these activities constitute an interference with the fundamental rights to respect for private and family life and protection of personal data of the individuals concerned, namely all users, potential offenders and victims.
	Such interference is only possible under certain conditions. It needs to	Any limitation to the fundamental right to respect for private and family life, including the

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be provided for by law, respect the essence of the rights to private and family life and to the protection of personal data and, in compliance with the principle of proportionality, be necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others as enshrined in Article 52 (1) of the Charter. Where such measures permanently involve a general and indiscriminate monitoring and analysis of communications of all users, they violate the right to confidentiality of communications, as the Court of Justice has ruled in the joined Cases C-511/18, C- 512/18 and C-520/18 - La Quadrature et al. ^{1a} and in joined cases C-293/12 – Digital Rights Ireland and C-594/12 – Seitlinger ^{1b} .	confidentiality of communications, cannot be justified merely on the ground that certain technologies were previously deployed when the services concerned did not, from a legal perspective, constitute electronic communications services. Such interference is only possible under certain conditions. It needs to be provided for by law, respect the essence of the rights to private and family life and to the protection of personal data and, in compliance with the principle of proportionality, be necessary_and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others as enshrined in Article 52 (1) of the Charter. EP proposal keep the text in grey Where such measures permanently involve a general and indiscriminate monitoring and analysis of communications of all users, they violate the right to confidentiality of
	violate the right to confidentiality of communications., as the Court of

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				Justice has ruled in the joined Cases
				C-511/18, C-512/18 and C-520/18-
				La Quadrature et al. ^{1a} and in joined
				cases C-293/12 Digital Rights
				Ireland and C-594/12 Seitlinger ^{1b} .
10	(6) Until 20	AM 8	(6) Until 20 December	Rapporteur's proposal of 26/04/21
	December 2020, the		2020, the processing of	based on Commission proposal of
	processing of personal	(6) Until 20 December 2020, <i>T</i> he	personal data by providers	22/04/21:
	data by providers of	processing of personal data by	of number-independent	
	number-independent	providers of number-independent	interpersonal	(6) Until 20 December 2020, the
	interpersonal	interpersonal communications	communications services by	processing of personal data by
	communications services	services by means of voluntary	means of voluntary	providers of number-independent
	by means of voluntary	measures for the purpose of detecting	measures for the purpose of	interpersonal communications
	measures for the purpose	and reporting <i>online</i> child sexual	detecting and reporting child	services by means of voluntary
	of detecting and reporting	abuse online and removing online	sexual abuse online and	measures for the purpose of
	child sexual abuse online	child sexual abuse material is	removing child sexual abuse	detecting and reporting child sexual
	and removing child	governed by Regulation (EU)	material is governed by	abuse online and removing child
	sexual abuse material is	2016/679. Directive (EU) 2018/1972	Regulation (EU) 2016/679.	sexual abuse material was governed
	governed by Regulation	does not have a direct effect on	-	solely by Regulation (EU) 2016/679.
	(EU) 2016/679.	providers of number-independent		Directive (EU) 2018/1972, which
		interpersonal communications		had to be transposed which by that
		services.		date, brought providers of number-
				independent interpersonal
				communications services within the
				scope of Directive 2002/58/EC , was
				not transposed by all Member
				states within the time limit for
				transposition . In order to continue
				using such voluntary measures after

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	20 December 2020 in accordance with Regulation (EU) 2016/679, providers of number-independent interpersonal communications services should comply with the conditions set out in this Regulation. <u>Thus,</u> Regulation (EU) 2016/679 will continue to apply to the processing of personal data carried out by means of such voluntary measures.
	Presidency proposal of 28/04/21 on the last sentence of rapporteur: In order to continue using such voluntary measures after 20 December 2020 <i>in accordance</i>
	<i>with Regulation (EU) 2016/679,</i> <i>providers of number-independent</i> <i>interpersonal communications</i> <i>services should comply with the</i> <i>conditions set out in this Regulation</i> ₂
	<u>Thus</u> , in order for Regulation (EU) 2016/679 <u>will continue to apply</u> to the processing of personal data carried out by means of such voluntary measures.

11	(7) Directive	AM 9	(7) Directive	4 th Trilogue (25/03/21)
11	2002/58/EC does not		2002/58/EC does not	+ 1110gue (25/05/21)
	contain any specific	(7) Directive 2002/58/EC does	contain any specific	(7) Directive 2002/58/EC does
	provisions concerning the	not contain any specific provisions	provisions concerning the	not contain any specific provisions
	processing of personal	concerning the processing of	processing of personal and	concerning the processing of
	and other data in	personal data in connection with the	other data in connection	personal data in connection with the
	connection with the	provision of electronic	with the provision of	provision of electronic
	provision of electronic	communication services for the	electronic communication	communication services for the
	communication services	purpose of detecting and reporting	services for the purpose of	purpose of detecting and reporting
	for the purpose of	<i>online</i> child sexual abuse online and	detecting and reporting child	<i>online</i> child sexual abuse online and
	detecting and reporting	removing child sexual abuse	sexual abuse online and	removing child sexual abuse
	child sexual abuse online	material. However, pursuant to	removing child sexual abuse	material. However, pursuant to
	and removing child	Article 15(1) of Directive	material. However, pursuant	Article 15(1) of Directive
	sexual abuse material.	2002/58/EC, Member States may	to Article 15(1) of Directive	2002/58/EC, Member States may
	However, pursuant to	adopt legislative measures to restrict	2002/58/EC, Member States	adopt legislative measures to restrict
	Article 15(1) of Directive	the scope of the rights and	may adopt legislative	the scope of the rights and
	2002/58/EC, Member	obligations provided for in, inter alia,	measures to restrict the	obligations provided for in, inter
	States may adopt	Articles 5 and 6 of that Directive,	scope of the rights and	alia, Articles 5 and 6 of that
	legislative measures to	which concern <i>the</i> confidentiality of	obligations provided for in,	Directive, which concern <i>the</i>
	restrict the scope of the	communications and traffic data, for	inter alia, Articles 5 and 6 of	confidentiality of communications
	rights and obligations	the purpose of prevention,	that Directive, which	and traffic data, for the purpose of
	provided for in, inter alia,	investigation, detection and	concern confidentiality of	prevention, investigation, detection
	Articles 5 and 6 of that	prosecution of criminal offences	communications and traffic	and prosecution of criminal offences
	Directive, which concern	linked to child sexual abuse. In the	data, for the purpose of	linked to child sexual abuse. In the
	confidentiality of	absence of such <i>national</i> legislative	prevention, investigation,	absence of such <i>national</i> legislative
	communications and	measures and pending the adoption	detection and prosecution of	measures and pending the adoption
	traffic data, for the	of a longer-term legal framework to	criminal offences linked to	of a longer-term legal framework to
	purpose of prevention,	tackle child sexual abuse effectively	child sexual abuse. In the	tackle child sexual abuse effectively
	investigation, detection	at Union level, as announced in the	absence of such legislative	at Union level, as announced in the

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and prosecution of	Strategy, there would be no legal	measures, and pending the	Strategy, there would be no legal
criminal offences linked	basis for those voluntary measures	adoption of a new longer-	basis for those voluntary measures
to child sexual abuse. In	of providers of number-independent	term legal framework to	of providers of number-independent
the absence of such	interpersonal communications	tackle child sexual abuse	interpersonal communications
legislative measures, and	services can no longer rely on	effectively at Union level as	services can no longer rely on
pending the adoption of a	Article 6 of Regulation (EU)	announced in the Strategy,	Article 6 of Regulation (EU)
new longer-term legal	2016/679 to continue to detect and	there would be no legal	2016/679 to continue to detect and
framework to tackle child	report online child sexual abuse	basis for providers of	report online child sexual abuse
sexual abuse effectively	online and remove <i>online</i> child	number-independent	online and remove <i>online</i> child
at Union level as	sexual abuse material <i>from</i> in their	interpersonal	sexual abuse material <i>from</i> in their
announced in the	services beyond 21 December 2020.	communications services to	services beyond 21 December 2020.
Strategy, there would be	This Regulation does not provide	continue to detect and report	This Regulation does not provide
no legal basis for	for the processing of personal data	child sexual abuse online	for a legal ground for the
providers of number-	by number-independent	and remove child sexual	processing of personal data by
independent interpersonal	interpersonal communications	abuse material in their	number-independent interpersonal
communications services	services for the sole purpose of	services beyond 21	communications services for the
to continue to detect and	detecting and reporting online child	December 2020.	sole purpose of detecting and
report child sexual abuse	sexual abuse and removing online		reporting online child sexual abuse
online and remove child	child sexual abuse material from		and removing online child sexual
sexual abuse material in	their services, but it provides for a		abuse material from their services,
their services beyond 21	restriction of certain rights and		but it provides for [a derogation
December 2020.	obligations laid down in Directive		from certain provisions of Directive
	2002/58/EC. It also lays down		2002/58/EC / a restriction of certain
	additional safeguards to be		rights and obligations laid down in
	respected by the providers of		Directive 2002/58/EC]. It also lays
	number-independent interpersonal		down additional safeguards to be
	communication services if they wish		respected by the providers of
	to rely on this Regulation.		number-independent interpersonal

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		communication services if they wish to rely on this Regulation.
12	AM 10 (7a) The processing of images and videos for the purposes of this Regulation be considered to constitute processing of special categories of personal data, under Article 9 of Regulation (EU) 2016/679 because images and videos are biometric data that are processed through a specific technical means allowing the unique identification or authentication of a natural person.	Rapporteur'sproposal(16/04/2021):(7a) The processing for the purposes of this Regulation could entail the processing of special categories of personal data under Article 9 of Regulation (EU) 2016/679.2016/679.Where the processing of images and videos through specific technical means allows for the unique identification or authentication of a natural person, it is considered as processing of special categories of personal data.Presidency proposal 05/03/2021:(7a) The processing of this Regulation should always could entail be considered to constitute the processing of special categories of personal data, under Article 9 of Regulation (EU) 2016/679-because images and

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				videos are biometric data that are processed through a specific technical means allowing the unique identification or authentication of a natural person.
13	(8) This Regulation	AM 11	(8) This Regulation	
	therefore provides for a temporary derogation	(8) This Regulation therefore	therefore provides for a temporary derogation from	Commission proposal of 22/04/21
	from Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC	provides for a temporary derogation from restriction of Articles 5(1) and Article 6 (1) of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Voluntary measures applied by providers offering	Article 5(1) and Article 6 of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. Since Directive 2002/58/EC was adopted on	(8) This Regulation therefore provides for a temporary <i>derogation</i> <i>from Articles</i> 5(1) and Article 6 (1) of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data.
	was adopted on the basis	number-independent interpersonal	the basis of Article 114 of	The voluntary use by providers of
	of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Member States have adopted legislative measures at national level	communications services in the Union for the sole purpose of detecting and reporting online child sexual abuse and detecting, removing and reporting online child sexual abuse material therefore become subject to the safeguards and conditions set out in this Regulation as well as in Regulation (EU) 2016/679. Since Directive	the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in	number-independent interpersonal communications services of technologies for the processing of personal [and other data] to the extent necessary to detect and report online child sexual abuse and remove online child sexual abuse material and for detecting online solicitation of children falls within

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	to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.	2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Where Member States have adopted adopt legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market they should respect Regulation (EU) 2016/679, in particular Article 23 thereof.	those provisions in accordance with Article 15(1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.	the scope of the derogation provided that it complies with the conditions set out in this Regulation, and is therefore becomes subject to the safeguards and conditions set out in Regulation (EU) 2016/679; provided that it complies with the conditions set out in this Regulation. Since Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, it is appropriate to adopt this Regulation on the same legal basis. Moreover, not all Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15 (1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.
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	 Outcome of technical meeting of 19/04/21 (8) This Regulation therefore provides for a temporary [derogation from/ restriction of] Articles 5(1) and Article 6 (1) of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data.
	Voluntary measures applied by providers offering number- independent interpersonal communications services in the Union for the sole purpose of detecting and reporting online child sexual abuse and detecting, removing and reporting online child sexual abuse material and f detecting online solicitation of children therefore become subject to the safeguards and conditions set out in this Regulation as well in Regulation (EU) 2016/679.

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	Since Directive 2002/58/EC was
	adopted on the basis of Article 114
	of the Treaty on the Functioning of
	the European Union, it is
	appropriate to adopt this Regulation
	on the same legal basis. Moreover,
	not all
	PCY text proposal (19/04/2021) :
	keep sentence one and three above
	unchanged and the following
	drafting for the second sentence :
	The voluntary use by providers of
	number-independent interpersonal
	communications services of
	technologies for the processing of
	personal [and other data] to the
	extent necessary to detect and
	report online child sexual abuse
	and remove online child sexual
	abuse material therefore is subject,
	to the safeguards and conditions
	set out in Regulation (EU)
	2016/679 provided that it complies
	with the conditions set out in this
	Regulation.

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		Presidency proposal 05/03/2021 for the last part: Moreover, not all Member States have adopted legislative measures at national level to restrict the scope of the rights and obligations provided for in those provisions in accordance with Article 15(1) of Directive 2002/58/EC, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market.
13-A		 (move last sentence to a separate new recital (8a)): <i>EP agrees to delete line 13 A</i> <i>Presidency's proposal (19/04/2021):</i> (8a) Where Member States adopt legislative measures at national level to restrict the scope of the rights and

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	obligations provided for in those
	provisions in accordance with
	Article 15(1) of Directive
	2002/58/EC, they should comply
	with the Charter
	Commission proposal of 22/04/21
	[and the ECJ case law] ,
	Rapporteur's proposal of
	16/04/2021 (move last sentence to a
	separate new recital (8a)):
	(8a) Where Member States have
	adopted <i>adopt</i> legislative measures
	at national level to restrict the scope
	of the rights and obligations
	provided for in Article 5(1) and
	Article 6(1) in accordance with
	Article 15(1) of Directive
	2002/58/EC, and the adoption of
	such measures involves a significant
	risk of fragmentation likely to
	negatively affect the internal market
	they should respect Regulation
	(EU) 2016/679, in particular
	Article 23 thereof.

Line

14	(9) Given that	AM 12	(9) Given that electronic	3 rd Trilogue (09/03/2021)
	electronic		communications involving	
	communications	(9) Given that <i>data related to</i>	natural persons will	(9) Given that <i>data related to</i>
	involving natural persons	electronic communications involving	normally qualify as personal	electronic communications
	will normally qualify as	natural persons will normally always	data, this Regulation should	involving natural persons will
	personal data, this	qualify as personal data, this	also be based on Article 16	normally qualify as personal data,
	Regulation should also be	Regulation should also be based on	of the Treaty, which	this Regulation should also be based
	based on Article 16 of the	Article 16 of the Treaty on the	provides a specific legal	on Article 16 of the Treaty on the
	Treaty, which provides a	Functioning of the European	basis for the adoption of	Functioning of the European
	specific legal basis for	Union, which provides a specific	rules relating to the	<i>Union</i> , which provides a specific
	the adoption of rules	legal basis for the adoption of rules	protection of individuals	legal basis for the adoption of rules
	relating to the protection	relating to the protection of	with regard to the processing	relating to the protection of
	of individuals with regard	individuals with regard to the	of personal data by Union	individuals with regard to the
	to the processing of	processing of personal data by Union	institutions and by the	processing of personal data by
	personal data by Union	institutions and by the Member	Member States when	Union institutions and by the
	institutions and by the	States when carrying out activities	carrying out activities which	Member States when carrying out
	Member States when	which fall within the scope of Union	fall within the scope of	activities which fall within the
	carrying out activities	law, and rules relating to the free	Union law, and rules	scope of Union law, and rules
	which fall within the	movement of such data.	relating to the free	relating to the free movement of
	scope of Union law, and		movement of such data.	such data.
	rules relating to the free			
	movement of such data.			
15	(10) To the extent that	AM 13	(10) To the extent that	3 rd Trilogue (09/03/2021)
	processing of personal		processing of personal data	
	data in connection with	(10) To the extent that processing	in connection with the	(10) To the extent that processing of
	the provision of	of personal data in connection with	provision of electronic	personal data in connection with the
	electronic	the provision of electronic	communications services by	provision of electronic
	communications services	communications services by number-	number-independent	communications services by
	by number-independent	independent interpersonal	interpersonal	number-independent interpersonal

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interpersonal	communications services for the sole	communications services for	communications services for the
communications services	purpose of detecting and reporting	the sole purpose of detecting	sole purpose of detecting and
for the sole purpose of	<i>online</i> child sexual abuse online and	and reporting child sexual	reporting online child sexual abuse
detecting and reporting	removing <i>online</i> child sexual abuse	abuse online and removing	online and removing online child
child sexual abuse online	material falls within the scope of the	child sexual abuse material	sexual abuse material falls within
and removing child	derogation restriction provided for	falls within the scope of the	the scope of the [derogation /
sexual abuse material	by this Regulation, Regulation (EU)	derogation provided for by	<i>restriction</i>] provided for by this
falls within the scope of	2016/679 applies to such processing,	this Regulation, Regulation	Regulation, Regulation (EU)
the derogation provided	including but not limited to, its	(EU) 2016/679 applies to	2016/679 applies to such
for by this Regulation,	provisions on principles relating to	such processing, including,	processing.
Regulation (EU)	the processing of personal data	but not limited to, its	
2016/679 applies to such	(Article 5), lawfulness of processing	provisions on principles	
processing, including the	(Article 6), processing of special	relating to processing of	, including but not limited to, its
requirement to carry out	categories of personal data (Article	personal data (Article 5),	provisions on principles relating to
an assessment of the	9), restrictions (Article 23), the	lawfulness of processing	the processing of personal data
impact of the envisaged	security of processing (Article 32),	(Article 6), processing of	(Article 5), lawfulness of
processing operations	transfers of personal data to third	special categories of	processing (Article 6), processing
where appropriate	countries or international	personal data (Article 9),	of special categories of personal
pursuant to Article 35 of	organisations (Chapter V),	restrictions (Article 23),	data (Article 9), restrictions
that Regulation prior to	independent supervisory authorities	independent supervisory	(Article 23), the security of
the deployment of the	(Chapter VI), cooperation and	authorities (Chapter VI),	processing (Article 32), transfers of
technologies concerned.	consistency (Chapter VII) and text,	cooperation and	personal data to third countries or
	liability and penalties (Chapter	consistency (Chapter VII)	international organisations
	VIII), as well as the requirement to	and remedies, liability and	(Chapter V), independent
	carry out an assessment of the impact	penalties (Chapter VIII),	supervisory authorities (Chapter
	of the envisaged processing	as well as the requirement to	VI), cooperation and consistency
	operations pursuant to Article 35 of	carry out an assessment of	(Chapter VII) and text, liability and
	that Regulation prior to the	the impact of the envisaged	penalties (Chapter VIII), as well as
	deployment of the any technologies	processing operations where	the requirement to carry out an

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		concerned and the requirement	appropriate pursuant to	assessment of the impact of the
		pursuant to Article 36 thereof to	Article 35 of that Regulation	envisaged processing operations
		consult the supervisory authority	prior to the deployment of	pursuant to Article 35 of that
		concerned prior to processing, or in	the technologies concerned.	Regulation prior to the deployment
		the case of technologies analysing		of the any technologies concerned
		traffic or content data for the		and the requirement pursuant to
		purpose of identifying possible		Article 36 thereof to consult the
		instances of solicitation of children,		supervisory authority concerned
		a prior authorisation from the		prior to processing, or in the case
		supervisory authorities.		of technologies analysing traffic or
				content data for the purpose of
				identifying possible instances of
				solicitation of children, a prior
				authorisation from the supervisory
				authorities.
16	(11) Since the sole	AM 14	(11) Since the sole	Rapporteur's proposal of 28/04/21
	objective of this		objective of this Regulation	
	Regulation is to enable	(11) Since the sole objective of	is to enable the continuation	(11) The types of technologies
	the continuation of	this Regulation is <i>aims</i> to enable the	of certain existing activities	deployed should be the least
	certain existing activities	continuation of certain existing	aimed at combating child	privacy-intrusive in accordance with
	aimed at combating child	activities aimed at combating	sexual abuse online, the	the state of the art in the industry.
	sexual abuse online, the	detecting, reporting and removing	derogation provided for by	[To the extent that they are used to
	derogation provided for	online child sexual abuse online	this Regulation should be	<i>scan <u>text</u> in</i>
	by this Regulation should	material and detecting and	limited to well-established	communications <i>containing text,</i>]
	be limited to well-	reporting online child sexual abuse	technology that is regularly	They should not be used for
	established technology	that comply with Regulation (EU)	used by number-independent	systematic filtering and scanning of
	that is regularly used by	2016/679, the derogation restriction	interpersonal	text in communications other than
	number-independent	provided for by this Regulation	communications services for	solely to detect patterns which point
	interpersonal	should be limited to well established	the purpose of detecting and	to possible concrete elements of
	L			suspicion of online child sexual

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communications services	technology that is regularly used by	reporting child sexual abuse	abuse <u>without being able to</u>
for the purpose of	number-independent interpersonal	online and removing child	understand the substance of the
detecting and reporting	communications services for the	sexual abuse material before	content. In the case of technology
child sexual abuse online	purpose of detecting and reporting	the entry into force of this	used for identifying solicitation, such
and removing child	child sexual abuse online and	Regulation. The reference to	concrete elements of suspicion exist
sexual abuse material	removing child sexual abuse material	the technology includes	only where a child below the age of
before the entry into	before the entry into force of this has	where necessary any human	sexual consent is involved in the
force of this Regulation.	been subject to prior consultation in	review directly relating to	scanned
The reference to the	accordance with Article 36 of	the use of the technology	communications. Therefore, the
technology includes	Regulation (EU) 2016/679 or, where	and overseeing it. The use of	technology used for identifying
where necessary any	required by this Regulation, prior	the technology in question	solicitation should be based on
human review directly	authorisation by a national	should therefore be common	objectively identified risk factors such as the involvement of a child in
relating to the use of the	supervisory authority, technology	in the industry, without it	the scanned communication.
technology and	that is regularly used by number-	necessarily being required	the scannea communication.
overseeing it. The use of	independent interpersonal	that all providers use the	
the technology in	communications services for the	technology and without	COM proposal of 26/02/21
question should therefore	sole purpose of detecting and	precluding the further	supported by the Presidency:
be common in the	reporting online child sexual abuse	evolution of the technology	supported by the Trestdency.
industry, without it	and removing online child sexual	in a privacy-friendly	(11) The types of technologies
necessarily being	abuse material. The reference to the	manner. In this respect, it	(11) The types of technologies deployed should be the least privacy-
required that all providers	technology includes where necessary	should be immaterial	intrusive in accordance with the state
use the technology and	any human review directly relating to	whether or not a particular	of the art in the industry.
without precluding the	the use of the technology and	provider that seeks to rely	of the art in the industry.
further evolution of the	overseeing its functioning with a	on this derogation itself	
technology in a privacy-	view to avoid unnecessary and	already uses such	and should not be used for
friendly manner. In this	disproportionate interference with	technology on the date of	systematic filtering and scanning of
respect, it should be	fundamental rights. The use of the	entry into force of this	communications containing text but only to look into specific
immaterial whether or not	technology in question should	Regulation. The types of	communications in case of concrete
a particular provider that	therefore be common in the industry,	technologies deployed	communications in case of concrete

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seeks to rely on this	without it necessarily being required	should be the least privacy-	elements of suspicion of child
derogation itself already	that all providers use the technology	intrusive in accordance with	sexual abuse.
uses such technology on	and without precluding the further	the state of the art in the	
the date of entry into	evolution of the technology in a	industry and should not	COM proposal 02/03/2021,
force of this Regulation.	privacy-friendly manner. In this	include systematic filtering	Delete:
The types of technologies	respect, it should be immaterial	and scanning of	
deployed should be the	<i>irrelevant</i> whether or not a particular	communications containing	[To the extent that they are used to
least privacy-intrusive in	provider that seeks to rely on this	text but only look into	scan text in
accordance with the state	derogation the restriction provided	specific communications in	communications <u>containing text</u> ,]
of the art in the industry	for by this Regulation itself already	case of concrete elements of	they should not be used for
and should not include	uses such technology on the date of	suspicion of child sexual	systematic filtering and scanning of
systematic filtering and	entry into force of this Regulation.	abuse.	text in communications other than
scanning of	The types of technologies deployed		solely to detect patterns which point
communications	should be the least privacy-intrusive		to possible concrete elements of
containing text but only	in accordance with the state of the art		suspicion of online child sexual
look into specific	in the industry. The types of		abuse without being able to
communications in case	technologies deployed should be the		understand the substance of the
of concrete elements of	least privacy-intrusive in accordance		content.
suspicion of child sexual	with the state of the art in the industry		
abuse.	and should not be used for systematic		
	filtering and scanning of		
	communications containing text but		
	only to look into specific		
	communications in case of concrete		
	elements of suspicion of child sexual		
	abuse. To the extent that they are		
	used to scan communications		
	containing text, technologies should		
	not be able to understand the		
	substance of the content but should		

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		solely detect patterns, which point to possible online child sexual abuse.		
16-A				4th Trilogue (25/03/21)
				(11a) Appropriate procedures and redress mechanisms should be in place to ensure that individuals can lodge complaints with the provider of a number-independent interpersonal communications service. This is in particular relevant where content that does not constitute online child sexual abuse has been removed or reported to law enforcement authorities or to an organisation acting in the public interest against online child sexual abuse.
17	(12) In order to ensure		(12) In order to ensure	2 nd Trilogue (23/02/2021)
	accuracy and reliability		accuracy and reliability as	
	as much as possible, the		much as possible, the	(12) In order to ensure accuracy
	technology used should,		technology used should, in	and reliability as much as possible,
	in accordance with the		accordance with the state of	the technology used should, in
	state of the art in the		the art in the industry, be	accordance with the state of the art
	industry, be such as to		such as to limit the error rate	in the industry, be such as to limit
	limit the error rate of		of false positives to the	the error rate of false positives to
	false positives to the		maximum extent possible	the maximum extent possible and,
	maximum extent possible		and, where necessary, to rectify without delay any	where necessary, to rectify without
	and, where necessary, to		recury without delay any	

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		[
	rectify without delay any		such errors that may	delay any such errors that may
	such errors that may		nonetheless occur.	nonetheless occur.
	nonetheless occur.			
18	(13) The personal and	AM 15	(13) The personal and	
	other data used when		other data used when	Outcome of technical meeting
	carrying out the activities	(13) The personal and other data	carrying out the activities	26/04/21
	covered by the derogation	used when carrying out the activities	covered by the derogation	
	set out in this Regulation,	covered by the derogation set out	set out in this Regulation, as	(13) The content and traffic data
	as well as the period	restriction provided for by this	well as the period during	processed, and personal data
	during which the data is	Regulation, as well as the period	which the data is	generated when carrying out the
	subsequently retained in	during which the data and any result	subsequently retained in	activities covered by this
	case of positive results,	of the processing of this data are is	case of positive results,	Regulation, as well as the period
	should be minimised so	subsequently retained in case of	should be minimised so as to	during which the data is
	as to ensure that the	positive results, should be minimised	ensure that the derogation	subsequently stored in case of
	derogation remains	to what is strictly necessary so as to	remains limited to what is	identification of suspected child
	limited to what is strictly	ensure that the derogation the	strictly necessary. This	sexual abuse, should remain limited
	necessary.	interference with the confidentiality	regulation does not	to what is strictly necessary to carry
	5	of communications remains as	prevent providers from	out those activities. When no longer
		limited as possible to what is strictly	requesting a proof of	strictly necessary for one of the
		necessary.	receipt by law enforcement	purposes specified in this
		5	authorities after reporting	Regulation, including where no
			child sexual abuse online	suspected online child sexual abuse
			to them.	is identified, any data should be
				immediately and irrevocably
				deleted, and in any event after
				expiration of the time period of
				<i>twelve</i> months for specific purposes
				as specified. This should be without
				prejudice to the possibility to store
L				projudice to the possibility to store

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				relevant content and traffic data in accordance with Directive 2002/58/EC. This Regulation does not affect the application of any legal obligation under EU or Member state law to preserve data that may apply to the provider concerned.
18- A				Outcome of technical meeting of 19/04/2021 (13a) This Regulation does not prevent providers from requesting a proof of receipt by law enforcement authorities after reporting child sexual abuse online to them.
19	(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation, the providers should publish reports on an annual basis on the processing falling within the scope of this Regulation, including on	AM 16 (14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation restriction, provided for by this Regulation, interpersonal communications service the providers should publish and submit reports by [six months after the	(14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation, the providers should make publicly available reports on an annual basis on the processing falling within the scope of this Regulation, including on the type and	Compare with line 81, operative part of the text Presidency proposal of 28/04/21: (14) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the [/restriction], provided for by this Regulation, interpersonal communications

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the type and volumes of	entry into force of this Regulation],	volumes of data processed,	service the providers should publish
data processed, number	and on an annual basis thereafter, on	number of cases identified,	and submit reports to the
of cases identified,	the processing falling within the	measures applied to select	supervisory authority as
measures applied to	scope of this Regulation, including	and improve key indicators,	determined in accordance with
select and improve key	on the type and volumes of data	the numbers and ratios of	Regulation (EU) 2016/679 and to
indicators, the numbers	processed, the ground relied on for	errors (false positives) of the	the Commission by [six months
and ratios of errors (false	transfers of personal data pursuant	different technologies	after the entry into force of this
positives) of the different	to Article 6 of Regulation (EU)	deployed, measures applied	Regulation], and on an annual basis
technologies deployed,	2016/679, the ground relied on for	to limit the error rate and the	thereafter by 31 January every
measures applied to limit	transfers of personal data outside	error rate achieved, the	<i>year</i> , on the processing falling
the error rate and the	the Union pursuant to Chapter V of	retention policy and the data	within the scope of this Regulation,
error rate achieved, the	Regulation (EU) 2016/679, where	protection safeguards	including on the type and volumes
retention policy and the	applicable, the number of cases	applied. In order to ensure	of data processed, <i>the specific</i>
data protection	identified, the number of cases in	efficient supervision,	ground relied on for the processing
safeguards applied.	which a user has lodged a	providers should also	of personal data pursuant to
	complaint with the internal redress	submit their reports to the	Regulation (EU) 2016/679, the
	mechanism or with a judicial	supervisory authorities	ground relied on for transfers of
	authority and the outcome of those	responsible in accordance	personal data outside the Union
	<i>proceedings</i> , measures applied to	with Regulation (EU)	pursuant to Chapter V of
	select and improve key indicators,	2016/679.	Regulation (EU) 2016/679, where
	the numbers and ratios of errors		<i>applicable, the</i> number of cases
	(false positives) of the different		identified, [differentiating between]
	technologies deployed, measures		child sexual abuse material and
	applied to limit the error rate and the		solicitation, the number of cases in
	error rate achieved, the retention		which a user has lodged a
	policy and the data protection		complaint with the internal redress
	safeguards applied <i>pursuant to</i>		mechanism or with a judicial
	Regulation (EU) 2016/679.		authority and the outcome of those
	Providers should also submit their		proceedings, measures applied to

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reports to the supervisory	select and improve key indicators,
authorities in accordance with	the numbers and ratios of errors
Regulation (EU) 2016/679.	(false positives) of the different
Regulation (20) 2010/07/	technologies deployed, measures
	applied to limit the error rate and
	the error rate achieved, the retention
	policy and the data protection
	safeguards applied <i>pursuant to</i>
	Regulation (EU) 2016/679 <u>as well</u>
	as the names of the organisations
	acting in the public interest against
	child sexual abuse with whom data
	has been shared pursuant to this
	Regulation. Providers should also
	submit their reports to the
	supervisory authorities in
	accordance with Regulation (EU)
	2016/679.
	Rapporteur proposal
	(16/04/2021):
	(14) In order to ensure
	transparency and accountability in
	respect of the activities undertaken
	pursuant to the
	[derogation/restriction], provided
	for by this Regulation,
	interpersonal communications

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т,		
	-	oviders should publish
		eports by [six
	months after	the entry into force of
	this Regulation	on], and on an annual
	basis thereaft	er by 31 January
		the processing falling
		pe of this Regulation,
		the type and volumes
		ssed, the <u>specific</u>
		on for the processing
		ata pursuant to
		EU) 2016/679, the
		on for transfers of
		outside the Union
	pursuant to C	
		EU) 2016/ 679, where
		<i>e</i> number of cases
		ferentiating between
		buse material and
		he number of cases in
	which a user	
		th the internal redress
		r with a judicial
		the outcome of those
		measures applied to
		prove key indicators,
		and ratios of errors
		es) of the different
	technologies	deployed, measures

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	applied to limit the error rate and
	the error rate achieved, the retention
	policy and the data protection
	safeguards applied <i>pursuant to</i>
	Regulation (EU) 2016/679 as well
	as the names of the organisations
	acting in the public interest against
	child sexual abuse with whom data
	has been shared pursuant to this
	Regulation. Providers should also
	submit their reports to the
	supervisory authorities in
	accordance with Regulation (EU)
	2016/679.
	Outcome of technical discussion:
	(14) In order to ensure
	transparency and accountability in
	respect of the activities undertaken
	pursuant to the derogation
	restriction, provided for by this
	Regulation, interpersonal
	communications service the
	providers should publish <i>and</i>
	submit reports by [six months
	after the entry into force of this
	<i>Regulation], and</i> on an annual basis
	<i>thereafter</i> , on the processing falling
	nereujier, on the processing failing

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1	Τ	
		within the scope of this Regulation,
		including on the type and volumes
		of data processed, <i>the ground relied</i>
		on for transfers of personal data
		pursuant to Article 6 of Regulation
		(EU) 2016/679, the ground relied
		on for transfers of personal data
		outside the Union pursuant to
		Chapter V of Regulation (EU)
		2016/679, where applicable, the
		number of cases identified, the
		number of cases in which a user
		has lodged a complaint with the
		internal redress mechanism or with
		a judicial authority and the
		outcome of those proceedings,
		measures applied to select and
		improve key indicators, the numbers
		and ratios of errors (false positives)
		of the different technologies
		deployed, measures applied to limit
		the error rate and the error rate
		achieved, the retention policy and
		the data protection safeguards
		applied <i>pursuant to Regulation</i>
		(EU) 2016/679. Providers should
		also submit their reports to the
		supervisory authorities in

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			accordance with Regulation (EU) 2016/679.
20	AM 17 (14a) In order to support the responsible supervisory authorities in their task, the Commission should request the European Data Protection Board to issue guidelines on compliance with Regulation (EU) 2016/679 of processing falling within the scope of the restriction laid down in this Regulation. Those guidelines should in particular assist the supervisory authorities in providing advice in the framework of the prior consultation procedure set out in Article 36 of Regulation (EU) 2016/679, which is to be carried out when assessing whether an established or new technology to be used is state-of-the-art, the least privacy-intrusive and operating on an adequate legal basis under Regulation (EU) 2016/679.	(14a) In order to support the responsible supervisory authorites in their task, the European Data Protection Board should issue guidelines on compliance with Regulation (EU) 2016/679 of the processing falling within the scope of the derogation laid down in this Regulation. Those guidelines will in particular assist the supervisory authorities in providing advice in the framework of the prior consultation procedure set out in Article 36 of Regulation (EU) 2016/679, that should be carried out when assessing if a new technology to be used is state-of-the-art and the	3 rd Trilogue (09/03/2021) (14a) In order to support the responsible supervisory authorities in their task, the Commission should request the European Data Protection Board to issue guidelines on compliance with Regulation (EU) 2016/679 of processing falling within the scope of [the restriction laid down in] this Regulation. Those guidelines should in particular assist the supervisory authorities in providing advice in the framework of the prior consultation procedure set out in Article 36 of Regulation (EU) 2016/679, which is to be carried out when assessing whether an established or new technology to be used is state-of-the-art, the least privacy-intrusive and operating on an adequate legal basis under Regulation (EU)
		least privacy-intrusive.	2016/679.

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21	(15) This Regulation	AM 18	(15) This Regulation	3 rd Trilogue (09/03/2021)
	should enter into force on		should enter into force on	
	the third day following	This Regulation should enter into	the third day following that	Delete
	that of its publication in	force on the third day following that	of its publication in the	
	the Official Journal of the	of its publication in the Official	Official Journal of the	
	European Union, in order	Journal of the European Union, in	European Union, in order to	
	to ensure that it is	order to ensure that it is applicable as	ensure that it is applicable as	
	applicable as from 21	from 21 December 2020.	from 21 December 2020.	
	December 2020.			
22	(16) This Regulation	AM 19	(16) This Regulation	Rapporteur's proposal of 28/04/21
	restricts the right to		restricts the right to	
	protection of the	(16) This Regulation restricts the	protection of the	(16) This Regulation restricts the
	confidentiality of	right to protection of the	confidentiality of	right to protection of the
	communications and	confidentiality of communications	communications and	confidentiality of communications
	derogates from the	and derogates from the decision	derogates from the decision	and derogates from the decision
	decision taken in	taken in Directive (EU) 2018/1972 to	taken in Directive (EU)	taken in Directive (EU) 2018/1972
	Directive (EU)	subject number-independent	2018/1972 to subject	to subject number-independent
	2018/1972 to subject	interpersonal communications	number-independent	interpersonal communications
	number-independent	services to the same rules as all other	interpersonal	services to the same rules as all
	interpersonal	electronic communications services	communications services to	other electronic communications
	communications services	as regards privacy carried out by	the same rules as all other	services as regards privacy carried
	to the same rules as all	number-independent interpersonal	electronic communications	out by number-independent
	other electronic	communications services for the sole	services as regards privacy.	interpersonal communications
	communications services	purpose of detecting and removing	The period of application of	services for the sole purpose of
	as regards privacy. The	online child sexual abuse material	this Regulation should,	detecting and removing online
	period of application of	and reporting it to law enforcement	therefore, be limited until 31	child sexual abuse material and
	this Regulation should,	authorities and to organisations	December 2025, that is to	reporting it to law enforcement
	therefore, be limited until	acting in the public interest against	say for a time period	authorities and to organisations
	31 December 2025, that	child sexual abuse and of detecting	reasonably required for the	acting in the public interest against

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	is to say for a time period	or reporting online child sexual	1	
			adoption of a new long-term	child sexual abuse and of
	reasonably required for	abuse to law enforcement	legal framework, with more	detecting or reporting online child
	the adoption of a new	authorities. The period of	elaborate safeguards. In case	sexual abuse to law enforcement
	long-term legal	application of this Regulation	the long-term legislation is	authorities. The period of
	framework, with more	should, therefore, be limited until 31	adopted and will enter into	application of this Regulation
	elaborate safeguards. In	December 2025 2022. that is to say	force before that date, that	should, therefore, be limited until
	case the long-term	for a time period reasonably required	legislation should repeal this	[]. that is to say for a time period
	legislation is adopted and	for the adoption of a new long-term	Regulation.	reasonably required for the adoption
	will enter into force	legal framework, with more	5	of a new long-term legal
	before that date, that	elaborate safeguards. In case the		framework, with more elaborate
	legislation should repeal	long-term legislation is adopted and		safeguards. In case the long-term
	this Regulation.	will enter into force before that date,		legislation is adopted and will enter
	6	that legislation should repeal this		into force before that date, that
		Regulation.		legislation should repeal this
				Regulation.
23	(17) Providers of		(17) Providers of number-	2 nd Trilogue (23/02/2021)
-	number-independent		independent interpersonal	
	interpersonal		communications services	(17) With regard to all other
	communications services		should be subject to the	activities that fall within the scope
	should be subject to the		specific obligations set out	of Directive 2002/58/EC, Providers
	specific obligations set		in Directive 2002/58/EC,	of number-independent
	out in Directive		and consequently to the	interpersonal communications
	2002/58/EC with regard		monitoring and	services should be subject to the
	to any other activities that		investigative powers of the	specific obligations set out in that
	fall within its scope.		competent authorities	Directive, and consequently to the
			designated pursuant to	monitoring and investigative powers
			that Directive, with regard	of the competent authorities

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		to any other activities that fall within its scope.	designated pursuant to that Directive.
24	AM 20		2 nd Trilogue (23/02/2021)
	(17a) The supervisory authorities responsible for monitoring the application of this Regulation should be the same as the independent supervisory authorities designated pursuant to Chapter VI of Regulation (EU) 2016/679.		<i>EP drops AM 20, covered in Article 3 e, lines 99, 100</i>
25	AM 21 (17b) End-to-end encryption is an important tool to guarantee secure and confidential communications of users, including those of children. Any weakening of encryption could potentially be abused by malicious third parties. Nothing in this Regulation should therefore be interpreted as prohibiting or weakening end-to-end encryption.		3 rd Trilogue (09/03/2021) (17b) End-to-end encryption is an important tool to guarantee secure and confidential communications of users, including those of children. Any weakening of encryption could potentially be abused by malicious third parties. Nothing in this Regulation should therefore be interpreted as prohibiting or weakening end-to- end encryption.
26	AM 22 (17c) The right to respect for		Presidency proposal 05/03/2021: Keep line 26, delete 27
	private and family life, including the confidentiality of		(17c) The right to respect for private and family life, including

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	communications, is a fundamental	the confidentiality of
	right guaranteed under Article 7 of	communications, is a fundamental
	the Charter. It is thus also a	right guaranteed under Article 7 of
	prerequisite for secure	the Charter. It is thus also a
	communications between victims of	prerequisite for secure
	child sexual abuse and a trusted	communications between victims of
	adult or organisations active in the	child sexual abuse and a trusted
	fight against child sexual abuse as	adult or organisations active in the
	well as in communications between	fight against child sexual abuse as
	victims and their lawyers.	well as in communications between
		victims and their lawyers.
27	AM 23	Presidency proposal 05/03/2021:
		Keep line 26, delete 27
	(17d) All communications	
	between an accused or convicted	Rapporteur Proposal 16/04/2021:
	person and his or her lawyer	
	should be protected, in order to	(17d) Confidentiality of
	guarantee the fundamental rights	communication between suspects
	to an effective remedy and to a	or accused persons and their
	fair trial pursuant to Article 47 of	lawyer is key to ensuring the
	the Charter as well as the right to	effective exercise of the rights of
	the presumption of innocence and	the defence and is an essential part
	the right of defence pursuant to	of the right to a fair trial. Nothing
	Article 48 thereof.	in this Regulation should be
		interpreted as derogating from the
		right to confidentiality of
		communications between the
		lawyer and the suspect or accused

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		person as provided for in Directive (EU) 2013/48.
27-A		3 rd Trilogue (09/03/2021)
		Rapporteur's proposal 22/04/21 (to merge Lines 27 and 27-A)
		(27-a) This Regulation is without prejudice to the rules on professional secrecy under national law, such as rules on the protection of professional communications, between doctors and their patients, journalists and their sources, or lawyers and their clients - <i>in</i> <i>particular since confidentiality of</i> <i>communication between a suspect</i> <i>or accused person and their lawyer</i> <i>is key to ensuring the effective</i> <i>exercise of the rights of the defence</i> <i>as an essential part of the right to a</i> <i>fair trial</i> - including national rules on registers on public authorities or organisations which offer counselling to individuals in distress.

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				(17ca) This Regulation is without
				prejudice to the rules on
				professional secrecy under national
				law, such as rules on the protection
				of professional communications
				between doctors and their patients,
				journalists and their sources or
				lawyers and their clients, including
				national rules on registers on public
				authorities or organisations which
				offer counselling to individuals in
				distress.
				distress.
				[Providers of number-independent
				interpersonal communications services
				should undertake reasonable measures
				to ensure that the communications
				protected by professional secrecy are
				not scanned. In particular, these rules
				may require that as soon as Where
				providers of number-independent
				interpersonal communications services
				become aware, including through
				human oversight, that they are
				processing communications protected
				by professional secrecy, they should immediately stop such processing and
				delete all data collected.
28	(18) The objective of	AM 24	(18) The objective of this	3 rd Trilogue (09/03/2021)
20	this Regulation is to		Regulation is to create a	5 millogue (0)/05/2021)
	-	(18) The objective of this	temporary derogation from	
	create a temporary	(16) The objective of this	temporary derogation from	

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derogation from certain	Regulation is to create a temporary	certain provisions of	(18) The objective of this
provisions of Directive	derogation from certain restriction of	Directive 2002/58/EC	Regulation is to create a temporary
2002/58/EC without	<i>specific</i> provisions of Directive	without creating	[derogation from certain- <i>restriction</i>
creating fragmentation in	2002/58/EC without creating	fragmentation in the Internal	of specific] provisions of Directive
the Internal Market. In	fragmentation in the Internal Market.	Market. In addition, national	2002/58/EC without creating
addition, national	In addition, national legislation	legislation would most	fragmentation in the Internal
legislation would most	would most probably not be adopted	probably not be adopted in	Market. In addition, national
probably not be adopted	in time in all Member States. As this	time in all Member States.	legislation would most probably not
in time in all Member	objective cannot be sufficiently	As this objective cannot be	be adopted in time in all Member
States. As this objective	achieved by the Member States, but	sufficiently achieved by the	States. As this objective cannot be
cannot be sufficiently	can rather be better achieved at	Member States, but can	sufficiently achieved by the
achieved by the Member	Union level, the Union may adopt	rather be better achieved at	Member States, but can rather be
States, but can rather be	measures, in accordance with the	Union level, the Union may	better achieved at Union level, the
better achieved at Union	principle of subsidiarity as set out in	adopt measures, in	Union may adopt measures, in
level, the Union may	Article 5 of the Treaty on European	accordance with the	accordance with the principle of
adopt measures, in	Union. In accordance with the	principle of subsidiarity as	subsidiarity as set out in Article 5 of
accordance with the	principle of proportionality as set out	set out in Article 5 of the	the Treaty on European Union. In
principle of subsidiarity	in that Article, this Regulation does	Treaty on European Union.	accordance with the principle of
as set out in Article 5 of	not go beyond what is necessary in	In accordance with the	proportionality as set out in that
the Treaty on European	order to achieve those objectives. It	principle of proportionality	Article, this Regulation does not go
Union. In accordance	introduces a temporary and strictly	as set out in that Article, this	beyond what is necessary in order to
with the principle of	limited derogation from restriction	Regulation does not go	achieve those objectives. It
proportionality as set out	<i>of</i> the applicability of Articles 5 (1)	beyond what is necessary in	introduces a temporary and strictly
in that Article, this	and 6 (1) of Directive 2002/58/EC,	order to achieve those	limited [derogation from /
Regulation does not go	with a series of safeguards to ensure	objectives. It introduces a	<i>restriction of</i>] the applicability of
beyond what is necessary	that it does not go beyond what is	temporary and strictly	Articles 5 (1) and 6 (1) of Directive
in order to achieve those	necessary for the achievement of the	limited derogation from the	2002/58/EC, with a series of
objectives. It introduces a	set objectives.	applicability of Articles 5	safeguards to ensure that it does not
temporary and strictly		(1) and 6 of Directive	

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	limited derogation from the applicability of Articles 5 (1) and 6 of Directive 2002/58/EC, with a series of safeguards to ensure that it does not go beyond what is necessary for the achievement of the set objectives.	2002/58/EC, with a series of safeguards to ensure that it does not go beyond what is necessary for the achievement of the set objectives.	go beyond what is necessary for the achievement of the set objectives.
28-A			2 nd Trilogue (23/02/2021) (18a) The providers of number- independent interpersonal communications services should communicate to the Commission the names of the organisations acting in the public interest against child sexual abuse to which they report potential online child sexual abuse under this Regulation. While it is the sole responsibility of the providers of number-independent interpersonal communication services acting as controllers to assess with which third party they can share personal data under Regulation (EU) 2016/679, the Commission should ensure

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	transparency regarding the transfer
	of potential cases of online child
	sexual abuse by making public on
	its website a list of the organisations
	acting in the public interest against
	child sexual abuse communicated to
	it. That public register list should be
	easily accessible and may also be
	used by the providers of number-
	independent interpersonal
	communications services to identify
	trusted-relevant organisations in the
	global fight against online child
	sexual abuse. That list is without
	prejudice to the obligations of the
	providers of number-independent
	interpersonal communications
	services acting as controllers under
	Regulation (EU) 2016/679,
	including with regards to their
	obligation to conduct any transfer of
	personal data outside the Union
	pursuant to Chapter V of Regulation
	(EU) 2016/679 and their obligation
	to fulfil all of the obligations under
	chapter IV of that Regulation.
28-B	2 nd Trilogue (23/02/2021)

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	,	
		(18b) Statistics on criminal
		proceedings as set out in [Article on
		statistics] are important indicators
		for the evaluation of policy,
		including legislation. In addition, it
		is important to recognise However,
		such statistics do not fully reflect
		the impact of secondary
		victimisation inherent in the sharing
		of images and videos of victims of
		child sexual abuse that may have
		been circulating for years and which
		is not fully reflected in such
		statistics . do not fully reflect . It is
		nonetheless important to recognise
		that impact.
28-C		3 rd Trilogue (09/03/2021)
20-C		5 11110gue (07/05/2021)
		(18c) In line with the requirements
		laid down in Regulation (EU)
		2016/679, in particular the
		requirement that Member States
		ensure that supervisory authorities
		are provided with the human,
		technical and financial resources
		necessary for the effective
		performance of their tasks and
		exercise of their powers, Member
		States should also ensure that

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	supervisory authorities have such sufficient resources for the effective performance of their tasks and exercise of their powers under this Regulation, including for carrying out prior data protection impact assessments, prior consultation procedures [and prior authorisation procedures].
28-D	Rapporteurs proposal 16/04/2021): (18ca) Where a provider has conducted a data protection impact assessment and consulted the supervisory authorities with regard to a technology in accordance with Regulation (EU) 2016/679 prior to the entry into force of this Regulation, that provider should not be obliged under this Regulation to carry out an additional data protection impact assessment or consultation provided that the supervisory authorities have indicated that the processing of data

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			freedoms of natural persons or that
			measures have been taken by the
			controller to mitigate such a risk.
28-E			4 th Trilogue (25/03/21)
			- <u>6</u> ,
			(18d) Users should have a right to
			effective judicial remedy where their
			rights have been infringed as a result
			of the processing of personal [and
			other data] for the purposes of
			detecting and reporting child sexual
			abuse online and removing child
			sexual abuse material on those
			services, for instances where the
			users' content or identity have been
			reported to an organisation acting in
			the public interest against child
			sexual abuse or to law enforcement
			authorities or where the users'
			content has been removed or their
			account has been blocked or a
			service offered to them has been
			suspended.
28-F			Outcome of technical meeting on
20-1			22/04/21:
			22/04/21.
			(19a) It is appropriate to creatify
			(18e) It is appropriate to specify
			that, in line with Directive
			2002/58/EC and the principle of

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				data minimisation, the processing of personal data should remain limited to the categories of content data and related traffic data, in as far as strictly necessary to achieve the purpose of this Regulation.
28 G				Outcome of technical meeting on 22/04/21: (18f) The present derogation extends to the categories of data referred to in Article 5(1) and 6(1) Directive 2002/58/EC, which are applicable to the processing of both personal and non-personal data processed in the context of the provision of a number-independent interpersonal communications service.
29	 (19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and 	AM 25 (19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁷ and delivered its opinion on	 (19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament 	2 nd Trilogue (23/02/2021) (19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the

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	of the Council ¹⁵ and	10 November 2020	and of the Council ¹⁶ and	Council ⁷ and dolivaned its opinion on
		10 November 2020 ,		Council ⁷ and delivered its opinion on 10 N_{\odot}
	delivered its opinion on		delivered its opinion on	<i>10 November 2020</i> ,
	[],		[],	
30	HAVE ADOPTED THIS		HAVE ADOPTED THIS	2 nd Trilogue (23/02/2021)
	REGULATION:		REGULATION:	
				HAVE ADOPTED THIS
				REGULATION:
31				2 nd Trilogue (23/02/2021)
	Article 1		Article 1	3 rd Trilogue (09/03/2021)
	Subject matter		Subject matter	5 IIII0gue (0)/00/2021)
	Subject matter		5	
				Article 1
				Subject matter and scope
32	This Regulation lays	AM 26	This Regulation lays down	This Regulation lays down
	down temporary and		temporary and strictly	temporary and strictly limited rules
	strictly limited rules	This Regulation lays down	limited rules derogating	[derogating/ restricting] from
	derogating from certain	temporary and strictly limited rules	from certain obligations laid	certain obligations laid down in
	obligations laid down in	derogating from restricting certain	down in Directive	Directive 2002/58/EC, with the sole
	Directive 2002/58/EC,	<i>rights and</i> obligations laid down in	2002/58/EC, with the sole	objective of enabling providers of
	with the sole objective of	Directive 2002/58/EC, with the sole	objective of enabling	<i>certain</i> number-independent
	enabling providers of	objective of enabling providers of	providers of number-	interpersonal communications
	number-independent	<i>certain</i> number-independent	independent interpersonal	services to <i>use</i> continue, without
	interpersonal	interpersonal communications	communications services to	prejudice to Regulation (EU)

¹⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

¹⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ C 20, 21.1.2019, p. 1).

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	communications services to continue the use of technologies for the processing of personal	services, to continue the use of, while fully respecting the rights and obligations laid down in Regulation (EU)2016/679, using specific	continue, without prejudice to Regulation (EU) 2016/679, the use of technologies for the	2016/679, <i>specific of</i> -technologies for the processing of personal and other data to the extent <i>strictly</i> necessary to detect and report child
	and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.	technologies for the, namely the use of a unique non-reconvertible digital signature ('hash') and the use of technologies analysing traffic or content data for the sole purpose of processing of personal and other data to the extent strictly necessary to detect and report online child sexual abuse online and remove online child sexual abuse material on	processing of personal and other data to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services.	sexual abuse online and remove child sexual abuse material on their services.
32 A		their services.		2 nd Trilogue (22/02/2021)
52 A				2 nd Trilogue (23/02/2021) <i>1a. This Regulation shall not apply</i> <i>to the scanning of audio</i> <i>communications.</i>
33	Article 2 Definitions		Article 2 Definitions	2 nd Trilogue (23/02/2021) Article 2 Definitions
34	For the purpose of this Regulation, the following definitions apply:		For the purpose of this Regulation, the following definitions apply:	2 nd Trilogue (23/02/2021) For the purpose of this Regulation, the following definitions apply:

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35	(1) 'number-independent	AM 27	(1) 'number-independent	2 nd Trilogue (23/02/2021)
55	interpersonal		interpersonal	2 millogue (25/02/2021)
	communications service'	(1) 'number-independent	communications service'	(1) 'number-independent
	means a service as	interpersonal communications	means a service as defined	interpersonal communications
	defined in Article 2(7) of	service' means a service number-	in Article 2(7) of Directive	service' means a service number-
	Directive (EU)	independent interpersonal	(EU) 2018/1972;	independent interpersonal
	2018/1972;	<i>communications</i> service as defined		<i>communications</i> service as defined
		in Article 2(7) of Directive (EU)		in Article 2(7) of Directive (EU)
36	(2) (abild convel abuse	2018/1972;	(2) (abild arread abuse	2018/1972;
30	(2) 'child sexual abuse online' means:	(2) ' <i>online</i> child sexual abuse online <i>material</i> ' means:	(2) 'child sexual abuse online' means:	2 nd Trilogue (23/02/2021)
	omme means.	material incans.	onnine means.	(2) 'child sexual abuse online
				<i>material</i> ' means:
37	(a) material constituting	(a) material constituting 'child	(a) material constituting	2 nd Trilogue (23/02/2021)
	child pornography as	pornography' as defined in Article 2,	child pornography as	
	defined in Article 2, point	point (c), of Directive 2011/93/EU of	defined in Article 2, point	(a) material constituting child
	(c), of Directive	the European Parliament and of the	(c), of Directive 2011/93/EU	pornography as defined in Article 2,
	2011/93/EU of the	Council;	of the European Parliament	point (c), of Directive 2011/93/EU
	European Parliament and		and of the Council;	of the European Parliament and of the Council;
38	of the Council; (b) solicitation of	(b) solicitation of children for the	(b) 'solicitation' as:	2^{nd} Trilogue (23/02/2021)
50	children for the purpose	purpose of engaging in sexual	(b) solicitation as:	2 IIII0gue (23/02/2021)
	of engaging in sexual	activities with a child or of		Definitions of "pornographic
	activities with a child or	producing child pornography by any		performance", "solicitation",
	of producing child	of the following:		"online child sexual abuse"
	pornography by any of			"positive hit" further below.
	the following:			

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39	(i) luring the child by	(i) luring the child by means of	(i) the proposal by an adult	2 nd Trilogue (23/02/2021)
	means of offering gifts or	offering gifts or other advantages;	to meet a child who has	
	other advantages;		not reached the age of	Definitions of "pornographic
			sexual consent, for the	performance", "solicitation",
			purpose of committing any	"online child sexual abuse"
			of the offences referred to	"positive hit" further below.
			in Article 3(4) and Article	Definitions of "pornographic
			5(6) of Directive	performance", "solicitation",
			2011/93/EU, where that	"online child sexual abuse"
			proposal was followed by	"positive hit" further below.
			material acts leading to	
			such a meeting;	
40	(ii) threatening the child	(ii) threatening the child with a	(ii) an attempt to commit	2 nd Trilogue (23/02/2021)
	with a negative	negative consequence likely to have	the offences provided for	
	consequence likely to	a significant impact on the child;	in Article $5(2)$ and (3) by	Definitions of "pornographic
	have a significant impact		an adult soliciting a child	performance", "solicitation",
	on the child;		who has not reached the	"online child sexual abuse"
	, , , , , , , , , , , , , , , , , , ,		age of sexual consent to	"positive hit" further below.
			provide child pornography	
			depicting that child.	
41	(iii) presenting the child	(iii) presenting the child with	solicitation of children	2 nd Trilogue (23/02/2021)
	with pornographic	pornographic materials or making	for the purpose of engaging	
	materials or making them	them available to the child.	in sexual activities with a	Definitions of "pornographic
	available to the child.		child or of producing child	performance", "solicitation",
			pornography by any of the	"online child sexual abuse"
			following:	<i>"positive hit" further below.</i>
			g.	
i				

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42			(i) luring the child by means of offering gifts or other advantages;	2 nd Trilogue (23/02/2021) Definitions of "pornographic performance", "solicitation", "online child sexual abuse" "positive hit" further below.
43			(ii) threatening the child with a negative consequence likely to have a significant impact on the child;	2 nd Trilogue (23/02/2021) Definitions of "pornographic performance", "solicitation", "online child sexual abuse" "positive hit" further below.
44			(iii) presenting the child with pornographic materials or making them available to the child.	2 nd Trilogue (23/02/2021) Definitions of "pornographic performance", "solicitation", "online child sexual abuse" "positive hit" further below.
45	(c)'pornographic performance' as defined in Article 2(e) of Directive 2011/93/EU.	(c)'pornographic performance' as defined in Article 2, <i>point (e)</i> , of Directive 2011/93/EU;	(c)'pornographic performance' as defined in Article 2(e) of Directive 2011/93/EU.	2 nd Trilogue (23/02/2021) (b)'pornographic performance' as defined in Article 2, <i>point (e)</i> , of Directive 2011/93/EU;
46		(2a) 'solicitation of children' means any intentional conduct constituting a criminal offense under Article 6		2 nd Trilogue (23/02/2021)

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	of Directive 2011/93/EC;	(2a) 'solicitation of children' means any intentional conduct constituting a criminal offense under Article 6 of Directive 2011/93/EC;
47	(2b) 'online child sexual abuse' means 'online child sexual abuse material' and 'solicitation of children';	2 nd Trilogue (23/02/2021) (2 b) 'online child sexual abuse' means 'online child sexual abuse material' and 'solicitation of children';
48	(2c) 'positive hit of online child sexual abuse material' means a match resulting from a comparison between an image or a video and a 'hash' from a data base containing verified online child sexual abuse material and maintained by an organisation recognised by the Commission pursuant to Article 3f of this Regulation.	2 nd Trilogue (23/02/2021) and 4th Trilogue (25/03/21) (2c) 'positive hit of online child sexual abuse material' means a match resulting from a comparison between an image or a video and a 'hash' from a data base containing verified online child sexual abuse material and maintained by an organisation recognised by the Commission pursuant to Article 3f of this Regulation. acting in the public interest against child sexual abuse.

49Article 3 Scope of the derogationArticle 3 Scope of the derogationArticle 3 Scope of the derogation50The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing of personal and other data inAM 28The specific obligations set out in Article 5(1) and Article 6 (1) of Directive 2002/58/EC shall not apply to the processing of personal and other data inAM 28The specific obligations set out in Article 5(1) and Article 6 (1) of Directive 2002/58/EC shall not apply to the processing of personal and other data inAM 28	4th Trilogue (25/03/21) Article 3Scope of the [restriction/ derogation]3rd Trilogue (09/03/2021)Outcome of technical meeting of 19/04/2021The specific rights and obligations set out in Article 5(1) and Article 6
Scope of the derogationScope of the derogation restrictionScope of the derogation50The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing ofAM 28The specific obligations set out in Article 5(1) and Article 6 (1) of Directive50The specific obligations obligations set out in Article 5(1) and Article 6 (1) of DirectiveThe specific obligations set out in Article 5(1) and Article 6 (1) of Directive	Scope of the [restriction/ derogation] 3 rd Trilogue (09/03/2021) Outcome of technical meeting of 19/04/2021 The specific rights and obligations
50The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing ofAM 28The specific obligations set out in Article 5(1) and Article 6 (1) of Directive50The specific obligations out in Article 5(1) and Article 6 (1) of DirectiveThe specific obligations set out in Article 5(1) and Article 6 (1) of Directive	derogation]3rd Trilogue (09/03/2021)Outcome of technical meeting of 19/04/2021The specific rights and obligations
50The specific obligations set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing ofAM 28The specific obligations set out in Article 5(1) and Article 6 (1) of Directive50The specific obligations out in Article 5(1) and Article 6 (1) of DirectiveThe specific obligations set out in Article 5(1) and Article 6 (1) of Directive	derogation]3rd Trilogue (09/03/2021)Outcome of technical meeting of 19/04/2021The specific rights and obligations
set out in Article 5(1) and Article 6 of Directive 2002/58/EC shall not apply to the processing ofI.The specific <i>rights and</i> obligations set out in Article 5(1) and Article 6 (1) of Directiveout in Article 5(1) and Article 6 of Directive2002/58/EC shall not apply to the processing ofArticle 6 (1) of Directive2002/58/EC shall not apply to the processing of personal	3 rd Trilogue (09/03/2021) Outcome of technical meeting of 19/04/2021 The specific <i>rights and</i> obligations
set out in Article 5(1) and Article 6 of Directive1.The specific <i>rights and</i> obligations set out in Article 5(1) and Article 5(1) and 2002/58/EC shall not apply to the processing ofout in Article 5(1) and Article 6 (1) of Directive2002/58/EC shall not apply to the processing of1.The specific <i>rights and</i> obligations set out in Article 5(1) and Article 6 (1) of Directive002/58/EC shall not apply 	Outcome of technical meeting of 19/04/2021 The specific rights and obligations
Article 6 of Directive1.The specific <i>rights and</i> Article 6 of Directive2002/58/EC shall notobligations set out in Article 5(1) and2002/58/EC shall not applyapply to the processing ofArticle 6 (1) of Directiveto the processing of personal	19/04/2021 The specific <i>rights and</i> obligations
2002/58/EC shall not obligations set out in Article 5(1) and 2002/58/EC shall not apply to the processing of Article 6 (1) of Directive to the processing of personal	19/04/2021 The specific <i>rights and</i> obligations
apply to the processing of Article 6 (1) of Directive to the processing of personal	The specific rights and obligations
	The specific rights and obligations
1 = 1002/52/EC shall not apply to be	
personal and other data in 2002/58/EC shall not apply to be and other data in connection	set out in Article 5(1) and Article 6
connection with the <i>restricted with regard to the</i> with the provision of	
provision of number- <i>confidentiality of communications</i> number-independent	(1) of Directive 2002/58/EC shall
independent interpersonal <i>involving</i> the processing of personal interpersonal	[not apply to / be restricted]-with
communications services and other data in connection with the communications services	regard to the confidentiality of
strictly necessary for the provision of number-independent strictly necessary for the use	communications involving the
use of technology for the interpersonal communications of technology for the sole	processing of personal and other
sole purpose of removing services <i>provided that such</i> purpose of removing child	data in connection with the
child sexual abuse <i>restriction is</i> strictly necessary for sexual abuse material and	provision of number-independent
material and detecting or the use of <i>specific</i> technology for the detecting or reporting child	interpersonal communications
reporting child sexual sole purpose of <i>detecting and</i> sexual abuse online to law	services where the processing is
abuse online to law removing <i>online</i> child sexual abuse enforcement authorities and	strictly necessary for the use of
enforcement authorities material and detecting or reporting to organisations acting in the	<i>specific</i> technology for the sole
and to organisations child sexual abuse online and public interest against child	purpose of <i>detecting and</i> removing
acting in the public detecting or <i>reporting it</i> to law sexual abuse, provided that:	online child sexual abuse material
interest against child enforcement authorities and to	and reporting it to law enforcement
sexual abuse, provided organisations acting in the public	authorities and to organisations
that: interest against child sexual abuse	acting in the public interest against
and for detecting online child	child sexual abuse and for detecting

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	sexual abuse and repo enforcement authoriti that:	-	online solicitation of children and reporting it to law enforcement authorities or organisations acting in the public interest against child sexual abuse provided that:
proportionat to well-estab technologies used by pro- number-inde interpersona communicat for that purp the entry int Regulation, in accordance state of the a	s regularly viders of ependent il tions services oose before o force of this and that are ce with the art used in the l are the least used by providers of n independent interperso communications service <i>sole</i> purpose before the force of this Regulatio in accordance with the used in the industry and <i>following conditions</i> :	ted to-well- es regularly umber- onal ces for that e entry intoproportionate a well-establishe technologies re by providers of independent into communication that purpose be into force of th and that are in a by provided that	add(a) the processing isegularly usedproportionate and limited to well-f number-established technologies regularlyterpersonalfor-used by providers of number-in s services forindependent interpersonalefore the entrycommunications services for thatis Regulation,sole purpose before the entry intoaccordanceforce of this Regulation, and that arein accordance with the state of theand are theart used in the industry and are the

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		(state of the art moved to line 52 - to be discussed later)
52	(i) they are in accordance with the state- of- the art used in the industry and are the least privacy- intrusive, including with regard to the principle of data protection by design and by default as laid down in Article 25 of Regulation (EU) 2016/679, and, to the extent that they are used to scan communications containing text, they are not able to understand the substance of the content but solely detect patterns, which point to possible online child sexual abuse;	Presidency proposal 3 rd Trilogue (09/03/2021) (i) the technologies are in accordance with the state of the art used in the industry and are the least privacy-intrusive, including with regard to the principle of data protection by design and by default as laid down in Article 25 of Regulation (EU) 2016/679, and, to the extent that they are used to <u>scan</u> <u>text in communications</u> , they are not able to understand the substance of the content but solely detect patterns, which point to possible online child sexual abuse;
53	 (ii) a prior data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 of Regulation (EU) 2016/679 have been conducted in accordance with Article 3a of this Regulation and have indicated that the processing would not result in a high risk to the 	2 nd Trilogue (23/02/2021) (<i>ii</i>) <i>in respect of any specific</i> <i>technology used for that purpose, a</i> <i>prior data protection impact</i> <i>assessment and a prior</i> <i>consultation procedure have been</i> <i>conducted pursuant to Articles 35</i> <i>and 36 of Regulation (EU)</i> 2016/679;

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54	rights and freedoms of natural persons or that measures have been taken by the controller to mitigate the risk;(iii) in the case of technologies analysing traffic or content data for the purpose of identifying possible instances of solicitation of children, a prior authorisation has been given from the supervisory authorities, following the prior data protection impact assessment and the consultation of the supervisory authority;	Rapporteur's proposal of 26/04/21: (iii) in respect of technology used for the purpose of identifying possible solicitation of children, the provider reports back to the competent authority about the measures taken to demonstrate <u>compliance with</u> any written advice issued in accordance with Article 36(2) of Regulation (EU) 2016/679 by the competent supervisory authority in the course of the prior consultation procedure
		supervisory authority in the course of
		the prior consultation procedure.
		Presidency proposal of 14/04/21
		(iii) in respect of technology used
		for the purpose of identifying
		possible solicitation of children, the provider reports back to the
		competent authority about <u>the</u>
		measures taken following any
		written advice in accordance with

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	2016/6 compet the cou procedu <i>Lines 5 COM p</i> <i>COM p</i> <i>L53:</i> (ii <i>L54:</i> (i used for possible provide advice 36(2) o provide	 36(2) of Regulation (EU) 79 provided by the ent supervisory authority in rse of the prior consultation are. 4E to 54H the same as in roposal of 13/03/21 proposal 13/03/2021: (]; and ii) in respect of technology or the purpose of identifying e solicitation of children, the er complies with the written in accordance with Article of Regulation (EU) 2016/679 ed by the competent sory authority in the course of
	supervi	
	Sugges both 70 This wa	tion lawyer linguist: move and 72 here. ay we would have everything with "technologies" under
54-A	G need	ent EP lawyer linguist: 54 A- l to be moved to after line 81 t - it is a new parag 1a and is

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	1	
		now in the middle of a list of
		provisions under para 1.
		3 rd Trilogue (09/03/2021)
		4rd Trilogue (25/03/2021)
		410 1110 gue $(23/03/2021)$
		1a. The condition relating to the
		prior consultation procedure set out
		in point (ii) of paragraph 1(a) shall,
		until [date of entry into force of this
		Regulation + 8 months], not apply
		to providers that:
54-B		3 rd Trilogue (09/03/2021)
JTD		5 milliogue (0)/03/2021)
		(a) ware using a specific technology
		(a) were using a specific technology
		referred to in that point before [date
		of entry into force of this
		Regulation] without previously
		having [conducted a data protection
		impact assessment] and completed a
		consultation procedure in respect of
		that technology;
54-C		3 rd Trilogue (09/03/2021)
J4-C		5 Thogue (09/05/2021)
		(b) [conduct such an impact
		assessment and] start such a
		consultation procedure before [date
		of entry into force + 1 month]; and

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54 D		
54-D		(c) duly cooperate with the
		competent supervisory authority in
		connection to that consultation
		procedure.
54-E		COM proposal 13/03/2021:
		[1b. The condition set out in point
		(iii) of paragraph 1(a) shall, until
		[date of entry into force of this
		Regulation + 8 months], not apply
		to providers that:
54-F		(a) were using a technology referred
		to in that point before [date of into
		force of this Regulation] without
		having obtained a prior
		authorisation in respect of that
		technology;
54-G		(b) start the procedure to obtain
		such a prior authorisation before
		[date of entry into force + 1 month];
		and]
54-H		(c)[duly cooperate with the
		competent supervisory authority in
		connection to that prior
		authorisation procedure].
55	(iv) the processing is based on	2 nd Trilogue (23/02/2021)
	Article 6(1) of Regulation	
	(EU)2016/679, provided that,	EP agreed to drop (iv)

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	without prejudice to Regulation (EU) 2016/679, all the conditions laid down in this Regulation have been complied with;	
56	(v) the categories of personal data to be processed for each processing operation are the content data, related traffic data as well as other personal data generated through such processing;	4th Trilogue (25/03/21) (aa) the processing of personal data is limited to content data and related traffic data that is strictly necessary for the purpose set out in paragraph 1.
57	(vi) there are internal procedures within the number- independent interpersonal communications service to prevent abuse, unauthorised access or transfers;	2 nd Trilogue (23/02/2021) and 4 th Trilogue (25/03/21) (ab) the provider of the number- independent interpersonal communications service has established internal procedures to prevent abuse, unauthorised access and transfers;
58	(vii) the identity and categories of the controller or controllers are clearly specified;	2 nd Trilogue (23/02/2021) EP agreed to drop (vii)
59	(viii) the provider of the number- independent interpersonal communications services ensures human oversight and intervention for the processing of personal data,	2 nd Trilogue (23/02/2021) Deletion, moved to line 60

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	and no 'positive hit of online child sexual abuse material' is sent to law enforcement authorities or organisations as referred to in Article 3f of this Regulation without prior human confirmation;	
60	(ix) the provider of the number- independent interpersonal communications services ensures human oversight and intervention for the processing of personal data, and no reasoned suspicion, based on concrete elements, of online child sexual abuse, is sent to law enforcement authorities without prior human confirmation;	4 th Trilogue (25/03/21) (<i>ac</i>) the provider of the number- independent interpersonal communications services ensures human oversight of, and, where <u>necessary, intervention in</u> the processing of personal data using technologies falling under this Regulation, and ensures that no reasoned suspicion, based on concrete elements report of [new child sexual abuse materials] <u>or child solicitation</u> of online child sexual abuse, is sent to law enforcement authorities or organisations acting in the public interest against child sexual abuse without prior human confirmation.

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61	(x) appropriate procedures and	4 th Trilogue (25/03/21)
	redress mechanisms are in place to	
	ensure that individuals can lodge	ad) the provider of a number-
	complaints with the provider of a	independent interpersonal
	number-independent interpersonal	communications service has
	communications service within a	established appropriate procedures
	reasonable timeframe for the user	and redress mechanisms to ensure
	to present their views in accordance	that individuals can lodge
	with Article 3c;	complaints with it within a
		reasonable timeframe for the
		purpose of presenting their views;
62	(xi) without prejudice to the	3 rd Trilogue (09/03/2021)
	information provided for in Articles	
	13 and 14 of Regulation (EU)	<i>(ae) without prejudice to the</i>
	2016/679, the data subjects are	information provided for in Articles
	informed about the restriction of the	13 and 14 of Regulation (EU)
	confidentiality of their	2016/679, the end-users are
	communications for the sole	informed <i>in a clear, prominent and</i>
	purpose of removing child sexual	comprehensible way that the
	abuse material and detecting or	provider invokes the legal
	reporting child sexual abuse	[restriction/ derogation], in
	material, including the possibility	accordance with this Regulation,
	that personal data is shared with	<u>from Articles 5(1) and 6(1) of</u>
	law enforcement authorities and	Directive 2002/58/EC restriction of
	organisations acting in the public	the concerning the confidentiality
	interest against child sexual abuse;	of their communications, for the
		sole purpose of detecting, removing
I		or reporting child sexual abuse

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		<u>online</u> material, the logic behind such measures and the impact on users' communications confidentiality, including the possibility that personal data is shared with law enforcement authorities and organisations acting in the public interest against child sexual abuse;
63	(xii) in the event of a 'positive hit of online child sexual abuse material' or a reasoned suspicion, based on concrete elements, of online child sexual abuse, the data subjects are given the following information, without prejudice to the information provided for in Articles 13 and 14 of Regulation (EU) 2016/679, unless to do so would be prejudicial to an ongoing investigation, in which case the provision of that information may be delayed to the extent strictly necessary and the data subjects shall be informed without delay after the investigation is closed:	Presidency proposal 02/03/2021: DeleteCOM proposal 12/03/2021:L63: xii) in the event of a report, the provider provides the user concerned with the following information, six months after the date of the report, unless, within that period, a law enforcement authority of a Member State informs the provider that the provision of that information is to be deferred for a specified period of time that is no longer than strictly necessary, in which case the provider provides that information only after that specified period;

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	COM proposal - EP version with changes - rejected on technical level:
	(af) in the event of a report positive hit of online child sexual abuse material' or a
	reasoned suspicion, based on concrete elements, of online child sexual abuse, the data subjects are given the following information ,
	without prejudice to the information provided for in Articles 13 and 14 of Regulation
	(EU) 2016/679, unless, within six months of the data being shared with a law enforcement authority or organisation referred to in
	Article 3f, a law enforcement authority or organisation informs the provider that the provision of
	that information is to be deferred for a specified period of time, in which case the provider shall not provide that information until after
	that period, which may be renewed but which shall not be longer than strictly necessary: to do so would

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		be prejudicial to an ongoing investigation, in which case the provision of that information may be delayed to the extent strictly necessary and the data subjects shall be informed without delay after the investigation is closed
64	(a) the competent law enforcement authorities and organisations acting in the public interest against child sexual abuse with whom their personal data have been shared;	Presidency proposal 22/04/21 deleteCOM proposal 12/03/2021:L64: (a) the name and location of the competent law enforcement authorities and organisations acting in the public interest against child sexual abuse to which the report has been submitted;(i)the competent law enforcement authorities and organisations acting in the public interest against child sexual abuse weith whom their personal data have been shared;

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65	(b) the avenues for redress with		4 th Trilogue (25/03/21)
	the provider of number-independent interpersonal communications		b) the avenues for redress with
	services; and		the provider of number-independent
			interpersonal communications
66	(c) the possibility of lodging a		services; and 4 th Trilogue (25/03/21)
	complaint with the competent		· · · · · · · · · · · · · · · · · · ·
	supervisory authority and of a		(c) the possibility of lodging a
	judicial remedy, and the identity of those authorities;		complaint with a supervisory authority and of a judicial remedy;
67	(xiii) there is no interference with		3 rd Trilogue (09/03/2021)
07	any communication protected by		5 mogue (07/05/2021)
	professional secrecy, such as		Moved to a recital, line 27 A
	between doctors and their patients, journalists and their sources or		
	lawyers and their clients;		
68	(xiv) any transfer of personal data		2 nd Trilogue (23/02/2021)
	to third countries or international		
	organisations complies with Chapter V of Regulation (EU)		EP agreed to drop (xiv)
	2016/679;		
69		(aa) technology which	2 nd Trilogue (23/02/2021)
		has not been used before the entry into force of this	Council approach to dura (as)
		the entry into force of this regulation, the prior	Council agreed to drop (aa)

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70	(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay;	(b) the technology used <i>to identify</i> <i>online child sexual abuse material</i> is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the rate of errors where content is wrongly identified as content representing online child sexual online abuse ("false positives") to at most 1 in 50 billion regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are	consultation procedure setout in Article 36 ofRegulation (EU) 2016/679shall apply;(b) the technology usedis in itself sufficientlyreliable in that it limits tothe maximum extentpossible the rate of errorsregarding the detection ofcontent representing childsexual abuse, and wheresuch occasional errors occur,their consequences arerectified without delay;	2 nd Trilogue (23/02/2021) (b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay;
71		rectified without delay; (ba) the technology used to identify solicitation of children_is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors regarding the detection of content representing child sexual abuse, and where such occasional errors occur, their consequences are rectified without delay;		2 nd Trilogue (23/02/2021) EP agreed to drop

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	a	1	1	
72	(c) the technology	(c) the technology used to detect	(c) the technology used	Rapporteur's proposal of 26/04/21:
	used to detect solicitation	patterns of possible solicitation of	to detect solicitation of	
	of children is limited to	children is limited to the use of	children is limited to the use	(c) the technology used to detect
	the use of relevant key	relevant key indicators and	of relevant key indicators,	patterns of possible solicitation of
	indicators, such as	objectively identified risk factors	such as keywords and	children is limited to the use of
	keywords and objectively	such as age difference, without	objectively identified risk	relevant key indicators and
	identified risk factors	prejudice to the right to human	factors such as age	objectively identified risk factors
	such as age difference,	review;	difference, without prejudice	such as age difference,-without
	without prejudice to the		to the right to human	prejudice to the right to human
	right to human review;		review;	review;
				Presidency Proposal 3 rd Trilogue
				(09/03/2021)
				(0)/00/2021/
				(c) the technology used to detect
				<i>patterns of possible</i> solicitation of
				children is limited to the use of
				relevant key indicators and
				objectively identified risk factors
				such as age difference, without
				prejudice to the right to human
				review;
73	(d) the processing is	(d) the processing <i>allowed by the</i>	(d) the processing is	<i>Outcome of 16th technical meeting</i>
15	limited to what is strictly	restriction provided for in this	limited to what is strictly	(22/04/2021)
	necessary for the purpose	<i>Regulation</i> is limited to what is	necessary for the purpose of	
	of detection and reporting	strictly necessary for the <i>sole</i>	detection and reporting of	(d) the processing [allowed by
	of child sexual abuse		child sexual abuse online	
		purpose of detection and reporting of <i>online</i> child sexual abuse online and		the restriction provided for in this Regulation Lie limited to what is
	online and removal of	onune child sexual abuse online and	and removal of child sexual	Regulation is limited to what is

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	child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, is erased immediately;	removal of online child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, is erased immediately ;	abuse material and, unless child sexual abuse online has been detected and confirmed as such, data generated through such processing is erased immediately;	strictly necessary for the <i>sole</i> purpose of detection and reporting of <i>online</i> child sexual abuse online and removal of online child sexual abuse material and, unless child sexual abuse online has been detected and confirmed as such, is erased immediately;
74		(da) where no online child sexual abuse has been detected and confirmed as such, all content data, related traffic data and any result of processing of these data is erased immediately after the processing;		Delete, move to line 18
75		(db) where child sexual abuse has been detected and confirmed as such, the strictly relevant content data, the related traffic data and personal data generated through such processing, are retained solely for the following purposes and only for the time period strictly necessary, but in any case no longer than three months, after which they are deleted immediately and permanently:		4 th Trilogue (25/03/21) (db) where suspected online child sexual abuse has been identified, the strictly necessary content data, related traffic data, as well as personal data generated through such processing, are stored in a secure manner, solely for the following purposes:
76		- in order to report and transfer them, pursuant to		4 th Trilogue (25/03/2021)

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	Regulation (EU) 2016/679, to the competent law enforcement authorities without undue delay;	Outcome of technical meeting on 22/04/21 (i) in order to report, without undue delay, the suspected online child sexual abuse <i>Proposal Council 02/02/2021</i> : in accordance with Regulation (EU) 2016/679 to the competent law enforcement and judicial authorities or organisations acting in the public interest against child sexual abuse;
77	- in order to report and transfer them, pursuant to Regulation (EU) 2016/679, to organisations acting in the public interest against child sexual abuse operating a database pursuant to Article 3f of this Regulation;	4 th Trilogue (25/03/21) Delete, move to line 76
78	- in order to block the account of the user concerned or suspend a service offered to him or her	4 th Trilogue (25/03/21) (ii) - in order to block the account of, or suspend or terminate the provision of the service to, the user concerned;

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79	- regarding personal data reliably identified as online child sexual abuse material online, in order to create a 'hash';	4 th Trilogue (25/03/21) (iii)- in order to create a unique, non-reconvertible digital signature ('hash') of data reliably identified as online child sexual abuse material;
80	- for the purpose of seeking redress from the provider or pursuing administrative review or judicial remedies;	4 th Trilogue (25/03/21) (iv)- in order to enable the user concerned to seek redress from the provider or pursue administrative review or judicial remedies on matters related to the suspected child sexual abuse; <i>or</i>
80-A		4 th Trilogue (25/03/21) (v) - in order to respond to requests issued by competent law enforcement and judicial authorities in accordance with the applicable law to provide them with the necessary data for the prevention, investigation, detection or prosecution of criminal offences set out in Directive 2011/93/EU; and
80-B		4th trilogue (25/03/2021)

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				(dc) the data are stored no longer than strictly necessary for the relevant purpose specified in point (db) and in any event no longer than [three / Council proposal 02/03/2021: 12] months from the date of the identification of the suspected online child sexual abuse.
81	(e) the provider	(e) the provider annually	(e) the provider annually	2 nd Trilogue (23/02/2021)
	annually publishes a	publishes <i>and submits</i> a report on its	publishes and submits a	
	report on its related	related to the supervisory authority	report to the supervisory	
	processing, including on	in accordance with Regulation (EU)	authority responsible in	
	the type and volumes of	2016/679 and to the Commission, by	accordance with	Outcome of technical meeting of
	data processed, number	[six months after the date of entry	Regulation (EU) 2016/679	19/03/2021 redrafted by COM
	of cases identified,	into force of this Regulation], and	six months after the entry into force of this	proposal of 22 April as regards the
	measures applied to	annually thereafter, of the		deadlines
	select and improve key	processing of personal data allowed	Regulation, and thereafter	(a) the provider encyelly
	indicators, numbers and ratios of errors (false	by the restriction provided for in	annually, on its related	(e) the provider annually
	×	this Regulation, including the type	processing, including on the type and volumes of data	publishes <i>and submits</i> a report on
	positives) of the different technologies deployed,	and volumes of data processed, <i>the ground relied on for the processing</i>	processed, number of cases	its related to the supervisory authority in accordance with as
	measures applied to limit	pursuant to Article 6 of Regulation	identified, measures applied	determined by Regulation (EU)
	the error rate and the	(EU) 2016/679, the legal ground	to select and improve key	2016/679 and to the Commission,
	error rate achieved, the	relied on for transfers of personal	indicators, numbers and	by [six months after the date of
	retention policy and the	data outside the Union pursuant to	ratios of errors (false	entry into force of this Regulation],
	data protection	Chapter V of Regulation (EU)	positives) of the different	and thereafter by 31 January every
	safeguards applied.	2016/679 where applicable, the	technologies deployed,	year annually thereafter, of the

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r			
	f cases identified, the	measures applied to limit the	processing of personal data under
-	f cases in which a user	error rate and the error rate	this Regulation, including the type
	d a complaint with the	achieved the retention policy	and volumes of data processed, <i>the</i>
internal r	edress mechanism or with	and the data protection	specific ground relied on for the
a judicial	authority and the outcome	safeguards applied.	processing pursuant to A rticle 6 of
of those p	roceedings, measures		Regulation (EU) 2016/679, the
applied to	select and improve key		legal ground relied on for transfers
indicators	, numbers and ratios of		of personal data outside the Union
errors (fal	se positives) of the		pursuant to Chapter V of
	echnologies deployed,		Regulation (EU) 2016/679 where
	applied to limit the error		<i>applicable, the</i> number of cases of
	ne error rate achieved, the		child sexual abuse online
retention	policy and the data		[differentiating between child
	safeguards applied		sexual abuse material and
-	to Regulation (EU)		solicitation] identified, the number
2016/679;	.		of cases in which a user has lodged
	, ,		a complaint with the internal
			redress mechanism or with a
			judicial authority and the outcome
			of those proceedings, measures
			applied to select and improve key
			indicators, numbers and ratios of
			errors (false positives) of the
			different technologies deployed,
			measures applied to limit the error
			rate and the error rate achieved, the
			retention policy and the data
			protection safeguards applied
			pursuant to Regulation (EU)

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				2016/679, as well as the names of the organisations acting in the public interest against child sexual abuse with whom data has been shared pursuant to this Regulation;
82	As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period	As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained solely for the following purposes and only for the time period necessary:	As regards point (d), where child sexual abuse online has been detected and confirmed as such, the relevant data may be retained processed solely for the following purposes and only for the time period	4th trilogue (25/03/2021) (Lines 82 to 85 - Delete, linked to COM´s proposal in lines 74-80B)
83	necessary: - for its reporting and to respond to proportionate requests by law enforcement and other relevant public authorities;	- for its reporting and to respond to proportionate requests by law enforcement and other relevant public authorities;	necessary: - for its reporting to one or several law enforcement authorities and to organisations acting in the public interest against child sexual abuse and to respond to proportionate requests by law enforcement and other relevant public authorities;	4th trilogue (25/03/2021) (Lines 82 to 85 - Delete, linked to COM's proposal in lines 74-80B)
84	- for the blocking of the concerned user's account;	- for the blocking of the concerned user's account;	- for the blocking of the concerned user's account;	4th trilogue (25/03/2021) (Lines 82 to 85 - Delete, linked to COM's proposal in lines 74-80B)

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0.7				
85	- in relation to data	- in relation to data reliably identified	- in relation to data reliably	4th trilogue (25/03/2021)
	reliably identified as	as child pornography, for the	identified as child	
	child pornography, for	creation of a unique, non-	pornography, for the	(Lines 82 to 85 - Delete, linked to
	the creation of a unique,	reconvertible digital signature	creation of a unique, non-	COM's proposal in lines 74-80B)
	non-reconvertible digital	('hash').	reconvertible digital	
	signature ('hash').		signature ('hash').	
86		(ea) every case of a reasoned and		3 rd Trilogue (09/03/2021)
		verified suspicion of online child		4 th trilogue (25/03/2021)
		sexual abuse is immediately		
		reported to the competent national		Outcome of technical meeting on
		law enforcement authorities.		22/04/21
				(ea) every case of a reasoned and
				verified suspicion of online child
				sexual abuse is reported without
				undue delay to the competent
				national law enforcement
				authorities or to organisations
				acting in the public interest against
				child sexual abuse.
				<u>chua sexual aduse</u> .
07				and m 11 (22/02/2021)
87		1a. This Regulation shall not apply		2 nd Trilogue (23/02/2021)
		to the scanning of audio		
		communications.		Agreed and moved to Article 1 (new
				<i>line 32 A)</i>
88		AM 29		2 nd Trilogue (23/02/2021)
		Article 3a		Deletion, moved to lines 53, 54

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	Obligation for a prior data protection impact assessment and a prior consultation of the supervisory authorities	
89	1. Providers of number- independent interpersonal communications services shall, in order to rely on the restriction provided for by this Regulation, conduct a prior data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure pursuant to Article 36 thereof.	2 nd Trilogue (23/02/2021) Deletion, moved to lines 53, 54
90	2. The Member States shall ensure that the supervisory authorities have sufficient resources for prior data protection impact assessments and prior consultation procedures, in line with the requirements laid down in Regulation (EU) 2016/679. This Article shall not apply where a data protection impact assessment and a prior consultation of the supervisory authorities have been	2 nd Trilogue (23/02/2021) Moved to recital 28 C (sufficient resources for DPAs).

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	conducted prior to [the entry into force of this Regulation] and have indicated that the processing would not result in a high risk to the rights and freedoms of natural persons or that measures have been taken by the controller to mitigate the risk.		
91	AM 30 Article 3b European Data Protection Board guidelines	Article 3a European Data Protection Board guidelines	2 nd Trilogue (23/02/2021) Article 3a European Data Protection Board guidelines
92	By [one month after the date of entry into force of this Regulation], and pursuant to Article 70 of Regulation (EU) 2016/679, the Commission shall request the European Data Protection Board to issue guidelines for the purpose of assisting the supervisory authorities responsible in accordance with Regulation (EU) 2016/679 to assess whether the processing falling within the scope of this Regulation, for existing as well as future technologies, used for the sole purpose of combatting online child sexual abuse complies with	The European Data Protection Board shall publish guidelines for the purpose of assisting the supervisory authorities responsible in accordance with Regulation (EU) 2016/679 in assessing compliance with Regulation (EU) 2016/679 of the processing falling within the scope of this regulation.	2 nd Trilogue (23/02/2021) By [one month after the date of entry into force of this Regulation], and pursuant to Article 70 of Regulation (EU) 2016/679, the Commission shall request the European Data Protection Board to issue guidelines for the purpose of assisting the supervisory authorities responsible in accordance with Regulation (EU) 2016/679 to assess whether the processing falling within the scope of this Regulation, for existing as

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	Regulation (EU) 2016/679.	well as future technologies, used for the sole purpose of combatting online child sexual abuse complies with Regulation (EU) 2016/679.
93	AM 31	4 th Trilogue (25/03/21)
95	Article 3c Complaint mechanism	Delete (Moved to line 61)
0.1	Providers of number-independent	4 th Trilogue (25/03/21)
94	interpersonal communications services using technologies for the processing of personal data to detect and report online child sexual abuse and detect and report and remove online child sexual abuse material shall establish an effective and accessible mechanism allowing users whose content has been removed or reported to law enforcement authorities or an organisation acting in the public interest against online child sexual abuse to submit a complaint against the action of the provider concerned, where the material reported or removed does not constitute online child sexual abuse in accordance with this Regulation.	Delete (Moved to line 61)

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95	AM 32	4 th Trilogue (25/03/21)
	Article 3d	Article 3d
	Effective remedies	<i>Effective remedies</i>
	Users who have been adversely	4 th Trilogue (25/03/21)
96	affected by the use of specific	
	technologies for the processing of	In accordance with Article 79 of
	personal data to detect and report	Regulation 2016/679 and Article 15,
	online child sexual abuse and	paragraph 2, of Directive 2002/58,
	remove online child sexual abuse	users of number-independent
	material from the services of	interpersonal communications
	number-independent interpersonal	services shall have the right to an
	communications services shall have	effective judicial remedy where they
	the right to an effective remedy	consider that their rights have been
	where the material reported or	infringed as a result of the processing
	removed does not constitute online	of personal and other data for the
	child sexual abuse in accordance	purposes of detecting and reporting
	with this Regulation. Member States	child sexual abuse online and
	shall put in place effective	removing child sexual abuse
	procedures for the exercise of that	material on those services.
	right, including for the following	
	cases:	
	(i) the users' content or identity	4 th Trilogue (25/03/21)
97	have been reported to an	
	organisation acting in the public	Moved to a recital, line 28 E
	interest against child sexual abuse	
	or to law enforcement authorities;	

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98	(ii) the users' content has been removed or their account has been blocked or a service offered to them has been suspended.	4 th Trilogue (25/03/21) Moved to a recital, line 28 E
99	AM 33	2 nd Trilogue (23/02/2021)
	Article 3e Supervisory authorities	Article 3e Supervisory authorities
100	The supervisory authorities responsible for monitoring the application of this Regulation shall be the same as the independent supervisory authorities designated pursuant to Chapter VI of Regulation (EU) 2016/679.	2 nd Trilogue (23/02/2021) The supervisory authorities designated pursuant to Chapter VI of Regulation (EU) 2016/679 shall monitor the processing falling within the scope of this Regulation in accordance with their competences and powers under that Chapter and enforce all the obligations under this Regulation
101	AM 34 Article 3f Public register of organisations acting in the public interest against child sexual abuse	2 nd Trilogue (23/02/2021) <i>Article 3f</i> <i>Public register list of</i> <i>organisations acting in the</i> <i>public interest against child</i> <i>sexual abuse</i>

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	By [one month of the date of	2 nd Trilogue (23/02/2021)
102	• • • •	2 Infogue (25/02/2021)
102	entry into force of this Regulation],	
	the Commission shall establish a	By two months of the date of
	public register of organisations	entry into force of this Regulation,
	acting in the public interest against	the Commission shall <i>make public</i>
	child sexual abuse with which	the names of establish a public
	providers of number-independent	register of organisations acting in
	interpersonal communications	the public interest against child
	services can share personal data	sexual abuse with to which the
	under this Regulation and without	providers of public independent
	prejudice to Chapter V of	interpersonal communications
	Regulation (EU) 2016/679. That	services have indicated sharing
	public register shall be established	personal data that they report child
	based on transparent and objective	sexual abuse online under this
	criteria and kept up to date.	Regulation. with which providers of
		number-independent interpersonal
		communications services can share
		personal data under this Regulation
		and without prejudice to Chapter V
		of Regulation (EU) 2016/679. The
		providers shall communicate the
		names of these organisation to the
		Commission by one month after
		the entry into force of this
		Regulation and any modifications
		thereto regularly. The Commission
		shall keep that public register list up
		to date.

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103	AM 35 Article 3g Statistics	Article 3g Statistics
104	1. By [six months after entry into force of Regulation], and on annual basis thereafter, the Member States shall make publicly available and submit reports to the Commission with statistics on all of the following elements:	Outcome of the discussions at technical level 1. By [Presidency proposal 26/02/2021: eighteen months Rapporteur's proposal: 12 months/ six months after entry into force of Regulation], and on annual basis thereafter, the Member States shall make publicly available and submit reports to the Commission with statistics on all of the following elements:
105	(a) the total number of reports of detected online child sexual abuse that have been provided by number-independent interpersonal communications services and organisations acting in the public interest against child sexual abuse to the competent national law enforcement authorities, differentiating between the absolute number of cases and those cases	(a) the total number of reports of detected online child sexual abuse that have been provided by number-independent interpersonal communications services and organisations acting in the public interest against child sexual abuse to the competent national law enforcement authorities, <u>Presidency proposal 26/02/2021:</u>

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	reported several times and the type of provider of number-independent	<u>delete</u>
	interpersonal communications	[differentiating between the
	services where the online child	absolute number of cases and those
	sexual abuse was detected;	cases reported several times and]
		the type of provider of number- independent interpersonal communications services where the online child sexual abuse was detected;
106	<ul> <li>(b) the number of children</li> <li>identified through actions pursuant</li> <li>to Article 3 of this Regulation,</li> <li>differentiated according to gender;</li> </ul>	(b) the number of children identified through actions pursuant to Article 3 of this Regulation, differentiated according to gender;
107	(c) the number of perpetrators prosecuted, following identification through technology;	Presidency proposal 26/02/2021: delete (c) the number of perpetrators prosecuted, following identification through technology;
108	(d) the number of perpetrators convicted;	(d) the number of perpetrators convicted;
109	(e) the number of false positives reported;	Presidency proposal 14/04/2021: delete
		(e) the number of false positives reported;

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110	(f) the technologies used to detect online child sexual abuse and their percentage in contributing to the detection of online child sexual abuse; and	Presidency proposal 14/04/2021: delete (f) the technologies used to detect online child sexual abuse and their percentage in contributing to the detection of online child sexual abuse; and
111	(g) the providers of number- independent interpersonal communications services offering services in their territory using technology to detect, remove or report online child sexual abuse.	g) the providers of number- independent interpersonal communications services offering services in their territory using technology to detect, remove or report online child sexual abuse.
112	2. The Commission shall aggregate the statistics referred to in paragraph 1 of this Article and shall take them into account when reviewing this Regulation, pursuant to Article 3h of this Regulation.	
113	AM 36 Article 3h Review	
114	1. On the basis of the reports provided pursuant to Article 3(1), point(e), and the statistics provided	

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	pursuant to Article 3g, the Commission shall, by[two years after entry into force of Regulation], and annually thereafter, conduct a review of this Regulation and submit and present a report to the European Parliament and to Council.	
115	2. In conducting its review, the Commission shall pay special attention to:	
116	(a) all conditions for the processing of personal data enumerated under Article 3 3, point (a);	
117	(b) the proportionality of the restriction provided for by this Regulation, including an assessment of the statistics submitted by the Member States under Article 3g;	
118	(c) developments in technological progress regarding such activities, and the extent to which such developments improve accuracy and reduce false positives.	

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119		AM 37 Article 3i Terms and conditions		3 rd Trilogue (09/03/2021) Deleted because covered by the compromise text above (line 62)
120		Without prejudice to Article 3(a), points (xi) and (xii), providers of number-independent interpersonal communications services that use technologies falling within the scope of this Regulation shall include in their terms and conditions clear and comprehensive information on the functioning of such measures and the impact on users' confidentiality of communications.		3 rd Trilogue (09/03/2021) Deleted because covered by the compromise text above (line 62)
121	Article 4 Entry into force and application		Article 4 Entry into force and application	2 nd Trilogue (23/02/2021) Article 4 Entry into force and application
122	This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.		This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.	3 rd Trilogue (09/03/2021) This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

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123	It shall apply from 21 December 2020 until 31 December 2025.	AM 38 It shall apply from 21 December 2020 until 31 December 2022.	It shall apply from 21 December 2020 until 31 December 2025.	Presidency proposal 20/01/2021: 2025 EP proposal 20/01/2021: 2022
124	This Regulation shall be binding in its entirety and directly applicable in all Member States.		This Regulation shall be binding in its entirety and directly applicable in all Member States.	2 nd Trilogue (23/02/2021) This Regulation shall be binding in its entirety and directly applicable in all Member States.
125	Done at Brussels,		Done at Brussels,	2 nd Trilogue (23/02/2021) Done at Brussels,