Combating sexual abuse, sexual exploitation of children and child pornography

2010/0064(COD) - 16/12/2016 - Follow-up document

The Commission presented a report to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography.

The report focused in particular on Article 27 of the Directive which requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive and communicate them to the Commission by 18 December 2013.

This report should be read in conjunction with COM(2016) 872 on the prompt removal of webpages containing or disseminating child pornography on the territory of Member States (refer to the corresponding summary in the procedure file).

Report's objectives: the report provided a concise yet informative overview of the main transposition measures taken by Member States.

As a reminder, the text:

1. requires the adoption of legislation in many different areas, including substantive criminal law (e.g. definitions of offences and the level of penalties, the statute of limitations and the liability of legal persons) and procedural criminal law (e.g. extraterritorial jurisdiction, the participation of children in criminal proceedings, and legal representation);
2. entails extensive administrative measures to complement the legislation (e.g. on access to information and the exchange of criminal records between Member States);
3. involves multiple actors, not only within the authorities of a Member State but also in cooperation with non-governmental organisations (e.g. to disrupt the distribution of child sexual abuse material through hotlines and awareness raising campaigns).

State of transposition and main conclusions: by the transposition deadline, only 12 Member States had notified the Commission that they had completed transposition of the Directive. The Commission therefore opened infringement proceedings for non-communication of national transposition measures against the others: BE, BG, IE, EL, ES, IT, CY, LT, HU, MT, NL, PT, RO, SI and the UK. All these infringement proceedings had been closed by 8 December 2016.

The report noted that the Directive is a comprehensive **legislative framework which has led to substantive progress in the Member States** by amending criminal codes, criminal procedures and sectorial legislation, streamlining procedures, setting up or improving cooperation schemes and improving the coordination of national actors.

The Commission acknowledges the major efforts made by the Member States to transpose the Directive.

However, **there is still considerable scope for the Directive to reach its full potential** through complete implementation of all of its provisions by Member States.

Transposition challenges: the analysis so far suggests that some of the main challenges for Member States could be related to:

- **prevention and intervention programmes** for offenders (Articles 22, 23 and 24),
- substantial criminal law (Articles 3, 4 and 5),
- assistance, support and protection measures for child victims (Articles 18, 19 and 20).

Less challenging provisions seem to include those related to incitement, aiding and abetting, and attempt (Article 7), consensual sexual activities (Article 8), seizure and confiscation (Article 11) and liability and sanctions on legal persons (Articles 12 and 13).

The Commission stated that it has **no plans to propose amendments to the Directive or any complementary legislation**. It will instead focus its efforts on ensuring that children benefit from the full added value of the Directive, through its complete transposition and implementation by Member States.

The Commission will continue to provide support to Member States to ensure a satisfactory level of transposition and implementation. Where necessary, the Commission will make use of its enforcement powers under the Treaties through infringement procedures.

It will also support the implementation of the Directive by facilitating the development and exchange of best practices in specific areas such as prevention and intervention programmes for offenders.