Combating the sexual exploitation of children and child pornography: criminal offences, penalties and sanctions. Framework decision

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The Council, given the divergent views that appeared during the preparatory proceedings, examined certain key questions identified by the Presidency on the draft Framework Decision on combating the sexual exploitation of children and child pornography, namely: - should the Framework Decision in principle cover child pornography in all cases involving realistic images of a child, and in particular the following two cases: when the person represented appears to be a child but is actually over 18 years of age on the date of the image?; when a real person is not represented (virtual pornography)? - could the field of application covering the cases referred to above be accompanied by exceptions as regards charges and sentences? - should child prostitution and the participation of children in pornographic performances be criminalised, whatever the age of the child involved? - should the production, acquisition and possession of child pornography in general be criminalised, even if there is no intention of distribution, in keeping with the Joint Action of 24 February 1997, which does not contain such a limitation? - should an exception be made from the obligation to criminalise child pornography where images of persons over the age of sexual consent are produced, acquired and possessed with the agreement of the persons concerned and solely for their own private use? In conclusion, the Chairman noted that the responses to the four questions show a large majority in favour of a broad scope for the Framework Decision. However, many delegations argued in favour of a differentiated approach which would take into account the age of the victim as regards the level of sentences to be imposed, especially when the victim has reached the age of sexual consent. In addition, the Council adopted the general approach of providing for an exception there images of a person over the age of sexual consent are produced, acquired and possessed with the agreement of the persons concerned and solely for their own private use. The Council instructed its preparatory bodies to continue their work expeditiously on the basis of the guidelines agreed by the Council, with a view to reaching political agreement as soon as possible.