Basic information

2020/0259(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
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 (temporary derogation from certain provisions of Directive 2002/58/EC) See also Directive 2002/58 2000/0189(COD) Amended by 2023/0452(COD) Amended by 2025/0429(COD) **Subject** 1.20.09 Protection of privacy and data protection 3.30.05 Electronic and mobile communications, personal communications 3.30.25 International information networks and society, internet 4.10.03 Child protection, children's rights	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	SIPPEL Birgit (S&D)	21/09/2020
	Shadow rapporteur ZARZALEJOS Javier (EPP) IN 'T VELD Sophia (Renew) BREYER Patrick (Greens /EFA) WIŚNIEWSKA Jadwiga (ECR) TARDINO Annalisa (ID) ERNST Cornelia (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
CULT Culture and Education	The committee decided not to give an opinion.	

	FEMM Women's Rights and Gender Equality	ANDERSON Christine (ID)	05/10/2020
Council of the European Union			
European Commission	**Commission DG**		**Commissioner**
	Communications Networks, Content and Technology		BRETON Thierry
European Economic and Social Committee			

Key events

Date	Event	Reference	Summary
10/09/2020	Legislative proposal published	COM(2020)0568	Summary
17/09/2020	Committee referral announced in Parliament, 1st reading		
07/12/2020	Vote in committee, 1st reading		
07/12/2020	Committee decision to open interinstitutional negotiations with report adopted in committee		
11/12/2020	Committee report tabled for plenary, 1st reading	A9-0258/2020	Summary
14/12/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
16/12/2020	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
26/05/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2021)000000	
05/07/2021	Debate in Parliament		
06/07/2021	Decision by Parliament, 1st reading	T9-0319/2021	Summary
06/07/2021	Results of vote in Parliament		
12/07/2021	Act adopted by Council after Parliament's 1st reading		
14/07/2021	Final act signed		
30/07/2021	Final act published in Official Journal		

Technical information

Procedure reference	2020/0259(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	See also Directive 2002/58 2000/0189(COD)

	Amended by 2023/0452(COD) Amended by 2025/0429(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1 Treaty on the Functioning of the European Union TFEU 016-p2
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/04118

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE660.288	13/11/2020	
Amendments tabled in committee		PE661.791	27/11/2020	
Committee opinion	FEMM	PE659.041	02/12/2020	
Committee report tabled for plenary, 1st reading/single reading		A9-0258/2020	11/12/2020	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0319/2021	06/07/2021	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2021)000000	28/05/2021	
Draft final act	00038/2021/LEX	14/07/2021	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2020)0568	10/09/2020	Summary
Commission response to text adopted in plenary	SP(2021)525	04/08/2021	
Follow-up document	COM(2023)0797	19/12/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2020)0568	13/11/2020	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
	Economic and Social Committee:			

EESC	opinion, report	CES4192/2020	29/10/2020	
EDPS	Document attached to the procedure	N9-0017/2021 OJ C 102 24.03.2021, p. 0004	10/11/2020	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency

Name	Role	Committee	Date	Interest representatives
DÜPONT Lena	Shadow rapporteur	FEMM	12/04/2021	Katholisches Hilfswerk missio
DÜPONT Lena	Shadow rapporteur	FEMM	03/02/2021	Stichting ECPAT International
DÜPONT Lena	Shadow rapporteur	FEMM	17/11/2020	Improving the Digital Environment for Children
DÜPONT Lena	Shadow rapporteur	FEMM	16/07/2020	Internet Watch Foundation

Final act

Regulation 2021/1232
OJ L 274 30.07.2021, p. 0041

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 (temporary derogation from certain provisions of Directive 2002/58/EC)

2020/0259(COD) - 11/12/2020 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Birgit SIPPEL (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council

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

As a reminder, the proposal aims to introduce limited and temporary changes to the rules governing the privacy of electronic communications so that over the top (“OTT”) communication interpersonal services, such as web messaging, voice over Internet Protocol (VoIP), chat and web-based email services, can continue to detect, report and remove child sexual abuse online on a voluntary basis.

The committee recommended that the European Parliament’s position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal.

Scope

Members considered that the proposed Regulation should only apply to videos or images exchanged over messaging or email services. It should not apply to the scanning of text or audio communication, which remains fully subject to the provisions of the e Privacy Directive.

In view of its temporary nature, the material scope of the proposed Regulation should be limited to the established definition of so called ‘child pornography’ as defined in Directive 2011/93/EU and ‘pornographic performance’ as defined in the same directive.

Additional safeguards

The committee stated that voluntary measures by providers offering number-independent interpersonal communications services in the EU applied for the sole purpose of detecting and reporting child sexual abuse online and detecting, removing and reporting child sexual abuse material should be subject to certain conditions:

- a mandatory prior data protection impact assessment pursuant and a mandatory consultation procedure, prior to the use of the technology;

- human overview and intervention is ensured for any processing of personal data, and no positive result is sent to law enforcement authorities or organisations acting in the public interest without prior human review;

- appropriate procedures and redress mechanisms are in place:

- no interference with any communication protected by professional secrecy;

- effective remedies provided by the Member States at national level.

All these conditions need to be met to ensure the proportionality of the restriction to the fundamental rights that this activity implies.

Data retention

When no online child sexual abuse has been detected, all data should be deleted immediately, according to Members. Only in confirmed cases can the strictly relevant data be stored for use by law enforcement for a maximum of three months.

Public register

The Commission should establish a public register of organisations acting in the public interest against child sexual abuse with which providers of number-independent interpersonal communications services can share personal data under this Regulation.

Time limitation of the proposed Regulation

Members proposed reducing the application period from 31 December 2025 to 31 December 2022.

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 (temporary derogation from certain provisions of Directive 2002/58/EC)

2020/0259(COD) - 10/09/2020 - Legislative proposal

PURPOSE: to enable the continuation of certain activities to combat sexual abuse of children online by creating a temporary derogation from certain provisions of Directive 2002/58/EC (Directive on privacy and electronic communications).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2002/58/EC of the European Parliament and of the Council lays down rules ensuring the right to privacy and confidentiality with respect to the processing of personal data in exchanges of data in the electronic communication sector.

Protecting children online is one of the EU's priorities. On 24 July 2020, the Commission adopted an EU strategy for a more effective fight against child sexual abuse which aims to provide an effective response, at Union level, to the crime of child sexual abuse. It announced that it shall propose the necessary legislation to tackle child sexual abuse online effectively by the second quarter of 2021.

Certain providers of number-independent interpersonal communications services are already using specific technologies to detect child sexual abuse on their services and report it to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, and/or to remove child sexual abuse material.

These organisations refer to national hotlines for reporting child sexual abuse material, as well as organisations whose purpose is to reduce child sexual exploitation.

The ePrivacy Directive does not contain an explicit legal basis for voluntary processing of content or traffic data for the purpose of detecting sexual abuse of children online. However, it does provide that Member States may adopt legislative measures to limit the scope of the rights and obligations provided for in this Directive, which concern the confidentiality of communications and traffic data, for the purpose of the prevention and detection of offences related to sexual abuse of children.

Lack of Union action on this issue would risk creating fragmentation shall Member States adopt diverging national legislation. Pending the adoption of the announced long-term legislation, the Commission considers that it is essential to take immediate action to enable the continuation of some current activities to combat sexual abuse of children online.

CONTENT: the proposal aims to introduce a temporary and strictly limited derogation from the applicability of certain obligations of the ePrivacy Directive to enable providers of number-independent interpersonal communications services to continue using specific technologies and continue their current activities to the extent necessary to detect and report child sexual abuse online and remove child sexual abuse material on their services from December 2020, pending the adoption of the announced long-term legislation.

The proposal therefore contains safeguards to ensure that technologies benefitting from the derogation meet the standards of the best practices currently applied, and thereby limits the intrusiveness to the confidentiality of communications and the risk of circumvention.

The personal and other data used when carrying out the activities covered by the derogation set out in this Regulation, as well as the period during which the data is subsequently retained in case of positive results, shall be minimised so as to ensure that the derogation remains limited to what is strictly necessary. The providers shall publish reports on an annual basis on the processing falling within the scope of this Regulation.

The proposed Regulation shall apply from 21 December 2020 and shall cease to apply in December 2025. If the long-term legislation announced by the Commission is adopted and enters into force before that date, it shall repeal this Regulation.

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 (temporary derogation from certain provisions of Directive 2002/58/EC)

2020/0259(COD) - 06/07/2021 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 537 votes to 133, with 24 abstentions, a resolution on the proposal for a regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards as the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual abuse online.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Purpose and scope

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

This Regulation should not apply to the scanning of audio communications.

Data processing by service providers

The types of technologies used should be the least privacy-intrusive in accordance with the state of the art in the industry. Those technologies should not be used to systematically filter and scan text in communications unless it is solely to detect patterns which point to possible concrete reasons for suspecting online child sexual abuse, and they should not be able to deduce the substance of the content of the communications.

In the case of technology used for identifying **solicitation of children**, such concrete reasons for suspicion should be based on objectively identified risk factors such as age difference and the likely involvement of a child in the scanned communication.

For any specific technology used for the purposes of the Regulation, the provider should be required to have first carried out a data protection **impact assessment** and consultation in accordance with the General Data Protection Regulation (GDPR).

Obligations of service providers

Service providers should (i) establish internal procedures to prevent misuse of personal data; (ii) ensure human oversight of data processing and; (iii) established appropriate procedures and **redress mechanisms** to ensure that users can lodge complaints with them within a reasonable timeframe for the purpose of presenting their views.

Service providers should inform users in a clear, prominent and comprehensible way that they have invoked the exemption provided for in the Regulation. They should also inform users of (i) the remedies available to them; (ii) the possibility of lodging a complaint with a supervisory authority; and (iii) the right to judicial redress where their content has been removed or their account has been blocked.

Data storage and retention

Where a suspected case of online child sexual abuse has been identified, the content data and associated traffic data processed, as well as the personal data generated by such processing, shall be **stored in a secure manner**.

The period during which data is subsequently stored in the event of the identification of suspected cases of online child sexual abuse should be limited to that which is strictly necessary to carry out these activities.

Any data should be immediately and permanently deleted as soon as they are no longer strictly necessary for one of the purposes specified in this Regulation.

Transparency and accountability

Providers should publish **reports** and submit them to the competent supervisory authority and the Commission, no later than six months after the date of entry into force of the Regulation, and no later than 31 January of each year thereafter.

These reports should cover, inter alia, the processing falling within the scope of the Regulation, including the type and volumes of data processed, the specific grounds for processing personal data under the GDPR, the grounds for transfers of personal data outside the EU and the number of identified cases of online child sexual abuse.

Guidelines

In order to support supervisory authorities with their tasks, the Commission should request the European Data Protection Board to issue guidelines on the compliance with the GDPR in the context of processing falling within the scope of the Regulation's derogation.

Public list

Providers will have to notify the Commission of the **names of organisations acting in the public interest** against child sexual abuse to which they report online child sexual abuse under the Regulation. The Commission will make the list public and keep it up to date.

Statistics

No later than one year after the date of entry into force of the Regulation, and thereafter on an annual basis, Member States will be required to make publicly available and submit to the Commission reports including statistics on (i) the total number of reports of online child sexual abuse that have been forwarded to the competent national law enforcement authorities; (ii) the number of children identified as a result of measures taken under the Regulation, differentiated by gender; and (iii) the number of perpetrators convicted.