



Council current text: <http://www.statewatch.org/news/2010/nov/eu-council-sexual-exploitation-16958-10.pdf>

Parliament text: http://www.edri.org/files/libe_vote.pdf

Article 21

| Council Text | Parliament text |
|---|---|
| Measures against websites containing or disseminating child pornography | Measures addressing websites containing or disseminating child pornography or child abuse material |
| 1. Member States shall take the necessary measures to ensure the removal of webpages containing or disseminating child pornography hosted in their territory and to endeavour to obtain the removal of such pages hosted outside of their territory. | 1. Member States shall take the necessary legislative measures to obtain the removal at source of Internet pages containing or disseminating child pornography or child abuse material. Internet pages containing such material shall be removed, especially when originating from an EU Member State. In addition, the EU shall cooperate with third countries in securing the prompt removal of such content from servers in their territory |
| 2. Where the removal of webpages containing or disseminating child pornography is not possible, Member States shall take the necessary measures, whether legislative or nonlegislative, to ensure that the blocking of access to webpages containing or disseminating child pornography is possible towards the Internet users in their territory. The blocking of access shall be subject to adequate safeguards, in particular to ensure that the blocking, taking into account technical characteristics, is limited to what is necessary, that users are informed of the reason for the blocking and that content providers, as far as possible, are informed of the possibility of challenging it. | 2. When removal at source of Internet pages containing or disseminating child pornography or child abuse material is impossible to achieve, Member States may take the necessary measures in accordance with national legislation to prevent access to such content in their territory. These measures must be set by transparent procedures and provide adequate safeguards, in particular to ensure that the restriction is limited to what is necessary and proportionate, and that users are informed of the reason for the restriction. Content providers and users shall be informed of the possibility to whom to appeal under a judicial redress procedure. 2a. Any measure under paragraphs 1 and 2 shall respect fundamental rights and freedoms of natural persons, as guaranteed by the European Convention of the Protection of Human Rights and Fundamental Freedoms, the EU Charter |



| | |
|--|---|
| | <p>of Fundamental Rights and general principles of Union law. Those measures shall provide for prior authorisation in accordance with national law, and the right to an effective and timely judicial redress.</p> <p>2b. The European Commission shall submit to the European Parliament an annual report on the activities undertaken by Member States to remove child sexual abuse material from Internet pages.</p> |
|--|---|

Explanatory “recital”13

| | |
|---|---|
| <p>Child pornography, which constitutes sex abuse images, is a specific type of content which cannot be construed as the expression of an opinion. To combat it, it is necessary to reduce the circulation of child abuse material by making it more difficult for offenders to upload such content onto the publicly accessible Web. Action is therefore necessary to remove the content at source and apprehend those guilty of making distributing or downloading child abuse images. The EU, in particular through increased cooperation with third countries and international organisations, should seek to facilitate the effective removal by third country authorities of websites containing child pornography, which are hosted in their territory.</p> <p>However, despite such efforts, the removal of child pornography content at its source is often not possible where the original materials are not located within the EU, either because the State where the servers are hosted is not willing to cooperate or because obtaining removal of the material from the State concerned proves to be particularly long. Therefore mechanisms should also be put in place to block access from the Union’s territory to internet pages identified as containing or disseminating child pornography. For that purpose, different mechanisms can be used as appropriate,</p> | <p>(13) Child pornography, which constitutes child abuse material, is a specific type of content which cannot be construed as the expression of an opinion. To combat it, it is necessary to ensure as quickly as possible the full removal at source of Internet pages containing or disseminating child pornography or child abuse material and to identify the offenders to start procedures against them, as the investigation and prosecution of such crimes should be a priority. Any webpage originating from an EU Member State and containing sexual abuse material of children should be removed. The EU, in particular through increased cooperation with third countries and international organisations and with the help of bilateral or multilateral agreements, should seek to facilitate the effective removal by third country authorities of websites containing child pornography or child abuse material, which are hosted in their territory, as well as concurrent criminal prosecution of persons who placed such content on or distributed it over the internet. In that regard international cooperation between judicial and police authorities should be strengthened and reporting points put in place. However, should despite such efforts the removal at source of Internet pages containing or disseminating child</p> |
|---|---|



including facilitating the competent judicial or police authorities to order such blocking, or via non legislative measures supporting and stimulating Internet Service Providers on a voluntary basis to develop codes of conduct and guidelines for blocking access to such Internet pages. Both with a view to the removal and the blocking of child abuse content, cooperation between public authorities should be established and strengthened, particularly in the interest of ensuring that national lists of websites containing child pornography material are as complete as possible and of avoiding duplication of work. Any such developments must take account of the rights of the end users, adhere to existing legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.

pornography or child abuse material prove impossible to achieve where the original materials are not located within the EU, either because the State where the servers are hosted is not willing to cooperate or because the procedure for removal of the material in the State concerned proves to be particularly long, Member States may take the necessary measures in accordance with national legislation to prevent access to such content in their territory. There should be strengthened cooperation between public authorities, particularly in the interest of ensuring that information regarding websites containing child pornography or child abuse material is as complete as possible and of avoiding duplication of work. Any such measure must be in accordance with national legislation, respect the rights of the end users, adhere to legal and judicial procedures and comply with the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The Safer Internet Programme has set up a network of hotlines whose goal is to collect information and to ensure coverage and exchange of reports on the major types of illegal content online.