

LIBE COMMITTEE AMENDMENT FOR ARTICLE 21 AND RECITAL 13 OF THE PROPOSED EU DIRECTIVE ON CHILD EXPLOITATION

The Civil Liberties committee of the European Parliament held a vote on 14th February on its report on the Directive on child sexual exploitation. See below the **Compromise Amendment 8** on Article 21 and Recital 13 (agreed by main political parties) was **carried through with 40 MEPs in favor, 0 against and 5 abstentions.**

Compromise AM 8: AM (37), AM (313), AM (314), AM (320), AM (323), AM (329), AM (336?), AM (337), AM (341), AM (342) - Article 21 and AM (11), AM(77), AM(78), AM(80), AM (85) - Recital 13

Article 21

Measures addressing websites containing **or disseminating** child pornography **or child abuse material**

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. **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 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.**
 - 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.**

Recital 13

(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 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.

Next steps in the process: negotiations between Parliament and Council representatives will continue in the coming months, with a view to reach a compromise as swiftly as possible under the Hungarian Council Presidency - running until the end of the first half of 2011. The Rapporteur of the report MEP Roberta Angelilli (EPP, Italy) will be leading the Parliament negotiating team.