



2023/0452(COD)

23.1.2024

AMENDMENTS

18 - 34

Draft report

Birgit Sippel

(PE758.054v01-00)

Amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse

Proposal for a regulation

(COM(2023)0777 – C90437/2023 – 2023/0452(COD))

Amendment 18**Patrick Breyer**

on behalf of the Verts/ALE Group

Cornelia Ernst

on behalf of The Left Group

Proposal for a regulation

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*Proposal for a rejection****The European Parliament rejects the
Commission proposal***

Or. en

Justification

As pointed out in several legal opinions, including the EPRS alternative impact assessment, the Council Legal Service, and a study by former CJEU judge Ninon Colneric, indiscriminate access to the content of private communication of non-suspected citizens, no matter if mandated or permitted by law, is in violation of the Charter. Chat control exposes law-abiding citizens to major risks, such as scanning algorithms falsely exposing legal intimate depictions and conversations of children and adults relating to their health and sexual life.

Amendment 19**Paul Tang, Alex Agius Saliba****Proposal for a regulation**

Citation 3

Text proposed by the Commission

It is important that child sexual abuse online can be effectively combated, ***in accordance with the applicable rules of*** Union law, ***including the conditions set out in Regulation (EU) 2021/1232, without interruptions*** pending the conclusion of those inter-institutional negotiations and the adoption entry into force and application of the long-term legal framework.

Amendment

It is important that child sexual abuse online can be effectively combated, ***which demonstrates the need for a permanent framework with a focus on preventive measures. This permanent framework has to respect*** Union law, ***and strike a balance in protecting fundamental rights and combating child sexual abuse. Despite most voluntary measures rendered ineffective with the introduction of end-to-end encrypted communication, and*** pending the conclusion of those inter-institutional negotiations and the adoption entry into force and application of the long-term legal framework, ***a prolongation of the***

Or. en

Justification

With an increasing number of online service providers introducing end-to-end encrypted communication services, the vast majority voluntary measures deployed by those providers to combat child sexual abuse online rendered ineffective. As this stresses the need for a permanent framework a prolongation of the derogation is only justified for a very brief period of time.

Amendment 20

Sophie in 't Veld, Jana Toom, Hilde Vautmans

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

Regulation (EU) 2021/1232 was intended to function as a bridge between the entry into application of Directive (EU) 2018/1972, bringing number-independent interpersonal communications services within the scope of Directive 2002/58/EC from on 21 December 2020, and the entry into application of a permanent Regulation laying down rules to prevent and combat child sexual abuse. Considering that no such Regulation has yet been agreed, Regulation (EU) 2021/1232 should be prolonged. However, as an exceptional measure, this derogation should not become a de facto permanent system. Therefore, this prolongation should be limited in time, and co-legislators should agree as soon as possible on the permanent Regulation. Regulation (EU) 2021/1232 should be prolonged until 3 May 2025, but should not

Or. en

Amendment 21
Javier Zarzalejos

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse¹⁰ aims to provide that long-term legal framework. ***However, the inter-institutional negotiations on that proposal have not yet been concluded and*** it is uncertain whether they will be concluded ***on time for the long-term legal framework, including any amendments to Regulation (EU) 2021/1232 that it may contain, to be adopted, to enter into force and to apply*** before 3 August 2024.

Amendment

(2) The proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse^{1a}, ***which the Commission adopted on 11 May 2022,*** aims to provide that long-term legal framework. ***The European Parliament adopted its position and the mandate to enter into inter-institutional negotiations on 22 November 2023 while the Council of the European Union has not reached a general approach yet. Consequently,*** it is uncertain whether ***the legislative procedure*** will be concluded

^{1a} Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, COM/2022/209 final.

Or. en

Amendment 22

Sophie in 't Veld, Jana Toom

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

The Report from the European Commission on the implementation of Regulation (EU) 2021/1232 (COM(2023) 797 final) does not provide data on detecting solicitation of children via text detection under the scope of the derogation provided by this Regulation. Considering the unproven effectiveness of Regulation (EU) 2021/1232 regarding the solicitation of children, but at the same time the impact on the confidentiality of communications as provided by Directive 2002/58/EC, child solicitation should be taken out of the scope of Regulation (EU) 2021/1232. However, in order to prevent solicitation of children, providers of number-independent interpersonal communications services can and are encouraged to take mitigation measures, which do not interfere with

Or. en

Justification

The scope of the derogation should be the same as the EP position on the proposal for the long-term CSA online Regulation. Mitigation measures preventing the solicitation of children do not fall within the scope of the ePrivacy Directive, but it should be clear that these are still allowed.

Amendment 23

Javier Zarzalejos

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) It is important that child sexual abuse online can be effectively combated, in accordance with the applicable rules of Union law, including the conditions set out in Regulation (EU) 2021/1232, without interruptions pending the conclusion of *those inter-institutional negotiations* and the adoption entry into force and application of the long-term legal framework.

Amendment

(3) It is important that child sexual abuse online can be effectively combated, in accordance with the applicable rules of Union law, including the conditions set out in Regulation (EU) 2021/1232, without interruptions pending the conclusion of *the legislative procedure* and the adoption, entry into force and application of the long-term

Or. en

Amendment 24

Javier Zarzalejos

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Therefore, Regulation (EU) 2021/1232 should be amended to extend its period of application for an additional period of time strictly necessary to adopt the long-term legislation.

Amendment

(4) Therefore, *given this extraordinary circumstance*, Regulation (EU) 2021/1232 should be amended to extend its period of application for an additional *limited* period of time strictly necessary to adopt the long-term legislation. *This extension cannot serve as precedent for future extensions of Regulation (EU) 2021/1232, this extension being of an exceptional and unique nature. Regulation (EU) 2021/1232 is temporary by nature and successive extensions of it will not be acceptable.*

Or. en

Amendment 25

Javier Zarzalejos

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In view of the Report from the Commission on the implementation of Regulation (EU) 2021/1232, it is necessary to thoroughly improve the reporting mechanism to the European Commission from both the Member States and the providers of number-independent interpersonal communication services. It is also important to stress that the European Commission will be obliged to report on the implementation of the Regulation (EU) 2021/1232 in due time after the conclusion

Or. en

Amendment 26

Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 (new)

Regulation (EU) 2021/1232

Article 2 – point 3

Present text

Amendment

Article-1

In Article 2, the third paragraph is deleted:

(3) ‘solicitation of children’ means any intentional conduct constituting a criminal offence under Article 6 of Directive 2011/93/EU;

"

Or. en

(Regulation (EU) 2021/1232)

Amendment 27

Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 a (new)

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Present text

Amendment

Article -1a

In Article 3, paragraph 1, point (a)(i) is replaced by the following:

(i) strictly necessary for the use of specific technology for the sole purpose of detecting and removing online child sexual abuse material and reporting it to law enforcement authorities and to organisations acting in the public interest against child sexual abuse and ***of detecting solicitation of children and*** reporting it to law enforcement authorities or organisations acting in the public interest

"(i) strictly necessary for the use of specific technology for the sole purpose of detecting and removing online child sexual abuse material and reporting it to law enforcement authorities and to organisations acting in the public interest against child sexual abuse and reporting it to law enforcement authorities or organisations acting in the public interest against child sexual abuse;

Or. en

(Regulation (EU) 2021/1232)

Amendment 28

Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 b (new)

Regulation (EU) 2021/1232

Article 3 – paragraph 1 – point d

Present text

Amendment

Article -1b

In Article 3, paragraph 1, point (d) is replaced by the following:

(d) with regard to new technology, meaning technology used for the purpose of detecting online child sexual abuse material that has not been used by any provider in relation to services provided to users of number-independent interpersonal communications services ('users') in the Union before 2 August 2021, **and with regard to technology used for the purpose of identifying possible solicitation of children**, the provider reports back to the competent authority on the measures taken to demonstrate compliance with written advice issued in accordance with Article 36(2) of Regulation (EU) 2016/679 by the competent supervisory authority designated pursuant to Chapter VI, Section 1, of that Regulation ('supervisory authority') in the course of the prior

"(d) with regard to new technology, meaning technology used for the purpose of detecting online child sexual abuse material that has not been used by any provider in relation to services provided to users of number-independent interpersonal communications services ('users') in the Union before 2 August 2021, the provider reports back to the competent authority on the measures taken to demonstrate compliance with written advice issued in accordance with Article 36(2) of Regulation (EU) 2016/679 by the competent supervisory authority designated pursuant to Chapter VI, Section 1, of that Regulation ('supervisory authority') in the course of the prior consultation procedure;

Or. en

(Regulation (EU) 2021/1232)

Amendment 29

Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 c (new)

Regulation (EU) 2021/1232

Article 3 – paragraph 1 – point f

Present text

Amendment

Article -1c

In Article 3, paragraph 1, point (f) is deleted

(f) the technologies used to detect patterns of possible solicitation of children are limited to the use of relevant key indicators and objectively identified risk factors such as age difference and the likely involvement of a child in the scanned communication, without prejudice to the right to human

"

Or. en

(Regulation (EU) 2021/1232)

Amendment 30
Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 d (new)

Regulation (EU) 2021/1232

Article 3 – paragraph 1 – point g – point iii

Present text

(iii) ensure that material not previously identified as online child sexual abuse material, ***or solicitation of children***, is not reported to law enforcement authorities or organisations acting in the public interest against child sexual abuse without prior

Amendment

Article -1d

In Article 3, paragraph 1, point (g)(iii) is replaced by the following:

"(iii) ensure that material not previously identified as online child sexual abuse material, is not reported to law enforcement authorities or organisations acting in the public interest against child sexual abuse without prior human confirmation;

Or. en

(Regulation (EU) 2021/1232)

Amendment 31
Sophia in 't Veld, Jana Toom

Proposal for a regulation

Article -1 e (new)

Regulation (EU) 2021/1232

Article 3 – paragraph 1 – point g – point iii – point 4

Present text

(4) the number of cases of online child sexual abuse identified, ***differentiating between online child sexual abuse material and solicitation of children***;

Amendment

Article -1e

In Article 3, paragraph 1, point (g)(iii)(4) is replaced by the following:

"(4) the number of cases of online child sexual abuse identified;

Or. en

Amendment 32

Karolin Braunsberger-Reinhold

Proposal for a regulation

Article 1 – paragraph 1

Regulation (EU) 2021/1232

Article 10 – second subparagraph

Text proposed by the Commission

It shall apply until 3 August **2026**.

Amendment

It shall apply until 3 August **2027**.

Or. en

Amendment 33

Paul Tang, Alex Agius Saliba

Proposal for a regulation

Article 1 – paragraph 1

Regulation (EU) 2021/1232

Article 10 – second subparagraph

Text proposed by the Commission

“It shall apply until **3 August 2026**.”

Amendment

“It shall apply until **17 January 2025**.”

Or. en

Justification

With the advent of end-to-end encrypted communication, most voluntary measures deployed by online service providers to combat child sexual abuse online rendered ineffective. As this stresses the need for a permanent framework and as the European Parliament already adopted a position on the long-term legal framework, supported by a vast majority of the parliament, an agreement between co-legislators is within reach.

Proposing an extension of the e-Privacy derogation for precisely six months after the new European Parliament's inauguration provides co-legislators with ample time to facilitate thorough discussions and enough time for effective implementation.

Amendment 34

Sophia in 't Veld, Jana Toom, Hilde Vautmans

Proposal for a regulation
Article 1 – paragraph 1
Regulation (EU) 2021/1232
Article 10

Text proposed by the Commission

It shall apply until 3 ***August 2026***.

Amendment

It shall apply until 3 ***May 2025 and shall not be further prolonged after this date***.

Or. en