

Request for a report
as per Art. 23e para. 3 B-VG

of the members of parliament Mag. Carmen Jeitler-Cincelli, BA, Katharina Kucharowits, Süleyman Zorba, MMag. Katharina Werner, Bakk.

Colleagues,

regarding

TOP 1 COM (2022) 209 final Proposal for a Regulation of the European Parliament and of the Council establishing rules on preventing and combating the sexual abuse of children (109099/EU XXVII.GP)

tabled at the meeting of the Permanent Subcommittee on European Union Affairs on 03.11.2022

The European Commission presented a draft regulation on 11.5.2022, according to which hosting providers and providers of communication services, access providers and app store operators must provide measures to mitigate the risk of misuse of their services for the dissemination of child sexual abuse material and for initiating contact with minors ("grooming").

There is an urgent need to protect children from sexualized violence and child pornography and to take swift and effective action against crimes on the Internet. However, the present draft is criticized both by civil rights organizations,¹ the EU data protection authorities, and by child protection organizations, such as the German Children's Association. In particular, the European Data Protection Supervisor and the European Data Protection Board² rightly expressed particular concern about the necessity and proportionality of the planned detection measures when it comes to measures designed to detect unknown child sexual abuse material and grooming in interpersonal communications services. The Council's Legal Service has been tasked with examining whether the order for detection in interpersonal communications is proportionate.

1 In an open letter on 8/6/2022, 114 organizations urged the Commission to withdraw the bill, <https://edri.org/wp-content/uploads/2022/06/European-Commission-must-uphold-privacy-security-and-free-expression-by-withdrawing-new-law-German-translation.pdf>.

2 Joint Opinion of the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS), 28 July 2022, available at https://edps.europa.eu/system/files/2022-07/22-07-28_edpb-edps-joint-opinion-csam_en.pdf.

The draft interferes with the right to data protection, the right to privacy and protection of family life, and the confidentiality of communications of all citizens. It is therefore essential that the proposal be redrafted in a proportionate manner in terms of fundamental rights, and of course it must fully comply with the case law of the European Court of Justice. It must therefore be redrafted in a way that complies with fundamental rights, so that, in line with the current legal situation, no general monitoring obligations are introduced for online platform operators regarding the content of their users, and confidential, in particular end-to-end encrypted, communication on the Internet between users is preserved. The necessary conformity with fundamental rights also applies in particular to the subsequent technical design, even if the draft was formulated in a technology-neutral manner.

Particular attention should also be paid to communications that require special protection, such as those between victims of abuse and aid organizations, as well as journalists, doctors, legal counsel and whistleblowers.

It would also be desirable to have stronger coordination at the European level with regard to contact and emergency call options for affected children, assistance and care measures, and the networking of the responsible authorities.

The undersigned members of parliament therefore submit the following

Request for a statement as per Art. 23e para. 3 B-VG

“The Austrian Federal Government, in particular the responsible Federal Minister of the Interior, the Federal Minister of Justice and the Federal Minister for Women, Family, Integration and Media are requested to continue at the European level to

- advocate for the development and enhanced EU-wide harmonization and coordination of appropriate, effective and fundamental rights compliant measures to protect against child abuse and grooming online and offline; and
- in the context of the negotiations for a regulation establishing rules for preventing and combating sexual abuse of children (COM(2022) 209 final), to actively advocate for ensuring that this regulation is designed in conformity with fundamental rights and to approve the said regulation only if it is ensured

that it is redrafted in conformity with fundamental rights – in the sense of this report.”

The dossier in question is aimed at enacting a binding legal act that would affect the enactment of federal (constitutional) laws.