

AGF comments

**The current discussion on measures proposed by
the European Commission to prevent and combat
the sexual abuse of children on the internet**

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INTRODUCTION AND BACKGROUND

Combating child sexual abuse (CSA) is an important objective of the EU. In this connection, the Internet as an environment in which children spend a great deal of time poses a particular challenge. The prevalence of child sexual abuse in Europe is difficult to determine, not least because many cases go unreported. Estimates and studies assume that in Europe, about 10-20% of children up to the age of 18 are exposed to sexual abuse. Girls seem to be affected significantly more often than boys.¹ Estimates are even more difficult with regard to the internet as a space for abuse. This includes, among other things, the distribution of abusive images and videos, as well as grooming (initiation of sexual contacts with minors). EUROPOL's European Cybercrime Centre (EC3) assumes that the number of online cases of abuse is continuing to increase.² Child sexual abuse material is distributed on more than 517,000 pages on the internet worldwide.³

Despite its efforts to date, the EU is clearly failing to protect children from becoming victims of online sexual abuse. The existing regulations, which are primarily based on voluntary detection and reporting by the service providers, have proven to be inadequate to combat the spread of child sexual abuse material online. However, certain welcome efforts have been made to improve this situation. For example, the rules of the Digital Services Act (DSA) have been applicable to all online platforms since February 2024 and already contain a wide range of measures designed to ensure greater child protection. In Germany, some steps have already been taken to implement the DSA, and these need to be followed up.

In May 2022, the EU Commission proposed the European Child Sexual Abuse Regulation (CSA-R), "to prevent and combat child sexual abuse", which includes several components.⁴ The aim of the CSA-R is to prevent the sexual abuse of children online (including cyber grooming), to detect, report and prosecute the perpetrators of sexual abuse of children online and to support the victims. The occasion for the proposal was the end of exemption from the ePrivacy Directive, which currently allows providers to voluntarily scan unencrypted interpersonal communications. There is a legitimate concern that, without a permanent replacement for the exemption, a large number of images, films and texts depicting child abuse and thus potential clues to perpetrators will go undetected.

This proposal is currently the subject of debate at both European and national level. The measures for detecting and removing child sexual abuse material (CSAM) are particularly controversial, as these could, depending on their form, represent a fundamental and serious invasion of privacy. The discussion is taking place under great pressure. This is reflected, for example, in the fact that the debate in Germany has so far been dominated by the term "chat control", while other aspects of the proposal have received less attention and the actual intention of the proposal has been pushed into the background.

ACCESS OF FAMILY ORGANISATIONS TO THE TOPIC

The German family organisations have addressed the issue both as individual associations and jointly in the AGF. The AGF is involved in various debates based on its discussion paper "Digital change and its impact on families". It is a member of the advisory board of the Federal Centre for Child and Youth Media Protection (BzKJ). As a member of and in cooperation with COFACE Families Europe (the European umbrella association of family organisations), it has participated in various expert discussions. In February 2024, at the invitation of AGF and COFACE, 25 experts from various perspectives engaged in a hybrid European expert discussion of the aims, content and next steps of the current Commission proposal.⁵

¹ For example: WHO (2013): <https://iris.who.int/bitstream/handle/10665/326375/9789289000284-eng.pdf>; for Germany see Jud & Kindler (2019): https://www.comcan.de/fileadmin/downloads/200917_UBSKM_Expertise_V4.pdf. See also: https://www.pedocs.de/volltexte/2021/22304/pdf/Andresen_Tippelt_2018_Sexuelle_Gewalt_in_Kindheit_und_Jugend.pdf sowie Brunner et al. (2021): <https://link.springer.com/content/pdf/10.1007/s00103-021-03434-6.pdf>.

² <https://www.europol.europa.eu/cms/sites/default/files/documents/Internet%20Organised%20Crime%20Threat%20Assessment%20IOCTA%202024.pdf>.

³ 517.000 Webpages including CSA-Material (2023): <https://www.inhope.org/EN/the-facts>, 275.652 CSA-pages in other countries and therefore additional (2023): <https://www.iwf.org.uk/annual-report-2023/trends-and-data/reports-analysis/>.

⁴ <https://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=CELEX:52022PC0209>.

⁵ <https://ag-familie.de/en/16-february-meeting-on-the-csa-regulation-proposed-by-the-european-commission/>

The family organisations share the concern about the threat of sexual abuse in digital media. They are calling for these threats to be taken seriously and placed at the centre of considerations. The associations see it as essential task to focus the debate on the actual core of the objectives and to take the heat out of the debate, with its exaggerated polarisation between data protection and child protection, in the interests of children and their families.

In this context, the family organisations point out that the rights of the child are multifaceted. They include not only the right to protection but also the rights to participation and privacy, among others. These rights must be taken seriously and well balanced in considering measures affecting children and their families. Where there are any contradictions, questions may arise, for example: how much loss of privacy are we prepared to accept in order to achieve how much additional protection for children from sexual abuse?

Politicians have a great responsibility to protect children and young people when using digital media and technologies. This also applies to the providers of digital media and technologies. Many of their business models are geared towards high usage of their services by these target groups, but at the same time they too often deny responsibility for the dangers of usage. Without the companies, however, it will not be possible to achieve significant protection. From the parents' point of view, though, self-regulation and self-control measures have had only a limited effect to date, although they offer at least some protection. It therefore made sense to extend the exception to the ePrivacy Directive until a final regulation is adopted. However, this does not alter the need to replace them in the long term with comprehensive and holistic regulations that include further measures to protect children and young people.

Families need support during the process of digital transformation and, in particular, in protecting vulnerable family members from the risks of this development. It must be recognised that families have different circumstances in which to cope with these risks. Even in the debate on a predominantly regulatory proposal, it is also important for the family associations to emphasise that general measures to improve skills in dealing with digital media, preventive services to avoid sexual abuse and specific counselling for children and families are of central importance. Children must be informed about possible sexual abuse on the Internet and cyber grooming at an early stage and in a competent manner. This includes, among other things, enhancing the self-esteem of children and young people and asking them what safety rules they need to follow to protect themselves from such attacks or what to do if an offence has already occurred. Numerous organisations already offer services aimed at families, children and young people, parents and professionals. These need to be further supported and expanded.

Nevertheless, demanding more and more digital skills from families and end users and thus unilaterally transferring responsibility for protection from digital risks to families is not the solution. Protecting children and young people from CSA is a joint task for families, educational and care institutions, business, politics and administration. This also applies to supporting victims in coping with the consequences and protecting them from secondary victimisation through the dissemination of images and videos. The family organisations therefore welcome the European Commission's initiative.

COMMENTS ON SPECIFIC ASPECTS OF THE PROPOSAL

The European Commission's proposal for a regulation now includes an obligation for online service providers to search for, detect and remove child and adolescent sexual abuse material (CSAM) and to take measures against cyber grooming, as well as the establishment of an EU centre for the coordinated fight against child and adolescent sexual abuse.

Achieving a balance between privacy and the protection of the child

One highly controversial aspect of the proposals is achieving a balance between the right to privacy and child protection. Under the heading of "chat control", the Commission is heavily criticised for basically wanting to more or less get rid of privacy. The Commission and numerous child protection organisations point out that, on the one hand, an order to intrude on privacy is based solely on a decisions making process made by various democratically authorised institutions such as the police, courts and public prosecutors and is therefore only a last resort. They argue, that when reaching this final resort, child protection takes precedence in the final analysis.

The aim of the proposals is to protect the child. In recent months, from the perspective of family organisations, critics of the European Child Sexual Abuse Regulation (CSA-R) have focused exclusively on the controversial topic of "chat

control". This suggests that the European Commission's actual aim is to remove the right to privacy and that child protection is merely being used as a means to that end. In the view of family organisations, the attempted delegitimisation of initiatives to combat the sexual abuse of children in the digital space does not fulfil the responsibility that society has towards children and young people.

Conversely, the right to privacy is also a valuable asset for family organisations. The AGF acknowledges that the current proposals provide for constitutional procedures to deal with invasions of privacy, which are to be carried out and monitored by democratically legitimised institutions. Nevertheless, the question arises as to whether a door is being opened that can also be used by, for example, other, less democratic regimes with less well-regulated processes. The AGF is therefore in favour of a very cautious approach to personal and data protection rights and warns against prematurely brushing this argument aside in the supposed interests of child protection. Pushing it aside in this way neither recognises the importance of personal rights adequately nor helps the discussion on how to combat CSA appropriately. The AGF emphasises that a restriction of privacy should be possible only in a narrowly defined area of application and to a very limited extent and only if there is an overriding expected benefit in terms of child protection. This does not appear to be the case, for example, if encryption is essentially abolished.

The AGF regrets that the discussion about the best measures has escalated to the point where the goal of protecting children from real dangers has been lost sight of. A balanced discussion is needed to assess the measures equally in terms of their effectiveness and their possible side effects.

Cyber grooming and the initiation of sexual abuse of children and adolescents

In cyber grooming, an adult makes contact with children or young people in order to gain their trust and later persuade them to engage in sexual behaviour. In addition to combating CSAM, the EU Commission's original proposal also addressed cyber grooming. However, this has been removed in the current attempts to reach a compromise. In addition to the need to combat cyber grooming as a problem in its own right, it should also be noted that this is often the first step towards CSA. The main aim must be to prevent CSA from occurring in the first place or to tackle it at the earliest possible stage, i.e. as soon as it is initiated. However, as cyber grooming is a growing problem for children and young people that urgently needs to be solved, there is no justification for deleting it from the proposal. Cyber grooming should be reintroduced in a final regulation and, in particular, combated in the early initiation phase.

The family associations are in favour of treating the communication worlds in which children and young people move in a differentiated manner. The initiation of sexual abuse of children and young people mostly starts in (semi-)public networks or in the chat areas of games. This should thus be the starting point for the fight back, and providers of these services should be obliged to implement effective protections, which should be of a higher standard than those that exist directly between individuals and within the family. This means differentiating digital living environments according to the degree of public and adapting protective measures and privacy restrictions accordingly. This also involves developing ways to protect children from having contacts transferred from the (semi-)public sphere to the private sphere.

Utilisation of technology







The Commission's proposals are notable for a very optimistic view of the use of technology. It assumes that, with the help of artificial intelligence, it will already be possible to recognise CSAM and grooming relatively easily, reliably and with relatively few false alarms, and will undoubtedly be more so in the future. Whether and to what extent this is actually the case at present is disputed among experts. However, it is clear that technologies, and AI-based technologies in particular, will, in future, play a key role in combating CSAM. The AGF is concerned about the current attempts by tech companies to gain monopoly-like positions in this area and thus subvert an open choice between competing approaches and providers. The EU Commission rightly emphasises the need for technological openness. The AGF calls for a high level of transparency and sensitivity to be established here. The protection of children and young people must not be linked to profit-oriented companies and their non-transparent technologies. Control over child protection must lie with the democratically authorised European institutions and corresponding transparent processes.

Establishment of an EU centre for the coordinated fight against sexual abuse

The Commission proposal provides for the establishment of an EU centre for the coordinated fight against sexual abuse of children and adolescents. This is primarily intended to 1. carry out a risk assessment; 2. support the detection of CSAM and grooming through a mandatory database with indicators of a non-exhaustive list of detection technologies; 3. support the reporting system, including by filtering out obvious false positives and providing feedback; 4. support the removal of CSAM, 5. provide assistance to victims and 6. support cooperation between the coordinating authorities and their knowledge building.

The establishment of such an authority makes sense, as there is currently no coordinated European organisation monitoring the detection, analysis and removal of CSAM in Europe. The EU is currently dependent on reports from the national agency in the USA when it comes to recognising CSAM. A coordinating body at European level is necessary and would complement the existing international institutions in the area of child protection on the Internet. This also applies in particular to the aim of supporting victims of sexual abuse. For the centre to work successfully, however, it must enjoy a high level of trust among the institutions and the population. This requires adequate staff, budget and independence from other institutions. At the same time, the centre must forge a very close and trusting way of working with other stakeholders, such as Europol. The perspective of those affected must also be properly taken into account. The planned establishment of a corresponding committee is a good start.

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-  Verband binationaler Familien und Partnerschaften e.V. (iaf)
-  Zukunftsforum Familie e.V. (ZFF)

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AGF targets to strengthen the perspective of the families within in the political and scientific debates and builds strong bridges between policy makers, NGOs, researches and other organisations and experts. On national and on European and international level AGF is active in several networks on family policy and family developments.

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