



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2012/2068(INI)

25.7.2012

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Culture and Education

on protecting children in the digital world
(2012/2068(INI))

Rapporteur: Anna Hedh

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Points out that a new stage of protecting the rights of the child in the EU framework started with the entry into force of the Treaty of Lisbon together with the now legally binding Charter of Fundamental Rights of the European Union, whose Article 24 defines the protection of children as a fundamental right and provides that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration; reiterates the need for the EU to fully respect the standards of those international instruments to which the EU as such is not a party, as called for by the European Court of Justice in Case C-540/03, *European Parliament v. Council*;
2. Urges the Member States to smoothly and timely transpose and implement Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography; calls on the Member States to ensure the maximum harmonisation of their efforts in the area of the protection of minors in the digital world;
3. Reiterates its call on Member States to sign and ratify, if this is not the case yet, the international instruments on the protection of children, for example the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the Third Optional Protocol to the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights, and to transpose those instruments employing the necessary legal certainty and clarity as demanded by the EU legal order; stresses the need for children's rights to be mainstreamed across all EU policy areas, by analysing the impact of measures on the rights, safety, and physical and mental integrity of children, and that this must include Commission proposals regarding the digital world, drafted in a clear form; stresses that digital literacy, digital skills and safe internet use must be maintained as a priority of European social policy;
4. Points out that the internet provides children and young people with immensely valuable tools which can be used to express or assert their views, access information and learning and claim their rights, as well as being an excellent tool of communication, providing opportunities of openness to the world and personal growth; stresses, nonetheless, that the online environment and social media sources pose substantial potential risks to the privacy and dignity of children, who generally use the internet with great ease but are also among its more vulnerable users; recalls that the internet also exposes children to risks, through phenomena such as child pornography, exchange of material on violence, cybercrime, intimidation, bullying, grooming, children being able to access or acquire legally restricted or age-inappropriate goods and services, exposure to age-inappropriate, aggressive or misleading advertising, scams, identity theft, fraud and similar risks of a financial nature that can originate traumatic experiences;
5. Stresses that only a comprehensive combination of legal, technical and educational measures, including prevention, can adequately address the dangers that children face

online, and enhance the protection of children in the online environment; in this regard, urges the Member States and the Commission to take appropriate measures, including actions via the internet, such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations, families, schools, audiovisual services, industry and other stakeholders, aimed at raising awareness and reducing the risk of children, becoming victims of the internet;

6. Supports, in this connection, Member States' efforts to promote systematic education and training for children, parents, educators, schoolteachers and social workers aimed at enabling them to understand the digital world, identify those dangers which could harm the physical or mental integrity of children, reducing risks related to digital media, and to provide information concerning reporting points and how to deal with child victims; points out at the same time that children need to understand that their own use of digital technology may impinge on the rights of others or even constitute criminal behaviour;
7. Stresses the challenges that criminal law is faced with as regards its operation in the online environment in relation to the principles of legal certainty and legality, the presumption of innocence, the rights of the victim and the rights of the suspect; points out, in this regard, the challenges that have arisen in the past regarding provision of a clear definition, as in the cases of online grooming and child pornography – preferably termed ‘child sex abuse material’;
8. Emphasises that special attention has to be given to online marketing of harmful substances such as alcohol which reaches young people; points out that owing to the nature and scope of online marketing methods, for example through social networks, the online marketing of alcohol is very difficult to monitor for individual Member States, and that action by the Commission would therefore provide added value in this respect;
9. Calls on the Commission, therefore, to collect, in the framework of its reporting obligation on the transposition of Directive 2011/92/EU, exact and clear data on the crime of online grooming, including precise identification of the national provisions criminalising such behaviour; calls on the Member States and the Commission to collect data on this crime relating to the number of criminal proceedings taken out, the number of convictions and important national case-law, and to exchange best practice as regards its prosecution and punishment; also calls on the Commission to greatly improve the development and publication of statistical information, so as to enable better policy development and review;
10. Recognises, in this regard, the high level of cooperation existing between police and judicial authorities in the Member States, as well as between them and Europol and Eurojust as regards criminal acts perpetrated against children with the help of digital media, an example being the 2011 ‘Icarus’ crackdown targeting online child sex abuse file-sharing networks; stresses, however, that further improvement could be achieved in connection with further harmonisation of the criminal law and criminal procedures of the Member States, including the procedural and data protection rights of suspects and respect for fundamental rights based on the EU Charter, given the existing barriers to full cooperation and mutual trust; stresses, however, that proposals for material EU criminal

legislation must fully respect the principles of subsidiarity and proportionality, as well as the general principles governing criminal law, and must clearly demonstrate that they aim to bring added value in a common EU approach to combating serious crossborder crime, as referred to in Parliament's resolution of 22 May 2012 on an EU approach to criminal law¹;

11. Invites the Commission and the Member States to make all efforts to strengthen cooperation with third countries as regards the prompt deletion of web pages containing or disseminating illegal content or behaviour hosted in their territory, as well as the fight against cybercrime; encourages, in this regard, the international sharing of expertise and best practice and pooling of ideas between governments, law enforcement agencies, police units specialised in cybercrime, hotlines, child protection organisations and the internet industry;
12. Calls, in this connection, for the full adoption of all the measures indicated in the 2009 Council Roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings, as well as for a common approach to admissibility and assessment, in order to remove barriers to the free circulation of evidence gathered in another Member State;
13. Supports the introduction and strengthening of hotline systems for reporting crimes and illegal content and conduct, taking into account, inter alia, the experience with the European hotline for missing children, as well as with national rapid alert systems and the European Child Alert Automated System; stresses, however, that any immediate criminal action based on reporting has to strike a balance between, on the one hand, the rights of the potential victims and the positive obligation under Articles 2 and 8 ECHR of the Member State to react, as already emphasised in the jurisprudence of the ECHR, and, on the other hand, the rights of the suspect; calls, in this connection, on the Member States and the Commission to undertake an exchange of best practice as regards the investigation and prosecution of criminal acts against children in the digital world; recalls that Article 8 of the Commission proposal for a general Data Protection Regulation (COM(2012)0011) contains specific safeguards for the processing of personal data of children, such as mandatory parental consent for the processing of data of children under the age of 13;
14. Highlights the role of the private sector and industry, besides other stakeholders, as regards their responsibility, in relation to issues such as aggressive and misleading TV and online advertising aimed at minors, child-safe labelling for web pages, and promotion of 'netiquette' for children; stresses that any such measures should be fully compatible with the rule of law and with legal certainty, take account of the rights of end-users, and comply with existing legal and judicial procedures, as well as with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union, and ECJ and ECtHR case-law; calls on the industry to respect and fully implement the existing codes of conduct and similar initiatives, such as the EU pledge and the Barcelona Declaration of the Consumer Goods Forum;
15. Reiterates the importance of data protection for children, especially as regards the rapid

¹ Texts Adopted, P7_TA-PROV(2012)0208.

growth of social networking media and chat rooms, given the increasing flow and accessibility of personal data through digital media; welcomes the new proposed Data Protection Regulation (COM(2012)0011) and its special provisions on children's consent and the right to be forgotten, recalling that the permanence of internet information and data related to children can be misused to the detriment of their dignity and social inclusion; emphasises that these provisions need to be clarified and developed in a way that ensures that they are clear and fully operational once the new legislation is adopted and do not undermine internet freedom;

16. Believes, in this regard, that owners and administrators of web pages should indicate in a clear and visible way their data protection policy and should provide for a system of mandatory parental consent for the processing of data of children under the age of 13; calls also for more efforts to be made to enhance privacy by default as much as possible, so as to avoid the secondary victimisation of children;
17. Welcomes the Commission's intention of setting up a European Cybercrime Centre to fight online crime, and believes that the protection of children must constitute a priority among this centre's activities and tasks.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	10.7.2012
Result of final vote	+: 56 -: 0 0: 2
Members present for the final vote	Jan Philipp Albrecht, Roberta Angelilli, Edit Bauer, Mario Borghezio, Rita Borsellino, Emine Bozkurt, Arkadiusz Tomasz Bratkowski, Simon Busuttil, Philip Claeys, Carlos Coelho, Ioan Enciu, Frank Engel, Cornelia Ernst, Monika Flašíková Beňová, Hélène Flautre, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Lívia Járóka, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Svetoslav Hristov Malinov, Véronique Mathieu, Anthea McIntyre, Anthea McIntyre, Louis Michel, Claude Moraes, Georgios Papanikolaou, Carmen Romero López, Rui Tavares, Nils Torvalds, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Josef Weidenholzer, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra
Substitute(s) present for the final vote	Elena Oana Antonescu, Anna Maria Corazza Bildt, Leonidas Donskis, Dimitrios Droutsas, Mariya Gabriel, Monika Hohlmeier, Ádám Kósa, Marek Henryk Migalski, Raül Romeva i Rueda, Kārlis Šadurskis, Michèle Striffler
Substitute(s) under Rule 187(2) present for the final vote	Zita Gurmai, Nadja Hirsch, Elisabeth Jeggle, Petra Kammerevert