

European Network of Ombudspersons for Children (ENOC)

Open Letter on the temporary derogation to the ePrivacy Directive to combat child sexual exploitation and abuse

February 2021

We, the European Network of Ombudspersons for Children (ENOC), strongly calls on the European Parliament and the Council of the EU to adopt the European Commission's proposed [temporary derogation](#) to the ePrivacy Directive, which would enable tech firms to continue to legally use established tools to detect child sexual exploitation and abuse (CSEA).

We were deeply disappointed that the decision to agree the derogation was postponed last year, at which point proactive child protection tools were turned off across several major social media and messaging platforms.

Established CSEA scanning tools are critical in the global fight against child exploitation. These technologies enable service providers to eradicate existing abuse material from their platforms, shield endangered children from exploitation by identifying patterns of grooming, and support law enforcement to investigate and prosecute criminals who exploit children. In 2019 alone, over 69.1 million images, videos and files containing suspected child abuse were reported to the US National Centre for Missing and Exploited Children (NCMEC). Over 3 million of these files originated from offenders in the EU – a detection rate of roughly 250,000 files per month¹.

However, since the new provisions of the European Electronic Communication Code came into force on 21st of December, reports to NCMEC have fallen by 46%² - leaving thousands, potentially tens of thousands of children, without protection from sustained abuse.

As independent Commissioners and Ombudspersons for Children representing children's rights in countries across Europe, we are deeply concerned about the implications of this drop in reporting. Under the UN Convention on the Rights of the Child, children have the right to survival and development [Article 6] and the right to protection from sexual abuse and exploitation [Article 34]. It is the responsibility of national and European governments to ensure that children's rights are respected in the digital environment and that children are protected from sexual offenders³.

The solution to adopt the interim derogation is simple, but time is against us. **We urge you to agree on the temporary derogation with utmost urgency to restore the *status quo* prior to 21 December, effectively allowing the continuation of current practices to detect known and new child sexual abuse material, as well as grooming. No child should be left victim to the unintended consequences of a legislation.**

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<https://www.missingkids.org/content/dam/missingkids/pdfs/NCMEC%20letter%20to%20EU%20Parliament%20Members.pdf>

² <https://www.missingkids.org/blog/2020/we-are-in-danger-of-losing-the-global-battle-for-child-safety>

³ <https://www.ohchr.org/EN/HRBodies/CRC/Pages/GCChildrensRightsRelationDigitalEnvironment.aspx>