European Parliament: Combating Child Pornography on the Internet

IRIS 2000-5:1/4

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On 7 December 1999, the Council of the European Union consulted the European Parliament on the initiative of the Republic of Austria (see IRIS 2000-1: 5) with a view to adopting a Council Decision to combat child pornography on the Internet (10317/1999 - 1999/0822 (CNS)). The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, responsible for the drafting of the Report appointed Timothy Kirkhope as rapporteur. At its meeting of 22 March it adopted a draft legislative resolution on the Austrian initiative included in the Report, which also has attached the opinions of the Committee on Culture, Youth, Education, the Media and Sport and the Committee on Legal Affairs and the Internal Market.

On 10 April 2000, an overwhelming majority of the European Parliamentarians adopted this resolution.

The main points of the Austrian proposal concern the support of enforcement authorities in screening the Internet for child pornography material, the acceleration of enforcement actions, the setting up of units with specialised personnel, enhanced co-operation in law enforcement and technological developments, adaptation of criminal procedural law to technological developments (see IRIS 2000-1: 5), routine information of Europol on relevant developments, review of effectiveness of Member States' measures with regard to combat trafficking in human beings and the sexual exploitation of children (97/154/JHA)

The Report welcomes the Austrian draft decision but introduces a series of modifications to it. Instead of a Council Decision, the Resolution proposes a framework decision according to Article 34(2)(b) of the Treaty on European Union. Furthermore, it suggests defining in the text of the Resolution the actual offence of child pornography as "exploitative use of children in pornographic performances and materials, including the production, sale and distribution or other forms of trafficking in such materials and participation in or attempt to commit them, with the exception of possession", and that Member States take the necessary measures to ensure that this offence is punishable by effective, proportionate and dissuasive penalties. The statutory definition should cover not only the production of pornographic performances using children but also

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pornographic depictions of other persons who only appear to be children, and also virtual pornographic material such as montage or computer generated pictures. The possession of pornographic material should not be considered an offence, unless it has been acquired consciously or even deliberately, or is deliberately retained. The age limit should be set at 16-years.

The Member States should be obliged to set up specialised units within the law enforcement authorities and contact points manned around the clock by qualified staff. The Report also proposes the setting up of national legal bases allowing the law enforcement authorities, subject to respecting fundamental rights and the provisions of the Data Protection Directive, to systematically scan the Internet in order to track down child pornographic material.

The Report welcomes the encouragement of international co-operation included in the draft decision, which should be as swift and direct as possible. This co-operation should not be limited to the Member States, but should be extended as soon as possible to the candidate countries. The report attaches considerable importance to the co-operation with Europol and, in this context, proposes that the Member States keep registers in standard form listing all persons convicted of child pornography or other forms of child abuse and make these accessible to all Member States and Europol. The report favours this proposal over a central register at Europol headquarters.

Report on the initiative of the Republic of Austria with a view to adopting a Council Decision to combat child pornography on the Internet (10317/1999 -C5-0318/1999-1999/0822(CNS)). Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, Rapporteur: Timothy Kirkhope. Final A5-0090/2000.

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A5-2000-0090+0+DOC+PDF+V0//EN&language=EN

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