Parliamentary Assembly: Resolution and Recommendation on Combating Child Abuse Images

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On 5 October 2011, the Council of Europe's Parliamentary Assembly adopted Resolution 1834 (2011) and Recommendation 1980 (2011), both aimed at "combating 'child abuse images' through committed, transversal and internationally co-ordinated action." The two policy initiatives are addressed to the Council of Europe Committee of Ministers (Recommendation) vis-à-vis its member states (Resolution) and largely overlap content-wise.

Apart from the "dark" nature of child abuse (Resolution, para. 2), the Parliamentary Assembly is "very concerned about the high prevalence of such crimes, [...] the way in which they are facilitated by the Internet" (Resolution, para. 2) and it's "multiplier" effect in inciting new crimes (Resolution, para. 4). Therefore, it recommends taking a "strong position" towards combating sexual abuse images (Recommendation, para. 1). At the same time, the Parliamentary Assembly is aware of the complexity of this endeavour, amongst others because of the attribution problem: "due to the anonymity on the internet, it is extremely difficult to uncover and to effectively prosecute offenders, and to identify and help victims" (Resolution, para. 2).

The contents of the two texts largely overlap, with some subtle but important differences. For instance, both documents call for adding mandatory criminalisation of "intentional consultation" of child abuse images to the Lanzarote Convention (Rec., para. 5.2; Res., para. 8.1.3 jo. para. 5), support public awareness programmes such as the Council's One in Five campaign (Rec., para. 5.4; Res., para. 8.3.3) and generally call for a uniform approach towards the policy area across the Council of Europe (Rec., para. 3 & para. 5.5; Res., para. 8.1).

The slight differences between the two texts reveal the Recommendation's greater ambition. In the Resolution the Parliamentary Assembly expresses "regret" that the "mandatory character of website blocking ...[had] not found its way into the final European Union draft directive" (Res., para. 5) and proposes blocking "when appropriate" (Res., para. 8.2.2). In the Recommendation however, the adoption of "mandatory blocking" in an additional protocol to the Lanzarote Convention (Rec., para. 5.2) is advised. Regarding legal responsibility for internet intermediaries, the Recommendation strives to achieve this through intergovernmental work (para. 5.3), while the Resolution opts for dialogue with and self-regulation by these stakeholders (Res., para. 8.2.3 & para. 7). Given the

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concerns of the European Parliament and certain member states about the legitimacy and effectiveness of mandatory blocking, which led to the exclusion of such a provision in the European Union directive, and increasing awareness of the limits of self-regulation in the European Parliament with regard to legality, it will be interesting to see how the Committee of Ministers responds to the Parliamentary Assembly Recommendation.

Resolution 1834 (2011) on combating "child abuse images" through committed, transversal and internationally co-ordinated action

http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1834.htm

Recommendation 1980 (2011) on combating "child abuse images" through committed, transversal and internationally co-ordinated action

http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/EREC1980.htm

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