


# Procedure file

Basic information	
CNS - Consultation procedure Decision	1999/0822(CNS)
Procedure completed	
Combat child pornography on the Internet. Initiative Austria	
Subject 3.30.16 Ethical information policy 4.10.03 Child protection, children's rights 7.30.30.02 Action to combat violence, trafficking in human beings and migrant smuggling	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Citizens' Freedoms and Rights, Justice and Home Affairs		17/01/2000
		PPE-DE <a href="#">KIRKHOPE Timothy</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>JURI</b> Legal Affairs and Internal Market		11/01/2000
		PPE-DE <a href="#">CEDERSCHIÖLD Charlotte</a>	
	<b>CULT</b> Culture, Youth, Education, Media and Sport		27/01/2000
		PSE <a href="#">PRETS Christa</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2266</a>	29/05/2000

Key events			
30/07/1999	Legislative proposal published	<a href="#">10317/1999</a>	Summary
13/12/1999	Committee referral announced in Parliament		
22/03/2000	Vote in committee		Summary
22/03/2000	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0090/2000</a>	
10/04/2000	Debate in Parliament		
11/04/2000	Decision by Parliament	<a href="#">T5-0139/2000</a>	Summary
29/05/2000	Act adopted by Council after consultation of Parliament		
29/05/2000	End of procedure in Parliament		

Technical information	
Procedure reference	1999/0822(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the European Union (after Amsterdam) M 034-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/12309

Documentation gateway					
Legislative proposal		<a href="#">10317/1999</a> <a href="#">OJ C 362 16.12.1999, p. 0008</a>	30/07/1999	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0090/2000</a> <a href="#">OJ C 040 07.02.2001, p. 0006</a>	22/03/2000	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0139/2000</a> <a href="#">OJ C 040 07.02.2001, p. 0020-0041</a>	11/04/2000	EP	Summary

Additional information	
European Commission	<a href="#">EUR-Lex</a>

Final act
Non-binding act 2000/375 <a href="#">OJ L 138 09.06.2000, p. 0001</a> Summary

## Combat child pornography on the Internet. Initiative Austria

**PURPOSE** : to combat child pornography on the Internet. **CONTENT** : in order to combat the sexual exploitation of children and, in particular, the production, processing, distribution and possession of child pornography material on the Internet, the Council proposes, on the initiative of Austria, a decision aiming to reinforce preventative measures and the fight against this type of practice. The objective is that these offences are effectively detected and curbed by encouraging Internet users to inform law enforcement authorities on suspected distribution of child pornography material. In order to guarantee that these offences are effectively suppressed, the Austrian initiative suggests the setting up within law enforcement agencies of specialised units with the necessary expertise and resources to be able to deal swiftly with information on the suspected production, processing, distribution and possession of child pornography. The proposal for a decision also stresses the reinforcement of the cooperation between the Member States to facilitate the effective investigation and prosecution of offences concerning child pornography on the Internet in accordance with existing arrangements and agreements. In addition, it proposes the Member States will communicate already established points of contact, which are set up on a 24/24 hour basis and consist of knowledgeable personnel, as well as the specialised units which can be used for exchange of information and for further contacts between Member States. Points of contact, which Member States have already set up for other duties could also be used for these purposes. EUROPOL shall also be kept informed of suspected cases of child pornography. Furthermore, provisions will be provided for to invite the Member States to take necessary measures, including some at legal level, with the purpose of eliminating child pornography on the Internet. The idea would be to oblige Internet providers to advise the competent entities of child pornography material about which they have been informed of or which they are aware and which is distributed through them, and to withdraw from circulation material of which they have been informed or of which they are aware and which is distributed through them unless otherwise specified by competent authorities. It will also request them to create their own control systems for combating the production, processing, distribution and the possession of this type of material. The measures provided for in this Austrian proposal shall be implemented by the Member States by 31.12.2000 at the latest.?

## Combat child pornography on the Internet. Initiative Austria

The committee unanimously adopted the report by Timothy KIRKHOPE (EPP/ED, UK) approving the Council decision subject to a number of amendments. The committee felt that special police units in every EU country should systematically scan the internet for child pornography

material in order to combat child pornography actively - it was not enough to react to offences that had already come to light if effective action was to be taken against child pornography on the internet. The report also set an age limit of 16 years to define what should be considered as child pornography. The committee felt that the Council decision should be more binding and that the measures proposed should not be left to Member States' discretion. It also set out to tighten up the definition of child pornography offences, with a provision saying "the production, sale and distribution or other forms of trafficking in child pornography material and the possession of such material is punishable". However, "possession shall be punishable only where it is the result of an intentional or deliberate act or (...) where possession is deliberately retained". Otherwise people surfing the internet and inadvertently hitting a site featuring child pornography might be punishable as well. Pornographic depictions of people posing as children and virtual pornographic material should also be considered an offence. Cooperation between Member States' police forces through Europol was deemed important, but the establishment of national registers was seen as more comprehensive and more effective than a central register at Europol headquarters. The draft Council decision envisaged a dialogue with the internet industry and in this connection Parliament's committee proposed that providers be compelled to enable e-mail users to be identified. ?

## Combat child pornography on the Internet. Initiative Austria

---

In adopting the report by Mr. Timothy KIRKHOPE (EPP-ED, UK), the European Parliament approves the initiative of the Republic of Austria with a view to adopting a Council Decision to combat child pornography on the Internet. This initiative was approved as amended : - instead of having the view to adopting a Council Decision to combat child pornography, the Initiative has the view to adopting a Council Framework Decision; - the respect for the physical and emotional integrity of children and the protection of victims of sexual exploitation are of fundamental importance and must lie at the heart of the Union's concerns, rather than simply placing a high value on these concerns. In addition, the Parliament emphasises that each Member State shall take the necessary measures to ensure that the production, sale and distribution or other forms of trafficking in child pornography material and the possession of such material is punishable by effective, proportionate and dissuasive penalties. Participation in and attempts to commit these offences, with the exception of possession, shall also be punishable. Furthermore, possession shall only be punishable where it is the result of an intentional or deliberate act or, if it is not, where possession is deliberately retained. Acquiring and possessing child pornography material for the purpose of passing it on to the law enforcement authorities or corresponding contact points shall not be an offence. With regard to the description of child pornography, this is visual material giving the impression that a sexual act is being performed on a child or that child is performing a sexual act on itself, on another person or on an animal. Evidence that the person depicted is not a child or that the act did not actually take place is no defence. The production of child pornography material shall be an offence even when it does not give the impression that the person depicted as a child, although that person is actually a child. As regards the term 'children', Member States shall be free to set a higher age limit than the one set out in the framework which is 16 years old. The Member States shall ensure that Europol, within the limits of its mandate, is informed immediately of suspected cases of child pornography, so that it is able to make rapid analyses of the situation and coordinate measures in criminal tactics effectively. The competent authorities specialising in combating child pornography on the Internet shall primarily use electronic communications facilities with a view to promoting the general exchange of information and improving cooperation with Europol. Moreover, the Member States shall establish registers of persons convicted of the distribution of child pornography and the sexual abuse of children. The information in these registers shall be accessible to all Member States and Europol. They shall also seek to involve the candidate countries as soon as possible in action to combat child pornography. In conclusion, by 01.07.2002, the Council shall examine the extent to which Member States have fulfilled their obligations. The Council Presidency shall annually inform the Parliament of the conclusions of the multidisciplinary working party on organised crime and all the recommendations formulated by the Council.?

## Combat child pornography on the Internet. Initiative Austria

---

PURPOSE : to combat child pornography on the Internet. COMMUNITY MEASURE : Council Decision 2000/375/JHA to combat child pornography on the Internet. CONTENT : in order to combat the sexual exploitation of children and, in particular, the production, processing, distribution and possession of child pornography material on the Internet, this Decision aims to intensify preventative measures and the fight against this type of practice. In order to guarantee that these offences are effectively suppressed, Member States shall take the necessary measures to encourage Internet users to inform law enforcement authorities, either directly or indirectly, on suspected distribution of child pornography material on the Internet, if they come across such material. Internet users shall be made aware of ways to make contact with law enforcement authorities or entities which have privileged links with law enforcement authorities, to enable such authorities to fulfil their task of preventing and combating child pornography on the Internet. Member States shall ensure the widest and speediest possible cooperation to facilitate an effective investigation and prosecution of offences concerning child pornography on the Internet in accordance with existing arrangements and agreements. Moreover, in order to ensure a timely and effective response to these offences, Member States shall communicate already established points of contact, which are set up on a 24-hour basis and consist of knowledgeable personnel, as well as the specialised units which can be used for exchange of information and for further contacts between Member States. EUROPOL shall also be kept informed of suspected cases of child pornography. Furthermore, Member States shall engage in constructive dialogue with industry and examine appropriate measures, of a voluntary or legally binding nature, to eliminate child pornography on the Internet. They shall cooperate, in contact with industry, by sharing their experiences and encouraging, as far as possible, the production of filters and other technical means to prevent the distribution of child pornography material and to make possible the detection thereof. The measures contained in this Decision shall be implemented by the Member States at the latest on 31.12.2000. ENTRY INTO FORCE : 31.12.2000.?