



- Eine Stimme für Betroffene -

MOGiS e.V. - A voice for those affected

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Proposal for a Regulation of the European Parliament and of the Council
laying down rules to prevent and combat child sexual abuse

(Com/2022/209 final -2022/1055(COD))

Ladies and Gentlemen,

I would like to thank you for this invitation and for giving me the opportunity, as co-founder, second chairperson of the association "MOGiS - e.V. - A Voice of Those Affected" and as representative of the expert working group on sexual abuse, to present a statement on the present proposed regulation 2022/0155 (COD).

MOGiS was founded in 2009 because we did not feel represented by the existing victim organisations in the news and media. "The purpose of the association is to give a voice to those directly and indirectly affected by interventions in sexual self-determination and physical integrity - in the discussions about child and victim protection as well as about the enforcement of basic and children's rights. The focus is on the concerns and needs of those affected by interventions in physical integrity and sexual self-determination. In particular, the aim is to improve the understanding of these issues through education.

About me: I am a composer by profession with an additional focus on interactive software. I have been working with new media for over 30 years, and since then I have used, programmed and administered numerous online and database applications. As an abuse survivor in relation to IT, this gives me the opportunity for a broader understanding of technical contexts.

After my own research into the content of the proposed regulation, I see it as my duty to draw your attention to the dangers and errors of this proposal. Generally, the purpose of the bill is to counteract child sexual abuse and the dissemination of images of such crimes, but I see that this bill will do more harm than good!

As an affected person and spokesperson for affected people who are dependent on protected spaces and also communication for their survival, an absurdity is revealed here.

Automated scripts are NOT able to recognise the context in the use of sexual abuse vocabulary. For victims as well as their environment such as family, friends, therapists etc., automated monitoring of online communication is unacceptable.

As victims of abuse, we have become victims of an immense transgression of boundaries. The fainting over one's own powerlessness to prevent the act also causes deep-seated trauma. For victims of child sexual abuse, the loss of trust in the closest social environment is a massive problem. In order to cope with the consequences of abuse, it is therefore absolutely necessary to have protected spaces as well as protected communication.

Our association MOGiS e.V. is a very good example: For 14 years we have been networked online and mainly active online, also because our members and supporters come from all parts of Germany. Protected, confidential communication on the topic of abuse is a prerequisite for us to be able to exchange and organise ourselves. From our perspective, this proposed regulation is clearly counterproductive.

It is evident that the measures laid down in the proposal do not distinguish between the communication of child sexual abuse for victims, witnesses or helpers such as therapists and the communication of perpetrators. At first glance, it may seem like a useful solution to automatically screen communications for illegal content, but most people are not aware that this also endangers the security and confidentiality of their own legally guaranteed online communication. It is only when the topic is discussed that the possibility of becoming the focus of investigating authorities through system-related errors becomes apparent. That is downright fatal. Especially when one considers how highly sensitive and intimate the contents of this communication are. If you find yourself in the focus of criminal investigations, these highly sensitive and intimate communication contents have to be viewed by an investigating officer in order to be verified as non-criminal. This is unacceptable.

It shows that the planned approach to the problem is fundamentally flawed. It is not a solution to accept general suspicion as the status quo and to put the questionable benefits before the obvious immense harm.

Sexual abuse is systemic - caused by the a link of violence and assault, a spiral of power and powerlessness, abuse of power and helplessness. These factors cause structures and these structures have shaped our society for a very long time. To break these chains, we need to look at the whole problem. Actionism with a focus on perpetrators cannot solve the problem. The existence of sexual abuse cannot be solely prescribed to the perpetrators, but to the problems of society. That is why child sexual abuse is a socially significant problem. The perpetrators are not the causal problem, but the symptom that highlights the true extent of the problem. Any victim of abuse without help to cope, without support to heal, has the potential to become a new abuser themselves. The act, the trauma, the loss of trust and protection causes serious psychological pressure and emotional distress. Therefore, it is a vital measure to be able to communicate in a protected and confidential manner. There are victims who have been so severely damaged by the abuse they have suffered that social participation in the real world is no longer possible. For such victims, it is foreseeable that the loss of protected online

communication will increase suicidal tendencies (and this development will be drowned in a growing area of unknown and unregistered cases).

I have survived. I have survived something that seems unsurvivable. But I have not survived to sit idly by and watch while our fundamental rights, which are well regulated by law, are risked. Especially not with the argument that automated control and surveillance could be a measure against child sexual abuse. Especially not if serious error rates are foreseeable and would have to be accepted in advance. Especially not if there can be no protection against abuse of the measures thus created.

And even less so if the world's largest pool of sexual abuse images is to be created for the purpose of matching data, the security of which no one can guarantee. How are victims supposed to have the right to delete documents of their own abuse if the state, or in this case the Union, takes the right to store these images itself?

Legalising backdoors to allow intrusions into encrypted communications is unacceptable because the protection of these backdoors from unauthorised third parties cannot be guaranteed.

The government of my country has just communicated plans to enforce the electronic health record. These plans are also only conceivable on the condition that encryption guarantees confidentiality. I also mention it because abuse-related health consequences for those affected are also a comprehensive issue.

The Scientific Service of the German Bundestag writes in reference to 2022/1055: "This limits ... the interference with users' right to protection of personal data and with their right to confidentiality of communications to what is ... strictly necessary to achieve their objectives."

Encrypted confidential and legally guaranteed private communication becomes restricted and thus impossible. It requires technical means to screen communications for content indicating child sexual abuse, but it clearly technically enables the possibility to monitor communications in principle on a topic-specific basis.

It contradicts the fundamental rights according to the EU Charter as well as, for example in my country, the Basic Law of the Federal Republic of Germany.

For me as a person affected, it is frightening how legal measures are adopted with the argument of wanting to prevent sexual child abuse, which obviously cannot be effective. It is also astonishing what financial resources can be mobilised for this.

These funds could be used more efficiently to prevent the actual sexual abuse of children:

For example: The obligation to provide a legally prescribed report button for CSAM content in all online communication tools. Comparably simple as it is possible to block users at the push of a button as protection against stalkers. Such an automated reporting of criminal content to an appropriate body would undoubtedly be technically feasible and would even make sense for similar criminal offences.

Nowadays the self-determined decision to report illegal content still has significant barriers. It is irritating that no measures on this matter are planned in the proposal.

Another overdue measure is a nationwide provision of support services for victims, but also for perpetrators and also for witnesses, independent of online possibilities. Support at EU level for such offers of help would send a very constructive signal. The fact that the too few existing offers are almost without exception based on private initiatives and do not have sufficient financial means is in absurd contrast to the cost-intensive measures planned here.

Above all, there is a need for binding measures to ensure that language is used in a way that is appropriate for those affected - in the authorities, the media and also in society.

The implementation of laws/directives such as EU 932011 has been waiting for 12 years (sic!) for binding implementation. Among other things, it states that the word "child pornography" trivialises the facts of the case because it is understood from the perpetrator's point of view. Nevertheless, it is still used in the media, in official procedures, in common communication and even in the draft regulation discussed here.

Governments and societies that accept the vocabulary of the perpetrators as the status quo on the subject retraumatise and stigmatise the victims and even guarantee the misdevelopment of aid measures. This is certainly not intended, but it is a fact. Therefore, I ask for insight, increased attentiveness and attention.

Thank you very much.

Dorothee Hahne