

THE PROPOSED EU CHILD SEXUAL ABUSE REGULATION

Online Child Sexual Abuse and Exploitation (OCSAE) is rife in the EU

OCSAE is a growing threat and the EU is not immune from it, being the biggest host of child sexual abuse material (CSAM) in the world. Some internet service providers have tried tackling this issue by **voluntarily** detecting CSAM on their platforms. However, the vast majority of them still take no action, despite evidence of an increasing prevalence of OCSAE across their platforms.

Why the need for an EU regulation?

Through what's called the 'Interim Regulation', the EU has helped to facilitate voluntary detection. Over the years, several Member States have also started implementing their own rules to combat OCSAE. Even with these commendable efforts, **the current system has several limitations:**

- **The interim regulation has a limited duration** and is set to expire in 2024, meaning that even voluntary detection will not be allowed;
- **The interim regulation has a limited scope** and only applies to specific and existing platforms,



60%+

of the world's CSAM are in the EU
(IWF 2022)



95%

of CSAM reports came from **one single service provider** in 2019 and 2020
(NCMEC 2021)

meaning that if a new platform goes viral it does not fall in its scope and cannot voluntarily detect for CSAM;

- **Differing national rules are leading to divergent requirements**, which not only makes it hard for service providers to keep up with unequal conditions across the EU, but could lead to possible legal loopholes.

With these limitations and the time ticking, a binding and harmonised legal framework is thus urgently needed to oblige service providers where strictly necessary to detect, report and remove CSAM.

Proposal for an EU Child Sexual Abuse (CSA) Regulation

In 2022, the European Commission proposed an [EU CSA Regulation](#) designed to overcome these limitations through a harmonised legal framework. This will make it **mandatory** for internet service providers **to detect and report OCSAE and grooming** on their platforms to authorities, and simplifies compliance

for service providers by giving them legal certainty. Through a **comprehensive solution with clear safeguards**, it also ensures the full respect for fundamental rights. The legislative process is currently underway.





PROVIDING A COMPREHENSIVE SOLUTION

The Proposal incorporates a comprehensive solution by laying out specific **measures tailored to the risks** associated with OCSAE, whilst also guaranteeing **robust conditions and safeguards** are met. It also includes an implementation and support mechanism via a new **'EU Centre'** (see below).

The first step is prevention of OCSAE risks through risk assessment and mitigation.

The proposed Regulation will require service providers to thoroughly think of child safety by design. Providers must **evaluate the risk** of their services being misused for OCSAE by considering factors like if children are using their platforms, if they have functions that may increase risk of sharing CSAM, and if they have safeguarding policies in place. Based on the assessment, providers need to **take action** to remove and prevent any OCSAE risks identified, which can include technical adjustments. If despite the adjustments, significant risks remain, then the national Coordinating Authority (CA) will recommend a detection order to be issued (below).

A DETECTION ORDER PROCESS

1. Risk assessment and mitigation

Provider assesses risks and implement mitigation measures.

2. Risk reporting

Provider reports risk assessment and mitigation to CA every 3 months.

3. Draft request for detection order

CA reviews report and issues a detection order *only if a substantial risk* still remains after preventative action.

4. Comments on draft request

The provider and the EU centre can comment on the draft request.

7. Renewed check

CA checks the plan. *Only if necessary*, can they request the national judicial or independent administrative authority to proceed with issuing the detection order.

6. Implementation plan

Provider drafts an implementation plan after privacy guarantees:

- conducted a data protection impact assessment
- consulted the national data protection authority

5. CA checks & reviews

CA checks comments on draft detection order. *Only if necessary*, can they request the provider to draft a detection order implementation plan.

8. Detection order

Judicial or independent national authority issues the detection order.

9. Execution

Provider detects for CSAM on platform using indicators from the EU centre.

10. Reporting, reviewing and removal orders

Provider reports to the EU centre, that then reviews execution of the detection order to scan for and stop false positives and reports to law enforcement of any determined CSAM. *Only if necessary*, CA can request the judicial or independent administrative body to order the removal of CSAM from a platform within 24 hours.

How are fundamental rights safeguarded throughout the process?



Although some are concerned about the implications for privacy, the lengthy detection order process guarantees multiple checks to ensure the **balancing of fundamental rights**, so that any action taken at each stage is **proportionate** to the risk posed after assessing all potential impacts. Measures implemented are therefore only limited to what is strictly **necessary**. The process would ensure that only highly accurate tool minimising privacy concerns would be deployed. Because detection technology is built for purpose, it only identifies OCSAE, in the same way a metal detector only finds metal and does not know what else is there.

A new EU Centre

The new EU centre will:

- Help providers **implement** the CSAM regulation;
- Act as an **expertise hub** for data and information on OCSAE;
- **Support victims** in their right to information and action taken regarding their abuse.



“THERE WERE SOME CASES I HEARD OF IN WHICH SOME GIRLS FOUND THEIR PICTURES AND VIDEOS SHARED ONLINE, WITHOUT THEIR CONSENT.”

For more information consult: National Centre for Missing and Exploited Children, [“CyberTipline Reports by Electronic Service Providers \(ESP\)”](#) (2021); Internet Watch Foundation [“Annual Report 2022”](#) (2022); European Commission [“Questions and Answers – New rules to fight child sexual abuse”](#) (2022); [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](#); [Proposal for an interim regulation \(EU\) of the European Parliament and of the Council on temporary derogation from certain provisions of Directive 2002/58/EC COM/2020/568](#).

15-year-old girl, Romania
([Child Safety by Design Research, 2022](#))

