

ALIGN PENALTIES FOR TECH-FACILITATED CRIMES WITH THOSE FOR IN-PERSON SEXUAL ABUSE

ECLAG Memo 1 on the proposed Child Sexual Abuse Directive

October 2024

We welcome the [European Commission \(EC\) proposed recast of Directive 2011/93/EU of February 2024 on Sexual Abuse and Exploitation of Children](#). However, **we call for for aligning penalties for online and in-person crimes of child sexual abuse and exploitation**, to ensure comprehensive protection and justice for victims.

As crimes against children increasingly take place in digital spaces, it is crucial that **our legal framework reflect the severity and lasting impact of these offences**. The trauma caused by the continuous online dissemination of child sexual abuse materials (CSAM) is as significant and enduring as that resulting from physical abuse. The Directive currently suggests lighter penalties for CSAM crimes, downplaying their impact and perpetuating the misconception that online crimes are victimless.

The trauma of online abuse and its lasting impact on children.

Children subjected to sexual abuse, whether online or offline, suffer profound and long-lasting trauma. Research highlights :

- **Similarities in trauma:** Clinical studies show that the trauma symptoms experienced by online child sexual abuse (OCSE) victims, such as PTSD, hypervigilance, and avoidance behaviors, are comparable to those suffered by victims of in person sexual abuse. Both groups experience self-harm, suicidal tendencies, impaired relationships, difficulties in school, and persistent low self-esteem. Studies showed that among survivors, a majority of them have had difficulties with employment or school because of anxiety and other PTSD symptoms. In addition, survivors emphasise that they often have really vivid and highly detailed dreams, lucid dreams while many also struggle with recurring nightmares.¹ Similarly, research demonstrates that children exposed to sexually explicit content and grooming report at least similar levels of trauma symptoms to victims of penetrative in-person sexual offences.² Such findings indicate that the impact of online abuse is as severe and traumatic as physical abuse. The difference in penalties is therefore not justified.
- **Enduring trauma from online exploitation:** Victims of OCSE not only endure the trauma of the initial abuse but also face continuous revictimisation due to the ongoing circulation of CSAM. The dissemination of abusive pictures has, in turn, been shown to correlate with the children's trauma symptoms. Survivors describe this as "never-ending" trauma, living in

¹ Down to Zero Alliance, [Child safety by design that works against online sexual exploitation of children](#), 2022. Joleby M, Lunde C, Landström S, Jonsson LS, [All of Me Is Completely Different": Experiences and Consequences Among Victims of Technology-Assisted Child Sexual Abuse](#), Front Psycho, 2020.

² Idem; Malin Joleby, Sara Landström, Carolina Lunde and Linda S. Jonsson, [Experiences and psychological health among children exposed to online child sexual abuse – a mixed methods study of court verdicts](#), Psychology, Crime & Law 2021.

constant fear of being recognised from these images and videos, which leads to chronic anxiety, a feeling of powerlessness, and significant psychological distress³.

- Research has shown that children and adult survivors who know that pictures of their abuse exist, and children and adult survivors who have had their abusive pictures disseminated, report **higher levels of post-traumatic stress symptoms than children exposed to undocumented CSA.**

The necessity of aligning legal penalties.

- Article 5 of the current Proposal suggests lesser penalties for crimes involving CSAM compared to in-person sexual abuse. This disparity fails to acknowledge the continuous nature of the trauma inflicted by the online circulation of such material and participates to perpetuate the idea that online crimes are “victimless” crimes.
- It is imperative to impose equal penalties to reflect the severity of the harm caused. The Directive should reflect that crimes facilitated by the use of information and communication technology are not a less severe form of abuse than in-person crimes.
- As a first step, the possession of CSAM should be treated equally to its distribution. At the moment, the penalty suggested for the possession of CSAM is lower than the one for distribution: this does not consider the role that possession has on demand (of both online and in person child sexual abuse) nor the additional trauma caused to the child groomed and/or portrayed in the material.

→ [See our amendments to Article 5\(2\)](#)

³ National Center for Missing & Exploited Children, [Captured on film: survivors of child sex abuse imagery are stuck in a unique cycle of trauma](#), 2019.