Possible limited extension of the Interim Regulation to ensure continued protection

A possible limited extension of the Interim Regulation (which provides for a temporary derogation to certain articles of the e-privacy Directive to enable the continuation of the voluntary detection and reporting of child sexual abuse online in number-independent interpersonal communication services) could be considered to ensure continued protection. The possibility of such an extension would concern **only the transition period** until the long-term framework set-out in the proposed CSA regulation is implemented and would **in no circumstance eliminate the need to adopt the proposed CSA regulation**.

The possibility of such an extension concerns **only the transition period**:
- The possibility of a limited extension of the validity of the Interim Regulation (set to expire in August 2024) could be considered if this was needed to ensure a smooth transition from the current regime to the one that will emerge once a permanent framework based on the Commission proposal is adopted. However, the initial duration of the Interim Regulation aims at respecting the principle of proportionality. Any possible extension of its duration would have to be carefully assessed, in particular in light of the principle of proportionality.
- In the absence of transition measures, certain number-independent interpersonal communication services could be prevented from continuing detecting online child sexual abuse on a voluntary basis, if the proposed CSA regulation is not adopted and fully applied before the end of August 2024. This would give rise precisely to the type of protection gap that the Interim Regulation intended to prevent in the first place.
- A strictly limited extension of the Interim Regulation would be a possible way to prevent such a gap from emerging, subject to the proportionality considerations mentioned. Such a possible extension, if considered proportionate, could conceivably be combined with an earlier application of some provisions of the proposed CSA regulation (especially those concerning risk-assessment and risk mitigation), and a later application of others, notably those dealing with detection, until the structures needed for the issuance of detection orders are in place and the first round of risk assessment and risk mitigation has been conducted by providers. This would however need to analysed in more detail.

The possibility of such a limited extension would **in no circumstance eliminate the need to adopt the proposed CSA regulation**:
- The Interim Regulation was conceived and drafted as a temporary, and strictly limited, instrument, until the CSA Regulation was adopted. The need for a more permanent instrument, providing for a long-term solution, remains.
- In particular, the Interim Regulation does *not* provide for a legal basis for data processing with a view to detect child sexual abuse online on a voluntary basis. It does not apply to mandatory online CSA detection measures which can, in principle, be provided for under national law in accordance with Article 15 of the ePrivacy Directive. It simply enables, as far as the relevant provisions of that Directive are concerned, providers of number-independent interpersonal communication to keep detecting online CSA on a voluntary basis and for a limited period of time, provided that these detection measures are lawful, which refers in particular to – apart from compliance with the conditions of the Interim Regulation itself – compliance with the GDPR.
- This situation is sub-optimal, as it does not provide clarity on the legal basis and legal regime for processing of personal data for the purpose of detecting online child sexual abuse under the GDPR. Hence, a comprehensive long term framework expressing a clear decision of the co-legislators on the legal basis, safeguards and condition for such detection remains absolutely essential. It is precisely based on the assumption that such a long term framework was in preparation that the Interim Regulation was adopted as a strictly temporary measure.