

From: [HOME NOTIFICATIONS D4](#)
To: [HOME NOTIFICATIONS D4](#)
Subject: FW: Meeting on digital policies EuroISPA/Monika Maglione, Cabinet Johansson - Flash report
Date: mercredi 13 octobre 2021 10:33:00
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From: [REDACTED]
Sent: Tuesday, October 12, 2021 1:49 PM
To: MAGLIONE Monika (CAB-JOHANSSON) <Monika.MAGLIONE@ec.europa.eu>
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Subject: Meeting on digital policies EuroISPA/Monika Maglione, Cabinet Johansson - Flash report

Dear Monika,

Please find below my flash report of today's discussion with EuroISPA for your approval:

Topic of the meeting: Digital policies of DG HOME (e-evidence, TCO, CSA LTI, encryption, data retention) – 12/10/21, 10:30-11:00

Participants: Monika MAGLIONE (CAB-JOHANSSON); [REDACTED]
(HOME D4); [REDACTED] (President of EuroISPA); [REDACTED]
(Member of the Board on digital policies – EuroISPA); [REDACTED] (Policy executive – EuroISPA).

EuroISPA: EuroISPA is an association representing European ISPs, including smaller European providers. Recognises the importance of providers in helping law enforcement authorities (LEAs) to have access to data for investigations, but underlined that this should be achieved in a way that works especially for smaller companies and while keeping the respect for fundamental rights in mind (in particular with regard to questions on anonymity online, data protection, encryption, etc.). In general, the objective of the meeting was to receive a horizontal overview of DG HOME's current policy files that might have an impact on EuroISPA's community of providers. In particular, EuroISPA inquired about the direction of the Long-term instrument for the fight against child sexual abuse (CSA LTI), and about the obligations foreseen for providers. Pointed out that tech used to detect is not 100% accurate and there is the risk of false positives, human review should be included in the process to prevent erroneous removals as we cannot fully rely on automated means. This is especially important with regard to detecting new material where the risk of false positives is even higher. It is also important to leave a sufficiently wide timeframe for providers to fulfil their future obligations. Highlighted the important role of hotlines whose work is essential in detecting child sexual abuse material. Added that the hotlines indicated difficulties regarding their funding resulting in unpredictable financing and limited resources. Warned about imposing detection, removal and stay down obligations especially on smaller providers. A lot of the Internet traffic in the EU flows through small providers,

and we should avoid overburdening them. Also pointed out that despite harmonised definitions on what is considered illegal material, there are divergences in national laws of Member States.

[REDACTED] Will reach out to HOME at service level for further information.

COM (CAB/DG HOME): pointed out that since European citizen's but also criminals' lives have moved to the digital environment, LEAs need to be able to access data in the digital environment for their investigations. Regarding e-evidence, the trilogues are ongoing and COM hopes to achieve efficient solutions with this proposal, which are vital for investigating cybercrime, ransomware, etc. For the rest of the proposals, COM highlighted a layered structure in which the Digital Services Act (DSA) provides minimum horizontal rules. Sectoral proposals (Terrorist content online regulation – TCO; CSA LTI) would regulate specific type of content and additionally there are related files such as lawful access to encrypted information and data retention. The TCO proposal requires the removal of terrorist content across borders in the EU. The proposal has been adopted and shall be implemented by June 2022. The CSA LTI is a priority for Commissioner Johansson, also due to the fact that child sexual abuse online has skyrocketed already prior and even more in the course of the COVID-19 pandemic. Such abuse is happening on a large scale and is a huge problem online. All fundamental rights need to be protected online, including those of children. Child sexual abuse material is different from any other kind of online illegal content as it is manifestly illegal irrespective of the context. Also, such content is mostly shared via electronic communications rather than public facing platforms. Glad to have adopted the interim Regulation and hopes to adopt the long-term proposal still in 2021. COM needs more time to share further information as the impact assessment is still being finalised. One element to be expected is the mandatory detection of known child sexual abuse material as set out in the CSA Strategy. There will be various safeguards to balance out the risks posed by false positives. Agrees that human oversight is important in the case of detecting new material. Mindful of the important role hotlines play and suggested EuroISPA to reach out to HOME on the service level to discuss the COM funding issues raised by EuroISPA during the meeting. The issues with lawful access to encrypted information and data retention are relevant and important topics for ensuring security online. In December 2020 the Council called for a solution to ensure lawful access in law enforcement investigations. COM plans to put propose a way forward in 2022 based on an ongoing multi stakeholders' consultation process. Concerning data retention, the Court of Justice of the EU (CJEU) has passed down several judgments and there are pending cases which COM is still analysing. COM underlined that the judgments of the CJEU need to be respected and plans to reflect on the next steps thereafter, likely in 2022.

Kind regards,

[REDACTED]



European Commission

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What we do: https://ec.europa.eu/home-affairs/what-we-do/policies/cybercrime_en