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European Union

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2018/0107(COD)

LIMITE

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NOTE

From:	Presidency
To:	Delegations
No. Cion doc.:	8115/18 + ADD 1-2
Subject:	Directive of the European Parliament and of the Council laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings - 4-column table

Delegations will find in Annex the four-column table on the above mentioned draft Directive.

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings
2018/0107(COD)

DRAFT

The amendments made by the EP and the Council in the text of the proposal for a Directive compared to the Commission's proposal are marked as follows:

- the new text is marked in ***bold italics***;
- the deleted parts of the text are marked in ~~strike~~through.
- the parts amended following discussions at trilogues or technical meetings will be underlined.

Where full paragraphs of the Commission's proposal were not amended by the EP and the Council, they are not repeated in the columns reflecting their respective positions, but are marked with a diagonal line in the 4th column.

Parts provisionally agreed at the trilogue are going to be **marked in green**.

Parts provisionally agreed at the technical meetings and to be confirmed at the trilogue are going to be **marked in blue**.

Parts to be further discussed are going to be **marked in yellow**.

Footnotes are marked **in red**. Their numbering does not correspond to the respective original documents. Updating and renumbering must be done manually (NO automatic update).

Commission Proposal		EP mandate	Council Mandate	Draft agreement
Formula				
1	COM/2018/226 final - 2018/0107 (COD)	A9-9999/2020 - 11 December 2020 ¹	7348/19	
Proposal Title				
2	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings	

- ¹ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings
having regard to the Commission proposal to Parliament and the Council (COM(2018)0226),
having regard to Article 294(2) and Articles 53 and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0154/2018),
having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
having regard to Rules 59 of its Rules of Procedure,
having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2020),
1. Rejects the Commission proposal;
 2. Calls on the Commission to withdraw its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Commission Proposal		EP mandate	Council Mandate	Draft agreement	
Formula					
3	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,		
Formula					
4	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,		
Formula					
5	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,		
Formula					
6	Having regard to the opinion of the European Economic and Social Committee ¹ , _____	Having regard to the opinion of the European Economic and Social Committee ⁺, _____	Having regard to the opinion of the European Economic and Social Committee ¹ , _____		
	¹ OJ C , , p. .	⁺ OJ C , , p. .	¹ OJ C , , p. .		

Commission Proposal		EP mandate	Council Mandate	Draft agreement
Formula				
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Formula				
8	Whereas:	Whereas:	Whereas:	
Recital 1				
9	(1) Network-based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which apply to the service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face	(1) Network based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which apply to the service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face difficulties with serving, ensuring	(1) Network-based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which apply to the service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face difficulties with serving, ensuring	

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	difficulties with serving, ensuring compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.	compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.	compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.		
Recital 2					
10	(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This includes measures for addressing service providers to obtain electronic evidence that is of relevance to criminal proceedings.	(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This includes measures for addressing service providers to obtain electronic evidence that is of relevance to criminal proceedings.	(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This includes measures for addressing service providers to obtain electronic evidence that is of relevance to criminal proceedings.		
Recital 3					
11	(3) To that end, some Member States have adopted, or are considering adopting, legislation imposing mandatory legal representation within their own territory, for a number of service providers offering services in	(3) To that end, some Member States have adopted, or are considering adopting, legislation imposing mandatory legal representation within their own territory, for a number of service providers offering services in that	(3) To that end, some Member States have adopted, or are considering adopting, legislation imposing mandatory legal representation within their own territory, for a number of service providers offering services in that		

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	that territory. Such requirements create obstacles to the free provision of services within the internal market.	territory. Such requirements create obstacles to the free provision of services within the internal market.	territory. Such requirements create obstacles to the free provision of services within the internal market.	
Recital 4				
12	(4) There is a significant risk that other Member States will try to overcome existing shortcomings related to gathering evidence in criminal proceedings by means of imposing disparate national obligations in the absence of a Union-wide approach. This is bound to create further obstacles to the free provision of services within the internal market.	(4) There is a significant risk that other Member States will try to overcome existing shortcomings related to gathering evidence in criminal proceedings by means of imposing disparate national obligations in the absence of a Union-wide approach. This is bound to create further obstacles to the free provision of services within the internal market.	(4) There is a significant risk that other Member States will try to overcome existing shortcomings related to gathering evidence in criminal proceedings by means of imposing disparate national obligations in the absence of a Union-wide approach. This is bound to create further obstacles to the free provision of services within the internal market.	
Recital 5				
13	(5) Under the current circumstances, the resulting legal uncertainty affects both service providers and national authorities. Disparate and possibly conflicting obligations are set out for service providers established or offering services in different Member States, which also subject them to	(5) Under the current circumstances, the resulting legal uncertainty affects both service providers and national authorities. Disparate and possibly conflicting obligations are set out for service providers established or offering services in different Member States, which also subject them to different sanction regimes in case	(5) Under the current circumstances, the resulting legal uncertainty affects both service providers and national authorities. Disparate and possibly conflicting obligations are set out for service providers established or offering services in different Member States, which also subject them to different sanction regimes in case	

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	different sanction regimes in case of violations. This divergence in the framework of criminal proceedings will likely further expand because of the growing importance of communication and information society services in our daily lives and societies. The foregoing not only represents an obstacle to the proper functioning of the internal market but also entails problems for the establishment and correct functioning of the Union's area of freedom, security and justice.	of violations. This divergence in the framework of criminal proceedings will likely further expand because of the growing importance of communication and information society services in our daily lives and societies. The foregoing not only represents an obstacle to the proper functioning of the internal market but also entails problems for the establishment and correct functioning of the Union's area of freedom, security and justice.	of violations. This divergence in the framework of criminal proceedings will likely further expand because of the growing importance of communication and information society services in our daily lives and societies. The foregoing not only represents an obstacle to the proper functioning of the internal market but also entails problems for the establishment and correct functioning of the Union's area of freedom, security and justice.	
Recital 6				
14	(6) To avoid such fragmentation and to ensure that undertakings active in the internal market are subject to the same or similar obligations, the Union has adopted a number of legal acts in related fields such as data protection ² . To increase the level of protection for the data subjects, the rules of the General Data Protection Regulation ³ provide for the designation of a	(6) To avoid such fragmentation and to ensure that undertakings active in the internal market are subject to the same or similar obligations, the Union has adopted a number of legal acts in related fields such as data protection². To increase the level of protection for the data subjects, the rules of the General Data Protection Regulation³ provide for the designation of a legal	(6) To avoid such fragmentation and to ensure that undertakings active in the internal market are subject to the same or similar obligations, the Union has adopted a number of legal acts in related fields such as data protection ² . To increase the level of protection for the data subjects, the rules of the General Data Protection Regulation ³ provide for the designation of a legal	

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<p>legal representative in the Union by controllers or processors not established in the Union but offering goods or services to individuals in the Union or monitoring their behaviour if their behaviour takes place within the Union, unless the processing is occasional, does not include processing, on a large scale, of special categories of personal data or the processing of personal data relating to criminal convictions and offences, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing or if the controller is a public authority or body.</p> <p>² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31);</p>	<p>representative in the Union by controllers or processors not established in the Union but offering goods or services to individuals in the Union or monitoring their behaviour if their behaviour takes place within the Union, unless the processing is occasional, does not include processing, on a large scale, of special categories of personal data or the processing of personal data relating to criminal convictions and offences, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing or if the controller is a public authority or body.</p> <p>² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31); Regulation (EU) 2016/679 of the European</p>	<p>representative in the Union by controllers or processors not established in the Union but offering goods or services to individuals in the Union or monitoring their behaviour if their behaviour takes place within the Union, unless the processing is occasional, does not include processing, on a large scale, of special categories of personal data or the processing of personal data relating to criminal convictions and offences, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing or if the controller is a public authority or body.</p> <p>² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31); Regulation (EU) 2016/679 of the</p>	

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<p>Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1); Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> <p>³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	<p>Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1); Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> <p>³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	<p>European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1); Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> <p>³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	
Recital 7			

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15	(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of decisions issued by competent authorities in the Member States for the purposes of gathering evidence in criminal proceedings, the existing obstacles to the free provision of services should be removed, as well as the future imposition of divergent national approaches in that regard should be prevented. Level playing field for service providers should be established. Moreover, more effective criminal law enforcement in the common area of freedom, security and justice should be facilitated.	(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of decisions issued by competent authorities in the Member States for the purposes of gathering evidence in criminal proceedings, the existing obstacles to the free provision of services should be removed, as well as the future imposition of divergent national approaches in that regard should be prevented. Level playing field for service providers should be established. Moreover, more effective criminal law enforcement in the common area of freedom, security and justice should be facilitated.	(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of decisions issued by competent authorities in the Member States for the purposes of gathering evidence in criminal proceedings, the existing obstacles to the free provision of services should be removed, as well as the future imposition of divergent national approaches in that regard should be prevented. Level playing field for service providers should be established. This should not affect obligations on service providers deriving from other EU legislation. Moreover, more effective criminal law enforcement in the common area of freedom, security and justice should be facilitated.		
Recital 8					
16	(8) The legal representative at issue should serve as an	(8) The legal representative at issue should serve as an addressee	(8) The legal representative at issue should serve as an addressee		

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	<p>addressee for domestic orders and decisions and for orders and decisions pursuant to Union legal instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal matters. This includes both instruments that permit the direct serving of orders in cross-border situations on the service provider, and instruments based on judicial cooperation between judicial authorities under Title V, Chapter 4.</p>	<p>for domestic orders and decisions and for orders and decisions pursuant to Union legal instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal matters. This includes both instruments that permit the direct serving of orders in cross-border situations on the service provider, and instruments based on judicial cooperation between judicial authorities under Title V, Chapter 4.</p>	<p>for domestic orders and decisions and for orders and decisions pursuant to Union legal instruments adopted falling within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal matters, including where those orders and decisions are transmitted in form of a certificate. This includes both instruments that permit the direct serving of orders in cross-border situations on the service provider or its legal representative, such as the [Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (“Regulation”)⁴], and other instruments based on for judicial cooperation applicable between the judicial authorities Member States, notably those falling within the scope of under Title V, Chapter 4, such as the Directive on the European Investigation Order⁵ and the</p>	

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			<p>2000 Mutual Legal Assistance Convention⁶. Recourse to the legal representative should be in accordance with the procedures set out in the instruments and legislation applicable to the judicial proceedings. The competent authorities of the Member State where the legal representative resides or is established should act in accordance with the role set out for them in the respective instrument if and where an involvement is foreseen.</p> <p>_____</p> <p>⁴ Regulation of the European Parliament and of the Council on European Production and preservation orders for electronic evidence in criminal matters.</p> <p>⁵ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>regarding the European Investigation Order in criminal matters, OJ L 130, 1.5.2014, p.1.</p> <p>⁶ Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, OJ C 197, 12.7.2000, p. 1 and its Protocol, OJ C 326, 21.11.2001, p. 2.</p>	
Recital 9				
17	<p>(9) Member States shall ensure that the obligation to designate a legal representative is immediate, that is from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of</p>	<p>(9) Member States shall ensure that the obligation to designate a legal representative is immediate, that is from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of</p>	<p>(9) Member States shall ensure that service providers have the obligation to designate a legal representative is immediate that is from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date by [6 months from the transposition deadline of this Directive] or from the moment service providers start offering services in the Union for</p>	

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	transposition.	transposition.	those service providers that will start offering services after [6 months from the date of transposition deadline of this Directive] .	
Recital 10				
18	(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is established on the territory of a Member State and offers services exclusively on the territory of that Member State, should not be covered by this Directive.	(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is established on the territory of a Member State and offers services exclusively on the territory of that Member State, should not be covered by this Directive.	(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is established on the territory of a Member State and offers services exclusively on the territory of that Member State, should not be covered by this Directive.	
Recital 11				
19	(11) Notwithstanding the designation of a legal representative, Member States should be able to continue addressing service providers established on their territory, be	(11) Notwithstanding the designation of a legal representative, Member States should be able to continue addressing service providers established on their territory, be it	(11) Notwithstanding the designation of a legal representative, Member States should be able to continue addressing service providers established on their territory, be it	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	it in purely domestic situations, be it after receipt of a request for assistance under legal instruments on mutual legal assistance and on mutual recognition in criminal matters.	in purely domestic situations, be it after receipt of a request for assistance under legal instruments on mutual legal assistance and on mutual recognition in criminal matters.	in purely domestic situations, be it after receipt of a request for assistance under legal instruments on mutual legal assistance and on mutual recognition in criminal matters. Likewise Member States should be able to continue addressing the Member States where service providers are established with instruments falling within the scope of Title V, Chapter 4, such as the Directive on the European Investigation Order and the 2000 Mutual Legal Assistance Convention.	
Recital 12				
20	(12) The determination whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in the Union to use its services. However, the mere accessibility of an online interface (for instance the accessibility of the service provider's or an intermediary's	(12) The determination whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in the Union to use its services. However, the mere accessibility of an online interface (for instance the accessibility of the service provider's or an intermediary's website or of an email address and	(12) The determination whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in the Union to use its services. However, the mere accessibility of an online interface (for instance the accessibility of the service provider's or an intermediary's website or of an email address and	

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	website or of an email address and of other contact details) taken in isolation should not be a sufficient condition for the application of this Directive.	of other contact details) taken in isolation should not be a sufficient condition for the application of this Directive.	of other contact details) taken in isolation should not be a sufficient condition for the application of this Directive.	
Recital 13				
21	(13) A substantial connection to the Union should also be relevant to determine the ambit of application of this Directive. Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union. In the absence of such an establishment, the criterion of a substantial connection should be assessed on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use	(13) A substantial connection to the Union should also be relevant to determine the ambit of application of this Directive. Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union. In the absence of such an establishment, the criterion of a substantial connection should be assessed on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a	(13) A substantial connection to the Union should also be relevant to determine the ambit of application of this Directive. Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union. In the absence of such an establishment, the criterion of a substantial connection should be assessed on the basis of the existence of based on specific factual criteria such as a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including	

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<p>of a language or a currency generally used in that Member State, or the possibility of ordering goods or services. The targeting of activities towards a Member State could also be derived from the availability of an application ('app') in the relevant national app store, from providing local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17(1)(c) of Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. On the other hand, provision of the service in view of mere compliance with the prohibition to discriminate laid down in</p>	<p>currency generally used in that Member State, or the possibility of ordering goods or services. The targeting of activities towards a Member State could also be derived from the availability of an application ('app') in the relevant national app store, from providing local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17(1)(c) of Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. On the other hand, provision of the service in view of mere compliance with the prohibition to discriminate laid down in Regulation (EU) 2018/302⁴ cannot be, on that ground alone, be considered as</p>	<p>factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering goods or services. The targeting of activities towards a Member State could also be derived from the availability of an application ('app') in the relevant national app store, from providing local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17(1)(c) of Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. On the other hand, provision of the service in view of mere compliance with the prohibition to discriminate laid down in Regulation (EU)</p>	

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	<p>Regulation (EU) 2018/302⁴ cannot be, on that ground alone, be considered as directing or targeting activities towards a given territory within the Union. The same considerations should apply to determine whether a service provider offers services in a Member State.</p> <p>_____</p> <p>⁴ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</p>	<p>directing or targeting activities towards a given territory within the Union. The same considerations should apply to determine whether a service provider offers services in a Member State.</p> <p>_____</p> <p>⁴ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</p>	<p>2018/302⁷ cannot be, on that ground alone, be considered as directing or targeting activities towards a given territory within the Union. The same considerations should apply to determine whether a service provider offers services in a Member State.</p> <p>_____</p> <p>⁷ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</p>	
Recital 14				
	(14) Service providers obliged to designate a legal representative	(14) Service providers obliged to designate a legal representative	(14) Service providers obliged to designate a legal representative	

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22	<p>should be able to choose to that effect an existing establishment in a Member State, be it a corporate body or a branch, agency, office or a main seat or headquarters, and also more than one legal representative. Nevertheless, a corporate group should not be forced to designate multiple representatives, one for each undertaking part of that group. Different instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union apply in the relationships between Member States when gathering evidence in criminal proceedings. As a consequence of this ‘variable geometry’ that exists in the common area of criminal law, there is a need to ensure that the Directive does not facilitate the creation of further disparities or obstacles to the provision of services in the internal market by allowing service providers offering services on their territory to designate legal representatives</p>	<p>should be able to choose to that effect an existing establishment in a Member State, be it a corporate body or a branch, agency, office or a main seat or headquarters, and also more than one legal representative. Nevertheless, a corporate group should not be forced to designate multiple representatives, one for each undertaking part of that group. Different instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union apply in the relationships between Member States when gathering evidence in criminal proceedings. As a consequence of this ‘variable geometry’ that exists in the common area of criminal law, there is a need to ensure that the Directive does not facilitate the creation of further disparities or obstacles to the provision of services in the internal market by allowing service providers offering services on their territory to designate legal representatives within Member</p>	<p>should be able to choose to that effect an existing establishment in a Member State, be it a corporate body or a branch, agency, office or a main seat or headquarters, and also more than one legal representative. This legal representative could also be a third party, which could be shared between several service providers, in particular small and medium-sized enterprises. Nevertheless, a corporate group should not be forced to designate multiple representatives, one for each undertaking part of that group, but can designate one legal representative for the group. Different instruments adopted falling within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union apply in the relationships between Member States when gathering evidence in criminal proceedings. As a consequence of this ‘variable geometry’ that exists in the common area of criminal law, there is a need to ensure that the</p>	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
<p>within Member States that do not take part in relevant legal instruments, which would fall short of addressing the problem. Therefore, at least one representative should be designated in a Member State that participates in the relevant Union legal instruments to avoid the risk of weakening the effectiveness of the designation provided for in this Directive and to make use of the synergies of having a legal representative for the receipt of, compliance with and enforcement of decisions and orders issued in the context of gathering evidence in criminal proceedings, including under the [Regulation] or the 2000 Mutual Legal Assistance Convention. In addition, designating a legal representative, which could also be utilised to ensure compliance with national legal obligations, makes use of the synergies of having a clear point of access to address the service providers for the purpose of gathering evidence in criminal matters.</p>	<p>States that do not take part in relevant legal instruments, which would fall short of addressing the problem. Therefore, at least one representative should be designated in a Member State that participates in the relevant Union legal instruments to avoid the risk of weakening the effectiveness of the designation provided for in this Directive and to make use of the synergies of having a legal representative for the receipt of, compliance with and enforcement of decisions and orders issued in the context of gathering evidence in criminal proceedings, including under the [Regulation] or the 2000 Mutual Legal Assistance Convention. In addition, designating a legal representative, which could also be utilised to ensure compliance with national legal obligations, makes use of the synergies of having a clear point of access to address the service providers for the purpose of gathering evidence in criminal matters.</p>	<p>Directive does not facilitate the creation of further disparities or obstacles to the provision of services in the internal market by allowing service providers offering services on their territory to designate legal representatives within Member States that do not take part in relevant legal instruments, which would fall short of addressing the problem. Therefore, at least one representative should be designated in a Member State that participates in the relevant Union legal instruments to avoid the risk of weakening the effectiveness of the designation provided for in this Directive and to make use of the synergies of having a legal representative for the receipt of, compliance with and enforcement of decisions and orders issued in the context of gathering evidence in criminal proceedings, including under the [Regulation], the Directive on the European Investigation Order or the 2000 Mutual Legal Assistance Convention. In addition,</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			designating a legal representative, which could also be utilised to ensure compliance with national legal obligations, makes use of the synergies of having a clear point of access to address the service providers for the purpose of gathering evidence in criminal matters.	
Recital 15				
23	(15) Service providers should be free to choose in which Member State they designate their legal representative, and Member States may not restrict this free choice, e.g. by imposing an obligation to designate the legal representative on their territory. However, the Directive also contains certain restrictions with regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal	(15) Service providers should be free to choose in which Member State they designate their legal representative, and Member States may not restrict this free choice, e.g. by imposing an obligation to designate the legal representative on their territory. However, the Directive also contains certain restrictions with regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal	(15) Service providers should be free to choose in which Member State they designate their legal representative, and Member States may not restrict this free choice, e.g. by imposing an obligation to designate the legal representative on their territory. However, the Directive also contains certain restrictions with regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	representative in one of the Member States participating in judicial cooperation instruments adopted under Title V of the Treaty.	representative in one of the Member States participating in judicial cooperation instruments adopted under Title V of the Treaty.	representative in one of the Member States participating in judicial cooperation instruments adopted under falling within Title V of the Treaty. The sole designation of a legal representative should not be considered to constitute an establishment of the service provider.		
Recital 16					
24	(16) The service providers most relevant for gathering evidence in criminal proceedings are providers of electronic communications services and specific providers of information society services that facilitate interaction between users. Thus, both groups should be covered by this Directive. Providers of electronic communication services are defined in the proposal for a Directive establishing the European Electronic Communications Code. They include inter-personal communications such	(16) The service providers most relevant for gathering evidence in criminal proceedings are providers of electronic communications services and specific providers of information society services that facilitate interaction between users. Thus, both groups should be covered by this Directive. Providers of electronic communication services are defined in the proposal for a Directive establishing the European Electronic Communications Code. They include inter-personal communications such as voice-	(16) The service providers most relevant for gathering evidence in criminal proceedings are providers of electronic communications services and specific providers of information society services that facilitate interaction between users. Thus, both groups should be covered by this Directive. Providers of electronic communication services are defined in the proposal for a Directive establishing the European Electronic Communications Code. They include inter-personal communications such as voice-		

Commission Proposal	EP mandate	Council Mandate	Draft agreement
<p>as voice-over-IP, instant messaging and e-mail services. The categories of information society services included here are those for which the storage of data is a defining component of the service provided to the user, and refer in particular to social networks to the extent they do not qualify as electronic communications services, online marketplaces facilitating transactions between their users (such as consumers or businesses) and other hosting services, including where the service is provided via cloud computing. Information society services for which the storage of data is not a defining component, and for which it is only of an ancillary nature, such as legal, architectural, engineering and accounting services provided online at distance, should be excluded from the scope of this Directive, even where they may fall within the definition of information society services as per Directive (EU) 2015/1535.</p>	<p>over-IP, instant messaging and e-mail services. The categories of information society services included here are those for which the storage of data is a defining component of the service provided to the user, and refer in particular to social networks to the extent they do not qualify as electronic communications services, online marketplaces facilitating transactions between their users (such as consumers or businesses) and other hosting services, including where the service is provided via cloud computing. Information society services for which the storage of data is not a defining component, and for which it is only of an ancillary nature, such as legal, architectural, engineering and accounting services provided online at distance, should be excluded from the scope of this Directive, even where they may fall within the definition of information society services as per Directive (EU) 2015/1535.</p>	<p>over-IP, instant messaging and e-mail services. This Directive should also be applicable to other The categories of information society services providers within the meaning of Directive (EU) 2015/1535 that included here are those for which the storage of data is a defining component of the service provided to the user, and refer in particular to social networks to the extent they do not qualify as electronic communications services providers, but offer their users the ability to communicate with each other or offer their users services that can be used to process or store data on their behalf. This should be in line with the terms used in the Budapest Convention on Cybercrime. Processing of data should be understood in a technical sense, meaning the creation or manipulation of data, i.e. technical operations to produce or alter data by means of computer processing power.</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>The categories of service providers included here are, for example online marketplaces facilitating transactions between their users (such as providing consumers or and businesses) the ability to communicate with each other and other hosting services, including where the service is provided via cloud computing, as well as online gaming platforms and online gambling platforms. Where an information society service provider does not provide its users the ability to communicate with each other, but only with the service provider, or does not provide the ability to process or to store data, or where the ability to store/process data is not an essential part of the service provided to users, such as legal, architectural engineering and accounting services provided online at a distance, it would not fall within the scope of the definition, even if within the definition of information society services</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>pursuant to Directive (EU) 2015/1535. Information society services for which the storage of data is not a defining component, and for which it is only of an ancillary nature, such as legal, architectural, engineering and accounting services provided online at distance, should be excluded from the scope of this Directive, even where they may fall within the definition of information society services as per Directive (EU) 2015/1535.</p>	
Recital 17				
25	<p>(17) Providers of internet infrastructure services related to the assignment of names and numbers, such as domain name registrars and registries and privacy and proxy service providers or regional internet registries for internet protocol ('IP') addresses, are of particular relevance when it comes to the identification of actors behind malicious or compromised web sites. They hold data that is of</p>	<p>(17) Providers of internet infrastructure services related to the assignment of names and numbers, such as domain name registrars and registries and privacy and proxy service providers or regional internet registries for internet protocol ('IP') addresses, are of particular relevance when it comes to the identification of actors behind malicious or compromised web sites. They hold data that is of</p>	<p>(17) Providers of internet infrastructure services related to the assignment of names and numbers, such as domain name registrars and registries and privacy and proxy service providers or regional internet registries for internet protocol ('IP') addresses, are of particular relevance when it comes to the identification of actors behind malicious or compromised web sites. They hold data that is of</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	particular relevance for criminal investigations as it can allow for the identification of an individual or entity behind a web site used in criminal activity, or the victim of criminal activity in the case of a compromised web site that has been hijacked by criminals.	particular relevance for criminal investigations as it can allow for the identification of an individual or entity behind a web site used in criminal activity, or the victim of criminal activity in the case of a compromised web site that has been hijacked by criminals.	particular relevance for criminal investigations as it can allow for the identification of an individual or entity behind a web site used in criminal activity, or the victim of criminal activity in the case of a compromised web site that has been hijacked by criminals.	
Recital 18				
26	(18) The legal representative should be able to comply with decisions and orders addressed to them by Member States' authorities on behalf of the service provider, which should take the appropriate measures to ensure this result, including sufficient resources and powers. The absence of such measures or their shortcomings should not serve as grounds to justify non-compliance with decisions or orders falling into the ambit of application of by this Directive, neither for the service provider nor its legal representative.	(18) The legal representative should be able to comply with decisions and orders addressed to them by Member States' authorities on behalf of the service provider, which should take the appropriate measures to ensure this result, including sufficient resources and powers. The absence of such measures or their shortcomings should not serve as grounds to justify non-compliance with decisions or orders falling into the ambit of application of by this Directive, neither for the service provider nor its legal representative.	(18) The legal representative should be able to comply with decisions and orders addressed to them by Member States' authorities on behalf of the service provider, which should take the appropriate measures to ensure this result, including sufficient resources and powers. The absence of such measures or their shortcomings should not serve as grounds to justify non-compliance with decisions or orders falling into the ambit of application of by this Directive, neither for the service provider nor its legal representative. Neither should service providers be able to exculpate	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>themselves due to missing or ineffective internal procedure, as they are responsible for providing the necessary resources and powers to guarantee compliance with orders and national decisions. Nor should the legal representative be able to exculpate himself by claiming for example he is not empowered to deliver data. The service provider and its legal representative(s) should remain free to allocate among themselves the tasks of identifying and accessing the requested evidence as long as decisions and orders addressed to them are complied with.</p>	
Recital 19				
27	<p>(19) Service providers should notify the Member State in which the legal representative resides or is established of the identity and contact details of their legal representative, as well as related changes and updates of information. The notification</p>	<p>(19) Service providers should notify the Member State in which the legal representative resides or is established of the identity and contact details of their legal representative, as well as related changes and updates of information. The notification</p>	<p>(19) Service providers should notify the Member State in which the legal representative resides or is established of the identity and contact details of their legal representative, as well as related changes and updates of information. The notification</p>	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	<p>should also provide information about the languages in which the legal representative can be addressed, which should include at least one of the official languages of the Member State where the legal representative resides or is established, but may include other official languages of the Union, such as the language of its headquarters. When the service provider designates more than one legal representative, it may also notify considerations to determine which one should be addressed. These considerations are not binding for Member States' authorities, but should be followed except in duly justified cases. All this information, which is of particular relevance for Member States' authorities, should be made publicly available by the service provider, for example on its website, in a manner comparable to the requirements for making available general information pursuant to Article 5 Directive</p>	<p>should also provide information about the languages in which the legal representative can be addressed, which should include at least one of the official languages of the Member State where the legal representative resides or is established, but may include other official languages of the Union, such as the language of its headquarters. When the service provider designates more than one legal representative, it may also notify considerations to determine which one should be addressed. These considerations are not binding for Member States' authorities, but should be followed except in duly justified cases. All this information, which is of particular relevance for Member States' authorities, should be made publicly available by the service provider, for example on its website, in a manner comparable to the requirements for making available general information pursuant to Article 5 Directive 2000/31/EC on certain legal aspects of</p>	<p>should also provide information about the languages in which the legal representative can be addressed, which should include at least one or more of the official languages in accordance with the national law of the Member State where the legal representative resides or is established, but may include other official languages of the Union, such as the language of its headquarters.</p> <p>When the service provider designates more than one legal representative, it may also notify considerations to determine which one should be addressed. These considerations are not binding for Member States' authorities, but should be followed except in duly justified where the competent authorities consider it is necessary to depart from those considerations on a case-by-cases basis e.g. when the legal representative is unavailable or uncooperative. Where the competent authorities, by way</p>	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
<p>2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ⁵ (e-Commerce Directive). For those service providers subject to the e-Commerce Directive, Article 3(3) complements but does not replace these requirements. Furthermore, Member States should also publish the relevant information for their country on a dedicated site of the e-Justice portal to facilitate coordination between Member States and use of the legal representative by authorities from another Member State.</p> <p>_____</p> <p>⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1).</p>	<p>information society services, in particular electronic commerce, in the Internal Market ⁵ (e-Commerce Directive). For those service providers subject to the e-Commerce Directive, Article 3(3) complements but does not replace these requirements. Furthermore, Member States should also publish the relevant information for their country on a dedicated site of the e-Justice portal to facilitate coordination between Member States and use of the legal representative by authorities from another Member State.</p> <p>⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1).</p>	<p>of exception, depart from these considerations they should only address a legal representative established in a Member State participating in the respective instrument. All this information, which is of particular relevance for Member States' authorities, should be made publicly available by the service provider, for example on its website, in a manner comparable to the requirements for making available general information pursuant to Article 5 Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ⁸ (e-Commerce Directive). For those service providers subject to the e-Commerce Directive, Article 3(3) complements but does not replace these requirements. Furthermore, Member States should also publish and keep up-to-date the relevant information for their country on a dedicated site internet page of the e-Justice Portal European Judicial</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>Network in criminal matters to facilitate coordination between Member States and use of the legal representative by authorities from another Member State. The data may also be further disseminated to facilitate access to this data by competent authorities, such as via dedicated intranet sites or forums and platforms.</p> <p>_____</p> <p>⁸ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1).</p>	
Recital 20				
28	(20) The infringement of the obligations to designate a legal representative and to notify and make publicly available the	(20) The infringement of the obligations to designate a legal representative and to notify and make publicly available the	(20) The service provider should be subject to effective, proportionate and dissuasive sanctions for the infringement of	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
<p>information related thereto should be subject to effective, proportionate and dissuasive sanctions. Under no circumstances should the sanctions determine a ban, permanent or temporary, of service provision. Member States should coordinate their enforcement action where a service provider offers services in several Member States. To ensure a coherent and proportionate approach, a coordination mechanism is provided. The Commission could facilitate such coordination if necessary, but needs to be informed of cases of infringement. This Directive does not govern the contractual arrangements for transfer or shifting of financial consequences between service providers and legal representatives of sanctions imposed upon them.</p>	<p>information related thereto should be subject to effective, proportionate and dissuasive sanctions. Under no circumstances should the sanctions determine a ban, permanent or temporary, of service provision. Member States should coordinate their enforcement action where a service provider offers services in several Member States. To ensure a coherent and proportionate approach, a coordination mechanism is provided. The Commission could facilitate such coordination if necessary, but needs to be informed of cases of infringement. This Directive does not govern the contractual arrangements for transfer or shifting of financial consequences between service providers and legal representatives of sanctions imposed upon them.</p>	<p>its the obligations to designate a legal representative, to entrust the legal representative with the necessary powers and resources to comply with decisions and orders, establish the appropriate procedures and to notify and make publicly available the information related thereto should be subject to effective, proportionate and dissuasive sanctions. The service provider and the legal representative should be subject to effective, proportionate and dissuasive sanctions for the systematic infringement by the legal representative of the obligation to cooperate with the competent authorities when receiving decisions and orders. Member States should ensure that both the designated legal representative and the service provider can be held jointly and severally liable for non-compliance with obligations deriving from the applicable legal framework when receiving decisions and orders. Jointly</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>and severally liable means that either the legal representative or the service provider may be sanctioned for non-compliance by either of them with any of the obligations under this Directive. Joint and several liability should not apply for actions or omissions of either the service provider or the legal representative which constitute a criminal offence under the law of the Member State imposing the sanction. Under no circumstances should the sanctions determine a ban, permanent or temporary, of service provision. Member States should coordinate their enforcement action where a service provider offers services in several Member States. Central authorities should coordinate to ensure a coherent and proportionate approach, a coordination mechanism is provided. The Commission could facilitate such coordination if necessary, but needs to be informed of cases of</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			infringement. This Directive does not govern the contractual arrangements for transfer or shifting of financial consequences between service providers and legal representatives of sanctions imposed upon them.	
Recital 20a				
29			(20a) When determining in the individual case the appropriate and proportionate sanction, the competent authorities should also take into account the financial capacity of the service provider.	
Recital 21				
30	(21) This Directive is without prejudice to the investigative powers of authorities in civil or administrative proceedings, including where such proceedings can lead to sanctions.	(21) This Directive is without prejudice to the investigative powers of authorities in civil or administrative proceedings, including where such proceedings can lead to sanctions.	(21) This Directive is without prejudice to the investigative powers of authorities in civil or administrative proceedings, including where such proceedings can lead to sanctions.	
Recital 22				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
31	<p>(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should be put in place. For that purpose, Member States should designate a central authority that can provide central authorities in other Member States with information and assistance in the application of the Directive, in particular where enforcement actions under the Directive are considered. This coordination mechanism should ensure that relevant Member States are informed of the intent of a Member State to undertake an enforcement action. In addition, Member States should ensure that central authorities can provide each other with assistance in those circumstances, and cooperate with each other where relevant. Cooperation amongst central authorities in the case of an enforcement action may entail the coordination of an</p>	<p>(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should be put in place. For that purpose, Member States should designate a central authority that can provide central authorities in other Member States with information and assistance in the application of the Directive, in particular where enforcement actions under the Directive are considered. This coordination mechanism should ensure that relevant Member States are informed of the intent of a Member State to undertake an enforcement action. In addition, Member States should ensure that central authorities can provide each other with assistance in those circumstances, and cooperate with each other where relevant. Cooperation amongst central authorities in the case of an enforcement action may entail the coordination of an enforcement action between competent authorities in different Member</p>	<p>(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should be put in place. For that purpose, Member States should designate a central authority that can provide central authorities in other Member States with information and assistance in the application of the Directive, in particular where enforcement actions under the Directive are considered. This coordination mechanism should ensure that relevant Member States are informed of the intent of a Member State to undertake an enforcement action. In addition, Member States should ensure that central authorities can provide each other any relevant information and with assistance in those circumstances, and cooperate with each other where relevant. Cooperation amongst central authorities in the case of an enforcement action may entail the coordination of an enforcement action between</p>	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	<p>enforcement action between competent authorities in different Member States. For the coordination of an enforcement action, central authorities shall also involve the Commission where relevant. The existence of the coordination mechanism does not prejudice the right of an individual Member State to impose sanctions on service providers that fail to comply with their obligations under the Directive. The designation and publication of information about central authorities will facilitate the notification by service providers of the designation and contact details of its legal representative to the Member State where its legal representative resides or is established of the designation and contact details.</p>	<p>States. For the coordination of an enforcement action, central authorities shall also involve the Commission where relevant. The existence of the coordination mechanism does not prejudice the right of an individual Member State to impose sanctions on service providers that fail to comply with their obligations under the Directive. The designation and publication of information about central authorities will facilitate the notification by service providers of the designation and contact details of its legal representative to the Member State where its legal representative resides or is established of the designation and contact details.</p>	<p>competent authorities in different Member States. It should aim to avoid positive or negative conflicts of competence. For the coordination of an enforcement action, central authorities should shall also involve the Commission where relevant. The existence of the obligation of these authorities to cooperate coordination mechanism does not prejudice the right of an individual Member State to impose sanctions on service providers that fail to comply with their obligations under the Directive. The designation and publication of information about central authorities will facilitate the notification by service providers of the designation and contact details of its legal representative to the Member State where its legal representative resides or is established of the designation and contact details.</p>	
Recital 23				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
32	(23) Since the objective of this Directive, namely to remove obstacles to the free provision of services in the framework of gathering evidence in criminal proceedings, cannot be sufficiently achieved by the Member States, but can rather, by reason of the borderless nature of such services, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	(23) Since the objective of this Directive, namely to remove obstacles to the free provision of services in the framework of gathering evidence in criminal proceedings, cannot be sufficiently achieved by the Member States, but can rather, by reason of the borderless nature of such services, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	(23) Since the objective of this Directive, namely to remove obstacles to the free provision of services in the framework of gathering evidence in criminal proceedings, cannot be sufficiently achieved by the Member States, but can rather, by reason of the borderless nature of such services, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	
Recital 24				
34	(24) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC)	(24) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC)	(24) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC)	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	<p>No 45/2001 of the European Parliament and of the Council⁶ and delivered an opinion on (...) ⁷,</p> <p>⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</p> <p>⁷ OJ C , , p. .</p>	<p>No 45/2001 of the European Parliament and of the Council⁶ and delivered an opinion on (...) ⁷,</p> <p>⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</p> <p>⁷ OJ C , , p. .</p>	<p>No 45/2001 of the European Parliament and of the Council⁹ and delivered an opinion on (...) ¹⁰,</p> <p>⁹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</p> <p>¹⁰ OJ C , , p. .</p>	
Recital 25				
35	<p>(25) The Commission should carry out an evaluation of this Directive that should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The evaluation should be completed 5 years after entry into application, to</p>	<p>(25) The Commission should carry out an evaluation of this Directive that should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The evaluation should be completed 5 years after entry into application, to allow for</p>	<p>(25) The Commission should carry out an evaluation of this Directive that should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The evaluation should be completed 5 years after entry into application, to allow for</p>	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	allow for the gathering of sufficient data on its practical implementation. Information should be collected regularly and in order to inform the evaluation of this Directive.	the gathering of sufficient data on its practical implementation. Information should be collected regularly and in order to inform the evaluation of this Directive.	the gathering of sufficient data on its practical implementation. Information should be collected regularly and in order to inform the evaluation of this Directive.		
	Formula				
36	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:		
	Article 1				
37	<i>Article 1</i> <i>Subject matter and scope</i>	<i>Article 1</i> <i>Subject matter and scope</i>	<i>Article 1</i> <i>Subject matter and scope</i>		
	Article 1(1)				
38	1. This Directive lays down rules on the legal representation in the Union of certain service providers for receipt of, compliance with and enforcement of decisions and orders issued by competent	1. This Directive lays down rules on the legal representation in the Union of certain service providers for receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of the Member States	1. This Directive lays down rules on the legal representation in the Union of certain service providers for receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of the Member States		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	authorities of the Member States for the purposes of gathering evidence in criminal proceedings.	for the purposes of gathering evidence in criminal proceedings.	for the purposes of gathering evidence in criminal proceedings.		
Article 1(2)					
39	2. Member States may not impose additional obligations to those deriving from this Directive on service providers covered by this Directive for the purposes set out in paragraph 1.	2. Member States may not impose additional obligations to those deriving from this Directive on service providers covered by this Directive for the purposes set out in paragraph 1.	2. Member States may shall not impose additional obligations to those deriving from this Directive on service providers covered by this Directive for the purposes set out in paragraph 1.		
Article 1(3)					
40	3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address service providers established on their territory for the purposes referred to in in paragraph 1.	3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address service providers established on their territory for the purposes referred to in in paragraph 1.	3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address directly service providers established on their territory for the purposes referred to in in paragraph 1.		
Article 1(4)					
41	4. This Directive shall apply to the service providers defined in	4. This Directive shall apply to the service providers defined in	4. This Directive shall apply to the service providers defined in		

Commission Proposal		EP mandate	Council Mandate	Draft agreement	
	Article 2(2) offering their services in the Union. It shall not apply where those service providers are established on the territory of a single Member State and offer services exclusively on the territory of that Member State.	Article 2(2) offering their services in the Union. It shall not apply where those service providers are established on the territory of a single Member State and offer services exclusively on the territory of that Member State.	Article 2(2) offering their services in the Union. It shall not apply where those service providers are established on the territory of a single Member State and offer services exclusively on the territory of that Member State.		
Article 2					
42	<i>Article 2</i> <i>Definitions</i>	<i>Article 2</i> <i>Definitions</i>	<i>Article 2</i> <i>Definitions</i>		
Article 2, introductory part					
43	For the purpose of this Directive, the following definitions apply:	For the purpose of this Directive, the following definitions apply:	For the purpose of this Directive, the following definitions apply:		
Article 2(1)					
44	(1) ‘legal representative’ means a legal or natural person, designated in writing by a service provider for the purpose	(1) ‘legal representative’ means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1),	(1) ‘legal representative’ means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1),		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	of Articles 1(1), 3(1), 3(2) and 3(3);	3(1), 3(2) and 3(3);	3(1), 3(2) and 3(3);	
Article 2(2)				
45	(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services:	(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services:	(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services, with the exception of financial services referred to in Article 2(2)(b) of Directive 2006/123/EC:	
Article 2(2), point a				
46	(a) electronic communications service as defined in Article 2(4) of [Directive establishing the European Electronic Communications Code];	(a) electronic communications service as defined in Article 2(4) of [Directive establishing the European Electronic Communications Code];	(a) electronic communications service as defined in Article 2(4) of {Directive (EU) 2018/1972 establishing the European Electronic Communications Code ¹¹ }; ¹¹ Directive (EU) 2018/1972 of the European Parliament and Council of 11 December 2018 establishing the European	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			Electronic Communications Code (OJ L 321, 17.12.2018, p. 36.)	
Article 2(2), point b				
47	<p>(b) information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council⁸ for which the storage of data is a defining component of the service provided to the user, including social networks, online marketplaces facilitating transactions between their users, and other hosting service providers;</p> <p>⁸ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).</p>	<p>(b) information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council⁸ for which the storage of data is a defining component of the service provided to the user, including social networks, online marketplaces facilitating transactions between their users, and other hosting service providers;</p> <p>⁸ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).</p>	(b) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;	
Article 2(2), point c				

Commission Proposal		EP mandate	Council Mandate	Draft agreement
48	(c) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;	(c) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;	(c) other information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council ¹² that provide: ¹² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).	
Article 2(2), point c, line 1				
49			- the ability to its users to communicate with each other; or	
Article 2(2), point c, line 2				
50			- to process or store data on behalf of the users to whom the service is provided for which the storage of data is a defining component of the service provided to the user, including	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			social networks, online marketplaces facilitating transactions between their users, and other hosting service providers;	
Article 2(2), point d				
51			d) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;	
Article 2(3)				
52	(3) ‘offering services in a Member State’ means:	(3) ‘offering services in a Member State’ means:	(3) ‘offering services in a Member State’ means:	
Article 2(3), point a				
53	(a) enabling legal or natural persons in a Member State to use the services referred to in point (2); and	(a) enabling legal or natural persons in a Member State to use the services referred to in point (2); and	(a) enabling legal or natural persons in a Member State to use the services referred to in point (2); and	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
Article 2(3), point b				
54	(b) having a substantial connection to the Member State referred to in point (a);	(b) having a substantial connection to the Member State referred to in point (a);	(b) having a substantial connection based on specific factual criteria to the Member State referred to in point (a);	
Article 2(4)				
55	(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;	(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;	(4) ‘establishment’ or ‘ being established ’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;	
Article 2(5)				
56	(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council ⁹ .	(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council⁹.	(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council ¹³ .	
	⁹ Directive (EU) 2015/849 of the	⁹ Directive (EU) 2015/849 of the	⁹ Directive (EU) 2015/849 of the	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).	European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).	European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).	
Article 3				
57	<i>Article 3 Legal representative</i>	<i>Article 3 Legal representative</i>	<i>Article 3 Legal representative</i>	
Article 3(1)				
58	1. Member States where a service provider offering services in the Union is established shall ensure that it designates at least one legal representative in the Union for the receipt of, compliance with	1. Member States where a service provider offering services in the Union is established shall ensure that it designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and	1. Member States where a service provider offering services in the Union is established shall ensure that it designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	and enforcement of decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.	orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.	orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.	
Article 3(2)				
59	2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal	2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of	2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	representative shall reside or be established in one of the Member States where the service provider offers the services.	the Member States where the service provider offers the services.	the Member States where the service provider offers the services.	
Article 3(3)				
60	3. As regards the receipt of, compliance with and enforcement of decisions and orders issued by the competent authorities of Member States under Union legal instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal proceedings, the Member States taking part in those legal instruments shall ensure that service providers offering services on their territory designate at least one representative in one of them. The legal representative shall reside or be established in one of the Member States where the service provider offers the services.	3. As regards the receipt of, compliance with and enforcement of decisions and orders issued by the competent authorities of Member States under Union legal instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal proceedings, the Member States taking part in those legal instruments shall ensure that service providers offering services on their territory designate at least one representative in one of them. The legal representative shall reside or be established in one of the Member States where the service provider offers the services.	3. As regards the receipt of, compliance with and enforcement of decisions and orders issued by the competent authorities of Member States under Union legal instruments adopted falling within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union for gathering evidence in criminal proceedings, the Member States taking part in those legal instruments shall ensure that service providers offering services on their territory designate at least one representative in one of them. The legal representative shall reside or be established in one of the Member States where the service provider offers the services.	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
Article 3(4)				
61	4. Service providers shall be free to designate additional legal representatives, resident or established in other Member States, including those where the service providers offer their services. Service providers which are part of a group shall be allowed to collectively designate one legal representative.	4. Service providers shall be free to designate additional legal representatives, resident or established in other Member States, including those where the service providers offer their services. Service providers which are part of a group shall be allowed to collectively designate one legal representative.	4. Service providers shall be free to may designate additional legal representatives, resident or established in other Member States, including those where the service providers are established or offer their services. Service providers which are part of a group shall be allowed to collectively designate one legal representative.	
Article 3(5)				
62	5. Member States shall ensure that the decisions and orders by their competent authorities for evidence gathering in criminal proceedings are addressed to the legal representative designated by the service provider to that effect. That representative shall be entrusted with the receipt, compliance and enforcement of those decisions and orders on behalf of the service provider	5. Member States shall ensure that the decisions and orders by their competent authorities for evidence gathering in criminal proceedings are addressed to the legal representative designated by the service provider to that effect. That representative shall be entrusted with the receipt, compliance and enforcement of those decisions and orders on behalf of the service provider	5. Member States shall ensure that the decisions and orders by the their competent authorities for evidence gathering in criminal proceedings are addressed to the legal representative designated by the service provider to that effect. That legal representative shall be entrusted with the receipt, of and compliance with and enforcement of those decisions and orders on behalf of the service provider concerned, and can be subject to	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	concerned.	concerned.	enforcement measures.	
Article 3(6)				
63	6. To this end, Member States shall ensure that the legal representative residing or established on their territory cooperates with the competent authorities when receiving those decisions and orders, in accordance with the applicable legal framework.	6. To this end, Member States shall ensure that the legal representative residing or established on their territory cooperates with the competent authorities when receiving those decisions and orders, in accordance with the applicable legal framework.	6. Member States shall ensure that service providers established or offering services in their territory provide their legal representative with the necessary powers and resources to comply with those decisions and orders received from any Member State.	
Article 3(7)				
64	7. Member States shall ensure that service providers established or offering services in their territory provide their legal representative with the necessary powers and resources to comply with those decisions and orders.	7. Member States shall ensure that service providers established or offering services in their territory provide their legal representative with the necessary powers and resources to comply with those decisions and orders.	7. ¹⁴ To this end, The Member States where shall ensure that the legal representatives are residing or are established on their territory shall verify that the said legal representatives have received from the service providers the necessary powers and resources to comply with decisions and orders received from any Member State and that they cooperates with the competent authorities when	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>receiving those decisions and orders, in accordance with the applicable legal framework.</p> <p>_____</p> <p>¹⁴ Paragraphs 6 and 7 of this Article from the Commission Proposal have been switched.</p>	
Article 3(8)				
65	<p>8. Member States shall ensure that the designated legal representative can be held liable for non-compliance with obligations deriving from the applicable legal framework when receiving decisions and orders, without prejudice to the liability and legal actions that could be initiated against the service provider. In particular, the lack of appropriate internal procedures between the service provider and the legal representatives cannot be used as a justification for non-compliance with those obligations.</p>	<p>8. Member States shall ensure that the designated legal representative can be held liable for non-compliance with obligations deriving from the applicable legal framework when receiving decisions and orders, without prejudice to the liability and legal actions that could be initiated against the service provider. In particular, the lack of appropriate internal procedures between the service provider and the legal representatives cannot be used as a justification for non-compliance with those obligations.</p>	<p>8. Member States shall ensure that both the designated legal representative and the service provider can be held jointly and severally liable for non-compliance with obligations deriving from the applicable legal framework when receiving decisions and orders, without prejudice to the liability and legal actions that could be initiated against the service provider with the effect that each of the legal representative and service provider may be sanctioned for non-compliance of either of them. In particular, the lack of appropriate internal procedures between the service provider and the legal representatives cannot be</p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			used by either side as a justification for non-compliance with those obligations. Joint and several liability shall not apply for actions or omissions of either the service provider or the legal representative which constitute a criminal offence in the Member State applying the sanction.	
Article 3(9)				
66	9. Member States shall ensure that the obligation to designate a legal representative applies from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of transposition of the Directive.	9. Member States shall ensure that the obligation to designate a legal representative applies from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of transposition of the Directive.	9. Member States shall ensure that the obligation to designate a legal representative applies is fulfilled by [6 months from the date of transposition set out in Article 7] for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of transposition of the Directive that date.	
Article 4				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
67	<p><i>Article 4</i></p> <p><i>Notifications and languages</i></p>	<p><i>Article 4</i></p> <p><i>Notifications and languages</i></p>	<p><i>Article 4</i></p> <p><i>Notifications and languages</i></p>	
Article 4(1)				
68	<p>1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1), (2) and (3), each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its legal representative resides or is established of the designation and contact details of its legal representative as well as any changes thereof.</p>	<p>1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1), (2) and (3), each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its legal representative resides or is established of the designation and contact details of its legal representative as well as any changes thereof.</p>	<p>1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1), (2), and (3) and (4), each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its legal representative resides or is established of the designation and contact details of its legal representative as well as any changes thereof.</p>	
Article 4(2)				
69	<p>2. The notification shall specify the official language(s) of the Union, as referred to in Regulation 1/58, in which the legal representative can be addressed. This shall include, at</p>	<p>2. The notification shall specify the official language(s) of the Union, as referred to in Regulation 1/58, in which the legal representative can be addressed. This shall include, at</p>	<p>2. The notification shall specify the official language(s) of the Union, as referred to in Regulation 1/58, in which the legal representative can be addressed. This shall include, at</p>	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	least, one of the official languages of the Member State where the legal representative resides or is established.	least, one of the official languages of the Member State where the legal representative resides or is established.	least, one or more of the official languages in accordance with the national law of the Member State where the legal representative resides or is established.	
Article 4(3)				
70	3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or any other considerations to determine the appropriate legal representative to be addressed. In duly justified cases, Member States' authorities may depart from those considerations.	3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or any other considerations to determine the appropriate legal representative to be addressed. In duly justified cases, Member States' authorities may depart from those considerations.	3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or and any other considerations to determine the appropriate legal representative to be addressed. In duly justified cases, Member States' Competent authorities may depart from those considerations on a case-by-case basis; where necessary Member States shall ensure that in such cases, the addressed legal representative has to comply with these orders and decisions.	
Article 4(4)				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
71	4. Member States shall ensure that the service provider makes the information notified to them in accordance with this Article publicly available. Member States shall publish that information on a dedicated page of the e-Justice portal.	4. Member States shall ensure that the service provider makes the information notified to them in accordance with this Article publicly available. Member States shall publish that information on a dedicated page of the e-Justice portal.	4. [Member States shall ensure that the service provider makes the information notified to them in accordance with this Article is publicly available] Member States shall publish that information on a dedicated internet page of the e-Justice Portal of the European Judicial Network in criminal matters . Member States shall ensure that this information is regularly updated. This information may be further disseminated to facilitate access by competent authorities.		
Article 5					
72	<i>Article 5 Sanctions</i>	<i>Article 5 Sanctions</i>	<i>Article 5 Sanctions</i>		
Article 5(1)					
73	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	Article 3 and 4 this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.		
Article 5(2)					
74	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.		
Article 6					
75	<i>Article 6</i> <i>Coordination mechanism</i>	<i>Article 6</i> <i>Coordination mechanism</i>	<i>Article 6</i> <i>Coordination mechanism</i> Central authorities		

Commission Proposal		EP mandate	Council Mandate	Draft agreement
Article 6(1)				
76	1. Member States shall designate a central authority or, where its legal system so provides, more than one central authority, to ensure the application of this Directive in a consistent and proportionate manner.	1. Member States shall designate a central authority or, where its legal system so provides, more than one central authority, to ensure the application of this Directive in a consistent and proportionate manner.	1. In accordance with their legal systems, Member States shall designate one or more a central authorities authority or, where its legal system so provides, more than one central authority, to ensure the application of this Directive in a consistent and proportionate manner.	
Article 6(2)				
77	2. Member States shall inform the Commission of their designated central authority, or central authorities, referred to in paragraph 1. The Commission shall forward a list of designated central authorities to the Member States. The Commission will also make publicly available a list of designated central authorities to facilitate the notifications by a service provider to the Member States where its legal representative	2. Member States shall inform the Commission of their designated central authority, or central authorities, referred to in paragraph 1. The Commission shall forward a list of designated central authorities to the Member States. The Commission will also make publicly available a list of designated central authorities to facilitate the notifications by a service provider to the Member States where its legal representative resides or is	2. Member States shall inform the Commission of their designated central authority, or central authorities, referred to in paragraph 1. The Commission shall forward a list of designated central authorities to the Member States. The Commission will also make publicly available a list of designated central authorities to facilitate the notifications by a service provider to the Member States where its legal representative resides or is	

Commission Proposal		EP mandate	Council Mandate	Draft agreement	
	resides or is established.	established.	established.		
Article 6(3)					
78	3. Member States shall ensure that central authorities shall provide each other with relevant information and mutual assistance relevant to application of this Directive in a consistent and proportionate manner. The provisioning of information and mutual assistance shall cover, in particular, enforcement actions.	3. Member States shall ensure that central authorities shall provide each other with relevant information and mutual assistance relevant to application of this Directive in a consistent and proportionate manner. The provisioning of information and mutual assistance shall cover, in particular, enforcement actions.	3. Member States shall ensure that their central authorities shall provide each other with relevant coordinate and cooperate with each other and, where relevant, with the Commission, and provide any appropriate information and mutual assistance to each other in order to relevant to application of apply this Directive in a consistent and proportionate manner. The coordination, cooperation and provisioning of information and mutual assistance shall cover, in particular, enforcement actions.		
Article 6(4)					
79	4. Member States shall ensure that the central authorities shall cooperate with each other and, where relevant, with the Commission to ensure the application of this Directive in a	4. Member States shall ensure that the central authorities shall cooperate with each other and, where relevant, with the Commission to ensure the application of this Directive in a	4. Member States shall ensure that the central authorities shall cooperate with each other and, where relevant, with the Commission to ensure the application of this Directive in a		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.	consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.	consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.		
Article 7					
80	<i>Article 7 Transposition</i>	<i>Article 7 Transposition</i>	<i>Article 7 Transposition</i>		
Article 7(1)					
81	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 months after entry into force. They shall immediately inform the Commission thereof.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 months after entry into force. They shall immediately inform the Commission thereof.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 18 months after entry into force. They shall immediately inform the Commission thereof.		
Article 7(2)					
82	2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference	2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their	2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.	official publication. The methods of making such reference shall be laid down by Member States.	official publication. The methods of making such reference shall be laid down by Member States.		
Article 7(3)					
83	3. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.	3. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.	3. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.		
Article 8					
84	<i>Article 8 Evaluation</i>	<i>Article 8 Evaluation</i>	<i>Article 8 Evaluation</i>		
Article 8, paragraph 1					
85	By [5 years from the date of application of this Directive] at the latest, the Commission shall carry out an evaluation of the Directive and present a report to the European Parliament and to the Council on the application of this Directive, which shall	By [5 years from the date of application of this Directive] at the latest, the Commission shall carry out an evaluation of the Directive and present a report to the European Parliament and to the Council on the application of this Directive, which shall include	By [5 years from the date of application of this Directive] at the latest, the Commission shall carry out an evaluation of the Directive and present a report to the European Parliament and to the Council on the application of this Directive, which shall include		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	include an assessment of the need to enlarge its scope. Where appropriate, the report shall be accompanied by a proposal for the amendment of this Directive. The evaluation shall be conducted according to the Commission's Better Regulation Guidelines. Member States shall provide the Commission with the information necessary for the preparation of that Report.	an assessment of the need to enlarge its scope. Where appropriate, the report shall be accompanied by a proposal for the amendment of this Directive. The evaluation shall be conducted according to the Commission's Better Regulation Guidelines. Member States shall provide the Commission with the information necessary for the preparation of that Report.	an assessment of the need to enlarge its scope. Where appropriate, the report shall be accompanied by a proposal for the amendment of this Directive. The evaluation shall be conducted according to the Commission's Better Regulation Guidelines. Member States shall provide the Commission with the information necessary for the preparation of that Report.		
Article 9					
86	<i>Article 9</i> <i>Entry into force</i>	<i>Article 9</i> <i>Entry into force</i>	<i>Article 9</i> <i>Entry into force</i>		
Article 9, paragraph 1					
87	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .		
Article 10					

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
88	<i>Article 10 Addressees</i>	<i>Article 10 Addressees</i>	<i>Article 10 Addressees</i>		
Article 10, paragraph 1					
89	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.		
Formula					
90	Done at Brussels,	Done at Brussels,	Done at Brussels,		
Formula					
91	<i>For the European Parliament The President</i>	<i>For the European Parliament The President</i>	<i>For the European Parliament The President</i>		
Formula					
92	<i>For the Council The President</i>	<i>For the Council The President</i>	<i>For the Council The President</i>		