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 strikethrough.
- 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 <u>manually</u> (NO automatic update).

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

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
		of gathering evidence in criminal proceedings	gathering evidence in criminal proceedings	gathering evidence in criminal proceedings	
	Formul	a			
	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,	
	Formul	a			
	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,	
	Formul	a			
	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,	
_	Formul	a			
	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 1,	Having regard to the opinion of the European Economic and Social Committee ¹ ,	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	¹ OJC,,p	¹ OJ C , , p	¹ OJC,,p	
Formul	a			
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,	
Formul	a			
8	Whereas:	Whereas:	Whereas:	
Recital	1			
	(1)Network-based services can	(1) Network based services can	(1) Network-based services can	
9	in principle be provided from	in principle be provided from	in principle be provided from	
	anywhere and do not require a	anywhere and do not require a	anywhere and do not require a	
	physical infrastructure,	physical infrastructure, corporate	physical infrastructure, corporate	
	corporate presence, or staff in	presence, or staff in the country	presence, or staff in the country	
	the country where the services	where the services are offered,	where the services are offered,	
	are offered, nor in the internal	nor in the internal market itself.	nor in the internal market itself.	
	market itself. As a consequence,	As a consequence, it can be	As a consequence, it can be	
	it can be difficult to apply and	difficult to apply and enforce	difficult to apply and enforce	
	enforce obligations laid down in	obligations laid down in national	obligations laid down in national	
	national and Union law which	and Union law which apply to the	and Union law which apply to the	

Commented [HC29]: Presidency 30/06/2022: all recitals which are blank, written without colour or in yellow are not agreed on and should be scrutinised later on at technical level to ensure consistency with the operative part

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 ANNEX II
 JAI.2
 LIMITE
 EN

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
П		apply to the service providers	service providers concerned, in	service providers concerned, in	
		concerned, in particular the	particular the obligation to	particular the obligation to	
		obligation to comply with an	eomply with an order or a	comply with an order or a	
		order or a decision by a judicial	decision by a judicial authority.	decision by a judicial authority.	
		authority. This is the case in	This is the ease in particular in	This is the case in particular in	
		particular in criminal law, where	eriminal law, where Member	criminal law, where Member	
Ш		Member States' authorities face	States' authorities face	States' authorities face	
		difficulties with serving,	difficulties with serving, ensuring	difficulties with serving, ensuring	
		ensuring compliance and	compliance and enforcing their	compliance and enforcing their	
		enforcing their decisions, in	decisions, in particular where	decisions, in particular where	
		particular where relevant	relevant services are provided	relevant services are provided	
		services are provided from	from outside their territory.	from outside their territory.	
		outside their territory.			
Ц					
	Recital	2			
	10	(2) Against that background,	(2) Against that background,	(2) Against that background,	
		Member States have taken a	Member States have taken a	Member States have taken a	
		variety of disparate measures to	variety of disparate measures to	variety of disparate measures to	
		more effectively apply and	more effectively apply and	more effectively apply and	
		enforce their legislation. This	enforce their legislation. This	enforce their legislation. This	
Ш			The region of the	The second secon	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
		includes measures for	includes measures for addressing	includes measures for addressing	
		addressing service providers to	service providers to obtain	service providers to obtain	
		obtain electronic evidence that is	electronic evidence that is of	electronic evidence that is of	
		of relevance to criminal	relevance to criminal	relevance to criminal	
		proceedings.	proceedings.	proceedings.	
_	Recital	3			
	11	(3) To that end, some Member	(3) To that end, some Member	(3) To that end, some Member	
		States have adopted, or are	States have adopted, or are	States have adopted, or are	
		considering adopting, legislation	considering adopting, legislation	considering adopting, legislation	
		imposing mandatory legal	imposing mandatory legal	imposing mandatory legal	
		representation within their own	representation within their own	representation within their own	
		territory, for a number of service	territory, for a number of service	territory, for a number of service	
		providers offering services in	providers offering services in that	providers offering services in that	
		that territory. Such requirements	territory. Such requirements	territory. Such requirements	
		create obstacles to the free	ereate obstacles to the free	create obstacles to the free	
		provision of services within the	provision of services within the	provision of services within the	
		internal market.	internal market.	internal market.	
	Recital	4			

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

Commission Proposal	EP mandate	Council Mandate	Draft agreement
are set out for service providers	are set out for service providers	are set out for service providers	
established or offering services	established or offering services in	established or offering services in	
in different Member States,	different Member States, which	different Member States, which	
which also subject them to	also subject them to different	also subject them to different	
different sanction regimes in	sanction regimes in case of	sanction regimes in case of	
case of violations. This	violations. This divergence in the	violations. This divergence in the	
divergence in the framework of	framework of criminal	framework of criminal	
criminal proceedings will likely	proceedings will likely further	proceedings will likely further	
further expand because of the	expand because of the growing	expand because of the growing	
growing importance of	importance of communication	importance of communication	
communication and information	and information society services	and information society services	
society services in our daily	in our daily lives and societies.	in our daily lives and societies.	
lives and societies. The	The foregoing not only represents	The foregoing not only represents	
foregoing not only represents an	an obstacle to the proper	an obstacle to the proper	
obstacle to the proper	functioning of the internal market	functioning of the internal market	
functioning of the internal	but also entails problems for the	but also entails problems for the	
market but also entails problems	establishment and correct	establishment and correct	
for the establishment and correct	functioning of the Union's area of	functioning of the Union's area	
functioning of the Union's area	freedom, security and justice.	of freedom, security and justice.	
of freedom, security and justice.			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
Recital	16			
	(6) To avoid such fragmentation	(6) To avoid such fragmentation	(6) To avoid such fragmentation	
14	and to ensure that undertakings	and to ensure that undertakings	and to ensure that undertakings	
	active in the internal market are	active in the internal market are	active in the internal market are	
	subject to the same or similar	subject to the same or similar	subject to the same or similar	
	obligations, the Union has	obligations, the Union has	obligations, the Union has	
	adopted a number of legal acts	adopted a number of legal acts in	adopted a number of legal acts in	
	in related fields such as data	related fields such as data	related fields such as data	
	protection ² . To increase the	protection ² . To increase the level	protection ² . To increase the level	
	level of protection for the data	of protection for the data	of protection for the data	
	subjects, the rules of the General	subjects, the rules of the General	subjects, the rules of the General	
	Data Protection Regulation ³	Data Protection Regulation ³	Data Protection Regulation ³	
	provide for the designation of a	provide for the designation of a	provide for the designation of a	
	legal representative in the Union	legal representative in the Union	legal representative in the Union	
	by controllers or processors not	by controllers or processors not	by controllers or processors not	
	established in the Union but	established in the Union but	established in the Union but	
	offering goods or services to	offering goods or services to	offering goods or services to	
	individuals in the Union or	individuals in the Union or	individuals in the Union or	
	monitoring their behaviour if	monitoring their behaviour if	monitoring their behaviour if	
	their behaviour takes place	their behaviour takes place within	their behaviour takes place within	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	within the Union, unless the	the Union, unless the processing	the Union, unless the processing	
	processing is occasional, does	is occasional, does not include	is occasional, does not include	
	not include processing, on a	processing, on a large scale, of	processing, on a large scale, of	
	large scale, of special categories	special categories of personal	special categories of personal	
	of personal data or the	data or the processing of personal	data or the processing of personal	
	processing of personal data	data relating to criminal	data relating to criminal	
	relating to criminal convictions	convictions and offences, and is	convictions and offences, and is	
	and offences, and is unlikely to	unlikely to result in a risk to the	unlikely to result in a risk to the	
	result in a risk to the rights and	rights and freedoms of natural	rights and freedoms of natural	
	freedoms of natural persons,	persons, taking into account the	persons, taking into account the	
	taking into account the nature,	nature, context, scope and	nature, context, scope and	
	context, scope and purposes of	purposes of the processing or if	purposes of the processing or if	
	the processing or if the	the controller is a public authority	the controller is a public authority	
	controller is a public authority	or body.	or body.	
	or body.			
		² Directive 95/46/EC of the	² <u>Directive 95/46/EC</u> of the	
	² Directive 95/46/EC of the	European Parliament and of the	European Parliament and of the	
	European Parliament and of the	Council of 24 October 1995 on	Council of 24 October 1995 on	
	Council of 24 October 1995 on	the protection of individuals with	the protection of individuals with	
	the protection of individuals	regard to the processing of	regard to the processing of	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	with regard to the processing of	personal data and on the free	personal data and on the free	
	personal data and on the free	movement of such data (OJ L	movement of such data (OJ L	
	movement of such data (OJ L	281, 23.11.1995, p. 31);	281, 23.11.1995, p. 31);	
	281, 23.11.1995, p. 31);	Regulation (EU) 2016/679 of the	Regulation (EU) 2016/679 of the	
	Regulation (EU) 2016/679 of	European Parliament and of the	European Parliament and of the	
	the European Parliament and of	Council of 27 April 2016 on the	Council of 27 April 2016 on the	
	the Council of 27 April 2016 on	protection of natural persons with	protection of natural persons with	
	the protection of natural persons	regard to the processing of	regard to the processing of	
	with regard to the processing of	personal data and on the free	personal data and on the free	
	personal data and on the free	movement of such data, and	movement of such data, and	
	movement of such data, and	repealing Directive 95/46/EC	repealing Directive 95/46/EC	
	repealing Directive 95/46/EC	(General Data Protection	(General Data Protection	
	(General Data Protection	Regulation) (OJ L 119, 4.5.2016,	Regulation) (OJ L 119, 4.5.2016,	
	Regulation) (OJ L 119,	p. 1); Directive 2002/58/EC of	p. 1); <u>Directive 2002/58/EC</u> of	
	4.5.2016, p. 1); <u>Directive</u>	the European Parliament and of	the European Parliament and of	
	2002/58/EC of the European	the Council of 12 July 2002	the Council of 12 July 2002	
	Parliament and of the Council of	concerning the processing of	concerning the processing of	
	12 July 2002 concerning the	personal data and the protection	personal data and the protection	
	processing of personal data and	of privacy in the electronic	of privacy in the electronic	
	the protection of privacy in the	communications sector (Directive	communications sector (Directive	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	electronic communications	on privacy and electronic	on privacy and electronic		
	sector (Directive on privacy and	eommunications) (OJ L 201,	communications) (OJ L 201,		
	electronic communications) (OJ	31.7.2002, p. 37).	31.7.2002, p. 37).		
	L 201, 31.7.2002, p. 37).	³ Regulation (EU) 2016/679 of	³ Regulation (EU) 2016/679 of		
	³ Regulation (EU) 2016/679 of	the European Parliament and of	the European Parliament and of		
	the European Parliament and of	the Council of 27 April 2016 on	the Council of 27 April 2016 on		
	the Council of 27 April 2016 on	the protection of natural persons	the protection of natural persons		
	the protection of natural persons	with regard to the processing of	with regard to the processing of		
	with regard to the processing of	personal data and on the free	personal data and on the free		
	personal data and on the free	movement of such data, and	movement of such data, and		
	movement of such data, and	repealing Directive 95/46/EC (OJ	repealing Directive 95/46/EC (OJ		
	repealing Directive 95/46/EC	L 119, 4.5.2016, p. 1).	L 119, 4.5.2016, p. 1).		
	(OJ L 119, 4.5.2016, p. 1).				П
Recital	7				
15	(7) By setting out harmonised	(7) By setting out harmonised	(7) By setting out harmonised		
	rules on the legal representation	rules on the legal representation	rules on the legal representation		
	of certain service providers in	of certain service providers in the	of certain service providers in the		
	the Union for receipt of,	Union for receipt of, compliance	Union for receipt of, compliance		
	compliance with and	with and enforcement of	with and enforcement of		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
П	enforcement of decisions issued	decisions issued by competent	decisions issued by competent		
	by competent authorities in the	authorities in the Member States	authorities in the Member States		
	Member States for the purposes	for the purposes of gathering	for the purposes of gathering		
	of gathering evidence in	evidence in criminal proceedings,	evidence in criminal proceedings,		
Ш	criminal proceedings, the	the existing obstacles to the free	the existing obstacles to the free		
Ш	existing obstacles to the free	provision of services should be	provision of services should be		
Ш	provision of services should be	removed, as well as the future	removed, as well as the future		
	removed, as well as the future	imposition of divergent national	imposition of divergent national		
Ш	imposition of divergent national	approaches in that regard should	approaches in that regard should		
Ш	approaches in that regard should	be prevented. Level playing field	be prevented. Level playing field		
	be prevented. Level playing	for service providers should be	for service providers should be		
	field for service providers	established. Moreover, more	established. This should not		
Ш	should be established.	effective criminal law	affect obligations on service		
Ш	Moreover, more effective	enforcement in the common area	providers deriving from other		
Ш	criminal law enforcement in the	of freedom, security and justice	EU legislation. Moreover, more		
Ш	common area of freedom,	should be facilitated.	effective criminal law		
	security and justice should be		enforcement in the common area		
	facilitated.		of freedom, security and justice		
			should be facilitated.		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
Recital	8			
16	(8) The legal representative at	(8) The legal representative at	(8) The legal representative at	
	issue should serve as an	issue should serve as an	issue should serve as an	
	addressee for domestic orders	addressee for domestic orders	addressee for domestic orders and	
	and decisions and for orders and	and decisions and for orders and	decisions and for orders and	
	decisions pursuant to Union	decisions pursuant to Union legal	decisions pursuant to Union legal	
	legal instruments adopted	instruments adopted within the	instruments adopted falling	
	within the scope of Title V,	scope of Title V, Chapter 4, of	within the scope of Title V,	
	Chapter 4, of the Treaty on the	the Treaty on the Functioning of	Chapter 4, of the Treaty on the	
	Functioning of the European	the European Union for	Functioning of the European	
	Union for gathering evidence in	gathering evidence in criminal	Union for gathering evidence in	
	criminal matters. This includes	matters. This includes both	criminal matters, including	
	both instruments that permit the	instruments that permit the direct	where those orders and	
	direct serving of orders in cross-	serving of orders in cross border	decisions are transmitted in	
	border situations on the service	situations on the service	form of a certificate. This	
	provider, and instruments based	provider, and instruments based	includes both instruments that	
	on judicial cooperation between	on judicial cooperation between	permit the direct serving of	
	judicial authorities under Title	judicial authorities under Title V,	orders in cross-border situations	
	V, Chapter 4.	Chapter 4.	on the service provider or its	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			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 Order ⁵ and the	
			2000 Mutual Legal Assistance	
			Convention ⁶ . Recourse to the	
			legal representative should be	
			in accordance with the	
			procedures-set out in the	
			instruments and legislation	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			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.	
			⁴ Regulation of the European	
			Parliament and of the Council	
			on European Production and	
			preservation orders for electronic evidence in criminal	
			matters.	
			⁵ Directive 2014/41/EU of the	
			European Parliament and of	
			the Council of 3 April 2014	
			regarding the European Investigation Order in criminal	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			matters, OJ L 130, 1.5.2014, p.1. 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.	
Recital	[9 [
17	(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	(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	(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	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	that offer services in the Union	services in the Union at that date,	providers that offer services in	
	at that date, or from the moment	or from the moment service	the Union at that date by [6	
	service providers start offering	providers start offering services	months from the transposition	
	services in the Union for those	in the Union for those service	deadline of this Directive] or	
	service providers that will start	providers that will start offering	from the moment service	
	offering services after the date	services after the date of	providers start offering services	
	of transposition.	transposition.	in the Union for 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	(10) The obligation to designate a	(10) The obligation to designate a	
	a legal representative should	legal representative should apply	legal representative should apply	
	apply to service providers that	to service providers that offer	to service providers that offer	
	offer services in the Union,	services in the Union, meaning in	services in the Union, meaning in	
	meaning in one or more	one or more Member States.	one or more Member States.	
	Member States. Situations	Situations where a service	Situations where a service	
	where a service provider is	provider is established on the	provider is established on the	
		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. Recital 10 (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	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. 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 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. (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	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. 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. Services in the Union at that date, or from the moment service providers that will start offering services in the Union for those service providers that will start offering services after the date of transposition. Services in the Union at that date, or from the moment service providers 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 those service providers that will start offering services after [6] months from the date of transposition. Services in the Union at that date, or from the moment service of the Union for those service providers start offering services in the Union for those service providers that will start offering services after [6] months from the transposition deadline of this Directive] or from the moment service providers that offering services after the date of transposition deadline of this Directive]. Services in the Union for those service providers that offer services in the Union for those service and the Union for those service providers that offer services in the Union, meaning in one or more Member States. Situations where a service

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	established on the territory of a	territory of a Member State and	territory of a Member State and	
	Member State and offers	offers services exclusively on the	offers services exclusively on the	
	services exclusively on the	territory of that Member State,	territory of that Member State,	
	territory of that Member State,	should not be covered by this	should not be covered by this	
	should not be covered by this	Directive.	Directive.	
	Directive.			
Recita	l 11			
19	(11) Notwithstanding the	(11) Notwithstanding the	(11) Notwithstanding the	Presidency proposal 25/06/2022
	designation of a legal	designation of a legal	designation of a legal	(11) For the purpose of gathering
	representative, Member States	representative, Member States	representative, Member States	electronic evidence in criminal
	should be able to continue	should be able to continue	should be able to continue	proceedings, Member States should be able to continue
	addressing service providers	addressing service providers	addressing service providers	addressing service providers via a
	established on their territory, be	established on their territory, be it	established on their territory, be it	designated establishment or a legal representative on their
	it in purely domestic situations,	in purely domestic situations, be	in purely domestic situations, be	territory for purely domestic
	be it after receipt of a request for	it after receipt of a request for	it after receipt of a request for	situations in accordance with their respective national laws, <i>or</i> after
	assistance under legal	assistance under legal instruments	assistance under legal	receipt of a request for assistance
	instruments on mutual legal	on mutual legal assistance and on	instruments on mutual legal	under legal instruments on mutual legal assistance and on mutual
			assistance and on mutual	recognition in criminal matters.
			recognition in criminal matters.	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	assistance and on mutual recognition in criminal matters.	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.	Member States should also be able to continue addressing the Member States where service providers are established with instruments falling within the scope of Title V, Chapter 4, TFEU such as the Directive on the European Investigation Order and the Convention established by the Council in accordance with Article 34 of the Treaty on the European Union on mutual assistance in criminal matters between Member States of the Union. The possibilities currently provided by domestic law to address service providers on their own territory, Member States should not circumvent the principles set out in this Directive and in Regulation XXXX/XXX.
Recital	12			
20	(12) The determination whether a service provider offers	(12) The determination whether a service provider offers services in	(12) The determination whether a service provider offers services in	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement	
		services in the Union requires an	the Union requires an assessment	the Union requires an assessment		
		assessment whether the service	whether the service provider	whether the service provider		
		provider enables legal or natural	enables legal or natural persons in	enables legal or natural persons		
		persons in the Union to use its	the Union to use its services.	in the Union to use its services.		
		services. However, the mere	However, the mere accessibility	However, the mere accessibility		
		accessibility of an online	of an online interface (for	of an online interface (for		
		interface (for instance the	instance the accessibility of the	instance the accessibility of the		
		accessibility of the service	service provider's or an	service provider's or an		
		provider's or an intermediary's	intermediary's website or of an	intermediary's website or of an		
		website or of an email address	email address and of other	email address and of other		
		and of other contact details)	contact details) taken in isolation	contact details) taken in isolation		
		taken in isolation should not be	should not be a sufficient	should not be a sufficient		
		a sufficient condition for the	condition for the application of	condition for the application of		
		application of this Directive.	this Directive.	this Directive.		
L						
	Recital	13				
		(13) A substantial connection to	(13) A substantial connection to	(13) A substantial connection to		
	21	the Union should also be	the Union should also be relevant	the Union should also be relevant		
		relevant to determine the ambit	to determine the ambit of	to determine the ambit of		
		of application of this Directive.	application of this Directive.	application of this Directive.		

Commission Proposal	EP mandate	Council Mandate	Draft agreement
Such a substantial connection to	Such a substantial connection to	Such a substantial connection to	
the Union should be considered	the Union should be considered	the Union should be considered	
to exist where the service	to exist where the service	to exist where the service	
provider has an establishment in	provider has an establishment in	provider has an establishment in	
the Union. In the absence of	the Union. In the absence of such	the Union. In the absence of such	
such an establishment, the	an establishment, the criterion of	an establishment, the criterion of	
criterion of a substantial	a substantial connection should	a substantial connection should	
connection should be assessed	be assessed on the basis of the	be assessed on the basis of the	
on the basis of the existence of a	existence of a significant number	existence of based on specific	
significant number of users in	of users in one or more Member	factual criteria such as a	
one or more Member States, or	States, or the targeting of	significant number of users in	
the targeting of activities	activities towards one or more	one or more Member States, or	
towards one or more Member	Member States. The targeting of	the targeting of activities towards	
States. The targeting of	activities towards one or more	one or more Member States. The	
activities towards one or more	Member States can be determined	targeting of activities towards	
Member States can be	on the basis of all relevant	one or more Member States can	
determined on the basis of all	circumstances, including factors	be determined on the basis of all	
relevant circumstances,	such as the use of a language or a	relevant circumstances, including	
including factors such as the use	eurrency generally used in that	factors such as the use of a	
of a language or a currency	Member State, or the possibility	language or a currency generally	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
generally used in that Member	of ordering goods or services.	used in that Member State, or the	
State, or the possibility of	The targeting of activities	possibility of ordering goods or	
ordering goods or services. The	towards a Member State could	services. The targeting of	
targeting of activities towards a	also be derived from the	activities towards a Member	
Member State could also be	availability of an application	State could also be derived from	
derived from the availability of	('app') in the relevant national	the availability of an application	
an application ('app') in the	app store, from providing local	('app') in the relevant national	
relevant national app store, from	advertising or advertising in the	app store, from providing local	
providing local advertising or	language used in that Member	advertising or advertising in the	
advertising in the language used	State, or from the handling of	language used in that Member	
in that Member State, or from	eustomer relations such as by	State, or from the handling of	
the handling of customer	providing customer service in the	customer relations such as by	
relations such as by providing	language generally used in that	providing customer service in the	
customer service in the language	Member State. A substantial	language generally used in that	
generally used in that Member	connection is also to be assumed	Member State. A substantial	
State. A substantial connection	where a service provider directs	connection is also to be assumed	
is also to be assumed where a	its activities towards one or more	where a service provider directs	
service provider directs its	Member States as set out in	its activities towards one or more	
activities towards one or more	Article 17(1)(e) of Regulation	Member States as set out in	
Member States as set out in	1215/2012 on jurisdiction and the	Article 17(1)(c) of Regulation	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
Article 17(1)(c) of Regulation	recognition and enforcement of	1215/2012 on jurisdiction and the	
1215/2012 on jurisdiction and	judgements in civil and	recognition and enforcement of	
the recognition and enforcement	commercial matters. On the other	judgements in civil and	
of judgements in civil and	hand, provision of the service in	commercial matters. On the other	
commercial matters. On the	view of mere compliance with the	hand, provision of the service in	
other hand, provision of the	prohibition to discriminate laid	view of mere compliance with	
service in view of mere	down in Regulation (EU)	the prohibition to discriminate	
compliance with the prohibition	2018/3024 cannot be, on that	laid down in Regulation (EU)	
to discriminate laid down in	ground alone, be considered as	2018/3027 cannot be, on that	
Regulation (EU) 2018/302 ⁴	directing or targeting activities	ground alone, be considered as	
cannot be, on that ground alone,	towards a given territory within	directing or targeting activities	
be considered as directing or	the Union. The same	towards a given territory within	
targeting activities towards a	considerations should apply to	the Union. The same	
given territory within the Union.	determine whether a service	considerations should apply to	
The same considerations should	provider offers services in a	determine whether a service	
apply to determine whether a	Member State.	provider offers services in a	
service provider offers services		Member State.	
in a Member State.	4D1		
	4 Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018	⁷ Regulation (EU) 2018/302 of	
	on addressing unjustified geo-	the European Parliament and of	

	Commission Pro	oposal	EP mandate	Council Mandate	Draft agreement
	⁴ Regulation (EU) 20	018/302 of	blocking and other forms of	the Council of 28 February 2018	
	the European Parlian	nent and of	discrimination based on customers' nationality, place of	on addressing unjustified geo-	
	the Council of 28 Fel	bruary 2018	residence or place of	blocking and other forms of	
	on addressing unjusti	ified geo-	establishment within the internal market and amending	discrimination based on	
	blocking and other fo	orms of	Regulations (EC) No 2006/2004	customers' nationality, place of	
	discrimination based	on	and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601,	residence or place of	
	customers' nationality	y, place of	2.3.2018, p. 1).	establishment within the internal	
	residence or place of	f		market and amending	
	establishment within	the internal		Regulations (EC) No 2006/2004	
	market and amending	g		and (EU) 2017/2394 and	
	Regulations (EC) No	2006/2004		Directive 2009/22/EC (OJ L 601,	
	and (EU) 2017/2394	and		2.3.2018, p. 1).	
	Directive 2009/22/E0	C (OJ L			
	601, 2.3.2018, p. 1).				
Re	ecital 14	I		1	
	(14) Service provider	rs obliged	(14) Service providers obliged to	(14) Service providers obliged to	
22	to designate a legal		designate a legal representative	designate a legal representative	
	representative should	d be able to	should be able to choose to that	should be able to choose to that	
	choose to that effect	an existing	effect an existing establishment	effect an existing establishment	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
establishment in a Member	in a Member State, be it a	in a Member State, be it a	
State, be it a corporate body or a	corporate body or a branch,	corporate body or a branch,	
branch, agency, office or a main	agency, office or a main seat or	agency, office or a main seat or	
seat or headquarters, and also	headquarters, and also more than	headquarters, and also more than	
more than one legal	one legal representative.	one legal representative. This	
representative. Nevertheless, a	Nevertheless, a corporate group	legal representative could also	
corporate group should not be	should not be forced to designate	be a third party, which could	
forced to designate multiple	multiple representatives, one for	be shared between several	
representatives, one for each	each undertaking part of that	service providers, in particular	
undertaking part of that group.	group. Different instruments	small and medium-sized	
Different instruments adopted	adopted within the scope of Title	enterprises. Nevertheless, a	
within the scope of Title V,	V, Chapter 4, of the Treaty on the	corporate group should not be	
Chapter 4, of the Treaty on the	Functioning of the European	forced to designate multiple	
Functioning of the European	Union apply in the relationships	representatives, one for each	
Union apply in the relationships	between Member States when	undertaking part of that group,	
between Member States when	gathering evidence in criminal	but can designate one legal	
gathering evidence in criminal	proceedings. As a consequence of	representative for the group.	
proceedings. As a consequence	this 'variable geometry' that	Different instruments adopted	
of this 'variable geometry' that	exists in the common area of	falling within the scope of Title	
exists in the common area of	eriminal law, there is a need to	V, Chapter 4, of the Treaty on the	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
criminal law, there is a need to	ensure that the Directive does not	Functioning of the European	
ensure that the Directive does	facilitate the creation of further	Union apply in the relationships	
not facilitate the creation of	disparities or obstacles to the	between Member States when	
further disparities or obstacles to	provision of services in the	gathering evidence in criminal	
the provision of services in the	internal market by allowing	proceedings. As a consequence	
internal market by allowing	service providers offering	of this 'variable geometry' that	
service providers offering	services on their territory to	exists in the common area of	
services on their territory to	designate legal representatives	criminal law, there is a need to	
designate legal representatives	within Member States that do not	ensure that the Directive does not	
within Member States that do	take part in relevant legal	facilitate the creation of further	
not take part in relevant legal	instruments, which would fall	disparities or obstacles to the	
instruments, which would fall	short of addressing the problem.	provision of services in the	
short of addressing the problem.	Therefore, at least one	internal market by allowing	
Therefore, at least one	representative should be	service providers offering	
representative should be	designated in a Member State that	services on their territory to	
designated in a Member State	participates in the relevant Union	designate legal representatives	
that participates in the relevant	legal instruments to avoid the risk	within Member States that do not	
Union legal instruments to avoid	of weakening the effectiveness of	take part in relevant legal	
the risk of weakening the	the designation provided for in	instruments, which would fall	
effectiveness of the designation	this Directive and to make use of	short of addressing the problem.	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	provided for in this Directive	the synergies of having a legal	Therefore, at least one	
	and to make use of the synergies	representative for the receipt of,	representative should be	
	of having a legal representative	eompliance with and enforcement	designated in a Member State	
	for the receipt of, compliance	of decisions and orders issued in	that participates in the relevant	
	with and enforcement of	the context of gathering evidence	Union legal instruments to avoid	
	decisions and orders issued in	in criminal proceedings,	the risk of weakening the	
	the context of gathering	including under the [Regulation]	effectiveness of the designation	
	evidence in criminal	or the 2000 Mutual Legal	provided for in this Directive and	
	proceedings, including under the	Assistance Convention. In	to make use of the synergies of	
	[Regulation] or the 2000 Mutual	addition, designating a legal	having a legal representative for	
	Legal Assistance Convention. In	representative, which could also	the receipt of, compliance with	
	addition, designating a legal	be utilised to ensure compliance	and enforcement of decisions and	
	representative, which could also	with national legal obligations,	orders issued in the context of	
	be utilised to ensure compliance	makes use of the synergies of	gathering evidence in criminal	
	with national legal obligations,	having a clear point of access to	proceedings, including under the	
	makes use of the synergies of	address the service providers for	[Regulation], the Directive on	
	having a clear point of access to	the purpose of gathering evidence	the European Investigation	
	address the service providers for	in criminal matters.	Order or the 2000 Mutual Legal	
	the purpose of gathering		Assistance Convention. In	
	evidence in criminal matters.		addition, designating a legal	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
П				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	(15) Service providers should be	(15) Service providers should be	
		free to choose in which Member	free to choose in which Member	free to choose in which Member	
		State they designate their legal	State they designate their legal	State they designate their legal	
		representative, and Member	representative, and Member	representative, and Member	
		States may not restrict this free	States may not restrict this free	States may not restrict this free	
		choice, e.g. by imposing an	choice, e.g. by imposing an	choice, e.g. by imposing an	
		obligation to designate the legal	obligation to designate the legal	obligation to designate the legal	
		representative on their territory.	representative on their territory.	representative on their territory.	
		However, the Directive also	However, the Directive also	However, the Directive also	
		contains certain restrictions with	contains certain restrictions with	contains certain restrictions with	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
regard to this free choice of	regard to this free choice of	regard to this free choice of	
service providers, notably that	service providers, notably that	service providers, notably that	
the legal representative should	the legal representative should be	the legal representative should be	
be established in a Member	established in a Member State	established in a Member State	
State where the service provider	where the service provider	where the service provider	
provides services or is	provides services or is	provides services or is	
established, as well as the	established, as well as the	established, as well as the	
obligation to designate a legal	obligation to designate a legal	obligation to designate a legal	
representative in one of the	representative in one of the	representative in one of the	
Member States participating in	Member States participating in	Member States participating in	
judicial cooperation instruments	judicial cooperation instruments	judicial cooperation instruments	
adopted under Title V of the	adopted under Title V of the	adopted under-falling within	
Treaty.	Treaty.	Title V of the Treaty. The sole	
		designation of a legal	
		representative should not be	
		considered to constitute an	
		establishment of the service	
		provider.	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
	24	(16) The service providers most	(16) The service providers most	(16) The service providers most	
		relevant for gathering evidence	relevant for gathering evidence in	relevant for gathering evidence in	
		in criminal proceedings are	eriminal proceedings are	criminal proceedings are	
		providers of electronic	providers of electronic	providers of electronic	
		communications services and	communications services and	communications services and	
		specific providers of	specific providers of information	specific providers of information	
		information society services that	society services that facilitate	society services that facilitate	
		facilitate interaction between	interaction between users. Thus,	interaction between users. Thus,	
		users. Thus, both groups should	both groups should be covered by	both groups should be covered by	
		be covered by this Directive.	this Directive. Providers of	this Directive. Providers of	
		Providers of electronic	electronic communication	electronic communication	
		communication services are	services are defined in the	services are defined in the	
		defined in the proposal for a	proposal for a Directive	proposal for a Directive	
		Directive establishing the	establishing the European	establishing the European	
		European Electronic	Electronic Communications	Electronic Communications	
		Communications Code. They	Code. They include inter-	Code. They include inter-	
		include inter-personal	personal communications such as	personal communications such as	
		communications such as voice-	voice over IP, instant messaging	voice-over-IP, instant messaging	
		over-IP, instant messaging and	and e-mail services. The	and e-mail services.	
L		e-mail services. The categories	eategories of information society	This Directive should also be	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
of information society services	services included here are those	applicable to other The	
included here are those for	for which the storage of data is a	eategories of information society	
which the storage of data is a	defining component of the	services providers within the	
defining component of the	service provided to the user, and	meaning of Directive (EU)	
service provided to the user, and	refer in particular to social	2015/1535 that included here are	
refer in particular to social	networks to the extent they do not	those for which the storage of	
networks to the extent they do	qualify as electronic	data is a defining component of	
not qualify as electronic	communications services, online	the service provided to the user,	
communications services, online	marketplaces facilitating	and refer in particular to social	
marketplaces facilitating	transactions between their users	networks to the extent they do not	
transactions between their users	(such as consumers or	qualify as electronic	
(such as consumers or	businesses)and other hosting	communications services	
businesses)and other hosting	services, including where the	providers, but offer their users	
services, including where the	service is provided via cloud	the ability to communicate with	
service is provided via cloud	computing. Information society	each other or offer their users	
computing. Information society	services for which the storage of	services that can be used to	
services for which the storage of	data is not a defining component,	process or store data on their	
data is not a defining	and for which it is only of an	behalf. This should be in line	
component, and for which it is	ancillary nature, such as legal,	with the terms used in the	
only of an ancillary nature, such	architectural, engineering and	Budapest Convention on	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	as legal, architectural,	accounting services provided	Cybercrime. Processing of data	
	engineering and accounting	online at distance, should be	should be understood in a	
	services provided online at	excluded from the scope of this	technical sense, meaning the	
	distance, should be excluded	Directive, even where they may	creation or manipulation of	
	from the scope of this Directive,	fall within the definition of	data, i.e. technical operations to	
	even where they may fall within	information society services as	produce or alter data by means	
	the definition of information	per Directive (EU) 2015/1535.	of computer processing power.	
	society services as per Directive			
	(EU) 2015/1535.		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	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
		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 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.	
Recital 17			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
25	(17) Providers of internet	(17) Providers of internet	(17) Providers of internet	
	infrastructure services related to	infrastructure services related to	infrastructure services related to	
	the assignment of names and	the assignment of names and	the assignment of names and	
	numbers, such as domain name	numbers, such as domain name	numbers, such as domain name	
	registrars and registries and	registrars and registries and	registrars and registries and	
	privacy and proxy service	privacy and proxy service	privacy and proxy service	
	providers or regional internet	providers or regional internet	providers or regional internet	
	registries for internet protocol	registries for internet protocol	registries for internet protocol	
	('IP') addresses, are of	('IP') addresses, are of particular	('IP') addresses, are of particular	
	particular relevance when it	relevance when it comes to the	relevance when it comes to the	
	comes to the identification of	identification of actors behind	identification of actors behind	
	actors behind malicious or	malicious or compromised web	malicious or compromised web	
	compromised web sites. They	sites. They hold data that is of	sites. They hold data that is of	
	hold data that is of particular	particular relevance for criminal	particular relevance for criminal	
	relevance for criminal	investigations as it can allow for	investigations as it can allow for	
	investigations as it can allow for	the identification of an individual	the identification of an individual	
	the identification of an	or entity behind a web site used	or entity behind a web site used	
	individual or entity behind a	in criminal activity, or the victim	in criminal activity, or the victim	
	web site used in criminal	of criminal activity in the case of	of criminal activity in the case of	
	activity, or the victim of			

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
П		criminal activity in the case of a	a compromised web site that has	a compromised web site that has	
		compromised web site that has	been hijacked by eriminals.	been hijacked by criminals.	
		been hijacked by criminals.			
Ч	Recital	10			
H	Recital	16	I		
	26	(18) The legal representative	(18) The legal representative	(18) The legal representative	
		should be able to comply with	should be able to comply with	should be able to comply with	
		decisions and orders addressed	decisions and orders addressed to	decisions and orders addressed to	
		to them by Member States'	them by Member States'	them by Member States'	
		authorities on behalf of the	authorities on behalf of the	authorities on behalf of the	
		service provider, which should	service provider, which should	service provider, which should	
		take the appropriate measures to	take the appropriate measures to	take the appropriate measures to	
		ensure this result, including	ensure this result, including	ensure this result, including	
		sufficient resources and powers.	sufficient resources and powers.	sufficient resources and powers.	
Ш		The absence of such measures	The absence of such measures or	The absence of such measures or	
		or their shortcomings should not	their shortcomings should not	their shortcomings should not	
		serve as grounds to justify non-	serve as grounds to justify non-	serve as grounds to justify non-	
$ \ $		compliance with decisions or	compliance with decisions or	compliance with decisions or	
$ \ $		orders falling into the ambit of	orders falling into the ambit of	orders falling into the ambit of	
		application of by this Directive,	application of by this Directive,	application of by this Directive,	

	Commissi	on Proposal	EP mandate	Council Mandate	Draft agreement
П	neither for the s	ervice provider	neither for the service provider	neither for the service provider	
	nor its legal rep	resentative.	nor its legal representative.	nor its legal representative.	
				Neither should service	
				providers be able to exculpate	
				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	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
				identifying and accessing the	
				requested evidence as long as	
				decisions and orders addressed	
				to them are complied with.	
L					
	Recital	19			
		(19) Service providers should	(19) Service providers should	(19) Service providers should	
	27	notify the Member State in	notify the Member State in which	notify the Member State in which	
		which the legal representative	the legal representative resides or	the legal representative resides or	
		resides or is established of the	is established of the identity and	is established of the identity and	
		identity and contact details of	contact details of their legal	contact details of their legal	
		their legal representative, as	representative, as well as related	representative, as well as related	
		well as related changes and	changes and updates of	changes and updates of	
		updates of information. The	information. The notification	information. The notification	
		notification should also provide	should also provide information	should also provide information	
		information about the languages	about the languages in which the	about the languages in which the	
		in which the legal representative	legal representative can be	legal representative can be	
		can be addressed, which should	addressed, which should include	addressed, which should include	
		include at least one of the	at least one of the official	at least one or more of the	
		official languages of the	languages of the Member State	official languages in accordance	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	Member State where the legal	where the legal representative	with the national law of the	
Ш	representative resides or is	resides or is established, but may	Member State where the legal	
Ш	established, but may include	include other official languages	representative resides or is	
Ш	other official languages of the	of the Union, such as the	established, but may include	
Ш	Union, such as the language of	language of its headquarters.	other official languages of the	
Ш	its headquarters. When the	When the service provider	Union, such as the language of its	
Ш	service provider designates	designates more than one legal	headquarters.	
	more than one legal	representative, it may also notify		
Ш	representative, it may also notify	considerations to determine		
	considerations to determine	which one should be addressed.	When the service provider designates more than one legal	
Ш	which one should be addressed.	These considerations are not	representative, it may also notify	
Ш	These considerations are not	binding for Member States'	considerations to determine which one should be	
Ш	binding for Member States'	authorities, but should be	addressed.These considerations	
	authorities, but should be	followed except in duly justified	are not binding for Member States' authorities, but should be	
	followed except in duly justified	cases. All this information, which	followed except in duly justified	
Ш	cases. All this information,	is of particular relevance for	where the competent authorities consider it is	
Ш	which is of particular relevance	Member States' authorities.	necessary to depart from those	
	•	should be made publicly	considerations on a case-by- case s basis e.g. when the legal	
	should be made publicly	available by the service provider,	representative is unavailable or	
	available by the service	for example on its website, in a	uncooperative. Where the	
	available by the service	Tor example on its website, in a	competent authorities, by way of exception, depart from these	

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

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	between Member States and use	legal representative by authorities	Network in criminal matters to	
	of the legal representative by	from another Member State.	facilitate coordination between Member States and use of the	
	authorities from another		legal representative by authorities	
	Member State.	5 Directive 2000/31/EC of the	from another Member State. The data may also be further	
		European Parliament and of the	disseminated to facilitate access to this data by competent	
		Council of 8 June 2000 on certain	authorities, such as via	
	⁵ <u>Directive 2000/31/EC</u> of the	legal aspects of information	dedicated intranet sites or forums and platforms.	
	European Parliament and of the	society services, in particular	_	
	Council of 8 June 2000 on	electronic commerce, in the		
	certain legal aspects of	Internal Market (OJ L 178,	& Directive 2000/31/EC of the	
	information society services, in	17.7.2000, p. 1).	European Parliament and of the	
	particular electronic commerce,		legal aspects of information	
	in the Internal Market (OJ L		society services, in particular	
	178, 17.7.2000, p. 1).		electronic commerce, in the Internal Market (OJ L 178.	
	, ,		17.7.2000, p. 1).	
Recital	20		<u>'</u>	
28	(20) The infringement of the	(20) The infringement of the	(20) The service provider	
	obligations to designate a legal	obligations to designate a legal	should be subject to effective,	
	representative and to notify and	representative and to notify and	proportionate and dissuasive	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	make publicly available the	make publicly available the	sanctions for the infringement of	
	information related thereto	information related thereto should	its the obligations to designate a	
	should be subject to effective,	be subject to effective,	legal representative, to entrust	
	proportionate and dissuasive	proportionate and dissuasive	the legal representative with	
	sanctions. Under no	sanctions. Under no	the necessary powers and	
	circumstances should the	eireumstances should the	resources to comply with	
	sanctions determine a ban,	sanctions determine a ban,	decisions and orders, establish	
	permanent or temporary, of	permanent or temporary, of	the appropiate procedures and	
	service provision. Member	service provision. Member States	to notify and make publicly	
	States should coordinate their	should coordinate their	available the information related	
	enforcement action where a	enforcement action where a	thereto should be subject to	
	service provider offers services	service provider offers services in	effective, proportionate and	
	in several Member States. To	several Member States. To ensure	dissuasive sanctions. The service	
	ensure a coherent and	a coherent and proportionate	provider and the legal	
	proportionate approach, a	approach, a coordination	representative should be	
	coordination mechanism is	mechanism is provided. The	subject to effective,	
	provided. The Commission	Commission could facilitate such	proportionate and dissuasive	
	could facilitate such	coordination if necessary, but	sanctions for the systematic	
	coordination if necessary, but	needs to be informed of eases of	infringement by the legal	
	needs to be informed of cases of	infringement. This Directive does	representative of the obligation	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
infringement. This Directive	not govern the contractual	to cooperate with the	
does not govern the contractual	arrangements for transfer or	competent authorities when	
arrangements for transfer or	shifting of financial consequences	receiving decisions and orders.	
shifting of financial	between service providers and	Member States should ensure	
consequences between service	legal representatives of sanctions	that both the designated legal	
providers and legal	imposed upon them.	representative and the service	
representatives of sanctions		provider can be held jointly	
imposed upon them.		and severally liable for non-	
		compliance with obligations	
		deriving from the applicable	
		legal framework when	
		receiving decisions and orders.	
		Jointly 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	

Commiss	ion Proposal	EP mandate	Council Mandate	Draft agreement
			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	
			eoordination mechanism is	
			provided. The Commission could	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
				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.	
_	Recital	20a			
	29			(20a) When determining in the	
				individual case the appropriate	
				and proportionate sanction, the	
				competent authorities should	
				also take into account the	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			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			
31	(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should	(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should	(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,	be put in place. For that purpose,	be put in place. For that purpose,	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	Member States should designate	Member States should designate	Member States should designate		
	a central authority that can	a central authority that can	a central authority that can		
	provide central authorities in	provide central authorities in	provide central authorities in		
	other Member States with	other Member States with	other Member States with		
	information and assistance in the	information and assistance in the	information and assistance in the		
	application of the Directive, in	application of the Directive, in	application of the Directive, in		
	particular where enforcement	particular where enforcement	particular where enforcement		
	actions under the Directive are	actions under the Directive are	actions under the Directive are		
	considered. This coordination	considered. This coordination	considered. This coordination		
	mechanism should ensure that	mechanism should ensure that	mechanism should ensure that		
	relevant Member States are	relevant Member States are	relevant Member States are		
	informed of the intent of a	informed of the intent of a	informed of the intent of a		
	Member State to undertake an	Member State to undertake an	Member State to undertake an		
	enforcement action. In addition,	enforcement action. In addition,	enforcement action. In addition,		
	Member States should ensure	Member States should ensure that	Member States should ensure that		
	that central authorities can	central authorities can provide	central authorities can provide		
	provide each other with	each other with assistance in	each other any relevant		
	assistance in those	those circumstances, and	information and with assistance		
	circumstances, and cooperate	ecoperate with each other where	in those circumstances, and		
	with each other where relevant.	relevant. Cooperation amongst	cooperate with each other where		

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	Cooperation amongst central	central authorities in the case of	relevant. Cooperation amongst	
	authorities in the case of an	an enforcement action may entail	central authorities in the case of	
	enforcement action may entail	the coordination of an	an enforcement action may entail	
	the coordination of an	enforcement action between	the coordination of an	
	enforcement action between	competent authorities in different	enforcement action between	
	competent authorities in	Member States. For the	competent authorities in different	
	different Member States. For the	coordination of an enforcement	Member States. It should aim to	
	coordination of an enforcement	action, central authorities shall	avoid positive or negative	
	action, central authorities shall	also involve the Commission	conflicts of competence. For the	
	also involve the Commission	where relevant. The existence of	coordination of an enforcement	
	where relevant. The existence of	the coordination mechanism does	action, central authorities should	
	the coordination mechanism	not prejudice the right of an	shall also involve the	
	does not prejudice the right of	individual Member State to	Commission where relevant. The	
	an individual Member State to	impose sanctions on service	existence of the obligation of	
	impose sanctions on service	providers that fail to comply with	these authorities to cooperate	
	providers that fail to comply	their obligations under the	coordination mechanism does not	
	with their obligations under the	Directive. The designation and	prejudice the right of an	
	Directive. The designation and	publication of information about	individual Member State to	
	publication of information about	central authorities will facilitate	impose sanctions on service	
	central authorities will facilitate	the notification by service	providers that fail to comply with	

		Commission Proposal	EP mandate	Council Mandate	Draft agreement	
П		the notification by service	providers of the designation and	their obligations under the		
		providers of the designation and	contact details of its legal	Directive. The designation and		
		contact details of its legal	representative to the Member	publication of information about		
		representative to the Member	State where its legal	central authorities will facilitate		
		State where its legal	representative resides or is	the notification by service		
		representative resides or is	established of the designation and	providers of the designation and		
		established of the designation	contact details.	contact details of its legal		
		and contact details.		representative to the Member		
				State where its legal		
				representative resides or is		
				established of the designation and		
				contact details.		
Ц						
	Recital	23				
	32	(23) Since the objective of this	(23) Since the objective of this	(23) Since the objective of this		
		Directive, namely to remove	Directive, namely to remove	Directive, namely to remove		
		obstacles to the free provision of	obstacles to the free provision of	obstacles to the free provision of		
		services in the framework of	services in the framework of	services in the framework of		
		gathering evidence in criminal	gathering evidence in criminal	gathering evidence in criminal		
		proceedings, cannot be	proceedings, cannot be	proceedings, cannot be		

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
		sufficiently achieved by the	sufficiently achieved by the	sufficiently achieved by the	
		Member States, but can rather,	Member States, but ean rather, by	Member States, but can rather, by	
		by reason of the borderless	reason of the borderless nature of	reason of the borderless nature of	
		nature of such services, be better	such services, be better achieved	such services, be better achieved	
		achieved at Union level, the	at Union level, the Union may	at Union level, the Union may	
		Union may adopt measures in	adopt measures in accordance	adopt measures in accordance	
		accordance with the principle of	with the principle of subsidiarity	with the principle of subsidiarity	
		subsidiarity as set out in Article	as set out in Article 5 of the	as set out in Article 5 of the	
		5 of the Treaty on European	Treaty on European Union. In	Treaty on European Union. In	
		Union. In accordance with the	accordance with the principle of	accordance with the principle of	
		principle of proportionality as	proportionality as set out in that	proportionality as set out in that	
		set out in that Article, this	Article, this Directive does not go	Article, this Directive does not go	
		Directive does not go beyond	beyond what is necessary in order	beyond what is necessary in order	
		what is necessary in order to	to achieve those objectives.	to achieve those objectives.	
		achieve those objectives.			
F	Recital	24			
3	34	(24) The European Data	(24) The European Data	(24) The European Data	
		Protection Supervisor was	Protection Supervisor was	Protection Supervisor was	

Commission Proposal	EP mandate	Council Mandate	Draft agreement
consulted in accordance with	consulted in accordance with	consulted in accordance with	
Article 28(2) of Regulation (EC)	Article 28(2) of Regulation (EC)	Article 28(2) of Regulation (EC)	
No 45/2001 of the European	No 45/2001 of the European	No 45/2001 of the European	
Parliament and of the Council ⁶	Parliament and of the Council ⁶	Parliament and of the Council ⁹	
and delivered an opinion on	and delivered an opinion on	and delivered an opinion on	
() ⁷ ,	() ⁷ ,	() ¹⁰ ,	
⁶ Regulation (EC) No 45/2001 of	⁶ Regulation (EC) No 45/2001 of	⁹ Regulation (EC) No 45/2001 of	
the European Parliament and of	the European Parliament and of	the European Parliament and of	
the Council of 18 December	the Council of 18 December 2000	the Council of 18 December 2000	
2000 on the protection of	on the protection of individuals	on the protection of individuals	
individuals with regard to the	with regard to the processing of	with regard to the processing of	
processing of personal data by	personal data by the Community	personal data by the Community	
the Community institutions and	institutions and bodies and on the	institutions and bodies and on the	
bodies and on the free	free movement of such data (OJ	free movement of such data (OJ	
movement of such data (OJ L 8,	L 8, 12.1.2001, p. 1).	L 8, 12.1.2001, p. 1).	
12.1.2001, p. 1).	² OJ C , , p	¹⁰ OJC,,p	
⁷ ОЈС,,р			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
35	(25) The Commission should	(25) The Commission should	(25) The Commission should	
	carry out an evaluation of this	earry out an evaluation of this	carry out an evaluation of this	
	Directive that should be based	Directive that should be based on	Directive that should be based on	
	on the five criteria of efficiency,	the five criteria of efficiency,	the five criteria of efficiency,	
	effectiveness, relevance,	effectiveness, relevance,	effectiveness, relevance,	
	coherence and EU value added	coherence and EU value added	coherence and EU value added	
	and should provide the basis for	and should provide the basis for	and should provide the basis for	
	impact assessments of possible	impact assessments of possible	impact assessments of possible	
	further measures. The evaluation	further measures. The evaluation	further measures. The evaluation	
	should be completed 5 years	should be completed 5 years after	should be completed 5 years after	
	after entry into application, to	entry into application, to allow	entry into application, to allow	
	allow for the gathering of	for the gathering of sufficient	for the gathering of sufficient	
	sufficient data on its practical	data on its practical	data on its practical	
	implementation. Information	implementation. Information	implementation. Information	
	should be collected regularly	should be collected regularly and	should be collected regularly and	
	and in order to inform the	in order to inform the evaluation	in order to inform the evaluation	
	evaluation of this Directive.	of this Directive.	of this Directive.	
Forr	mula			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
36	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
Article	1			
37	Article 1 Subject matter and scope	Article 1 Subject matter and scope	Article 1 Subject matter and scope	
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 authorities of the Member States for the purposes of gathering	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 for the purposes of gathering evidence in criminal proceedings.	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 for the purposes of gathering evidence in criminal proceedings.	1. This Directive lays down the rules on the designation of establishments and the appointment of legal representatives of certain service providers offering services in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of the Member States, for the purposes of gathering electronic evidence in criminal proceedings.

Con	mmission Proposal	EP mandate	Council Mandate	Draft agreement
evidence proceedin	in criminal gs.			2. This Directive applies to decisions and orders for the purpose of gathering electronic evidence on the basis of Regulation XXXX/XXX [e-Evidence Regulation], Directive 2014/41/EU, the Convention established by the Council in accordance with Article 34 of the Treaty on the European Union on mutual assistance in criminal matters between Member States of the Union, and to domestic orders addressed by Member States to legal representatives or designated establishments of service providers on their territory.
				3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address directly service providers via a designated establishment or legal representative on their territory, for the purposes of gathering

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
				electronic 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.	4. Member States shall not impose additional obligations to those deriving from this Directive on service providers in particular with regard to the designation of establishments or the appointment of legal representatives 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 paragraph 1.	Presidency proposal 25/06/2022: [DELETE]

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
Article	1(4)			
41	4. This Directive shall apply to the service providers defined in 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.	4. This Directive shall apply to the service providers defined in 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.	4. This Directive shall apply to the service providers defined in 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.	Presidency proposal 25/06/2022: 5. This Directive shall apply to the service providers defined in 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	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	
Article	2, introductory part			

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
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:	Provisional agreement 6th trilogue 14/06/2022: For the purpose of this Directive, the following definitions apply:
Art	ticle 2	(1)			
44		(1) 'legal representative' means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1), 3(1), 3(2) and 3(3);	(1) 'legal representative' means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1), 3(1), 3(2) and 3(3);	(1) 'legal representative' means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1), 3(1), 3(2) and 3(3);	Presidency proposal 25/06/2022: (1) 'legal representative' means a natural or legal person, designated in writing by a service provider not established in a Member State taking part in a legal instrument referred to in Article 1(2) of this Directive, for the purpose of Articles 1(1) and 3(1);
Art	ticle 2	(2)			

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
45	5	(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:	Provisional agreement 6th trilogue 14/06/2022: (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 [, and, where it concerns personal data, acts as a data controller within the meaning of Regulation (EU) 2016/679]:
Aı	rticle	2(2), point a			
46	6	(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 EDirective (EU) 2018/1972 establishing the European Electronic Communications Code 11; Directive (EU) 2018/1972 of the European Parliament and	Provisional agreement 6th trilogue 14/06/2022: a) electronic communications service as defined in Article 2(4) of Directive (EU) 2018/1972 of the European Parliament and of the Council;

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36.)	
Article	2(2), point b			
47	(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 Council ⁸ for which the storage of data is a defining component of the	(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 Council ⁸ for which the storage of data is a defining component of the service	(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;	Provisional agreement 6th trilogue 14/06/2022: b) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and domain name related privacy and proxy services;
	service provided to the user, including social networks, online marketplaces facilitating transactions between their users, and other hosting service providers; 8 Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September	provided to the user, including social networks, online marketplaces facilitating transactions between their users, and other hosting service providers; 8 Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015		

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
		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).	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).		
Ar	rticle 2	2(2), point c			
		(c) internet domain name and IP	(c) internet domain name and IP	(c) other information society	Provisional agreement 6th
48	3	numbering services such as IP	numbering services such as IP	services as defined in point (b) of	trilogue 14/06/2022:
		address providers, domain name	address providers, domain name	Article 1(1) of Directive (EU)	c) other information society
		registries, domain name	registries, domain name registrars	2015/1535 of the European	services as defined in point (b) of Article 1(1) of Directive (EU)
		registrars and related privacy	and related privacy and proxy	Parliament and of the Council ¹²	2015/1535 of the European
		and proxy services;	services;	that provide:	Parliament and of the Council ¹⁹ that provide :
				12 <u>Directive (EU) 2015/1535</u> 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).	¹⁹ 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).

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
49			- the ability to its users to communicate with each other; or	Provisional agreement 6th trilogue 14/06/2022: - 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 social networks, online marketplaces facilitating transactions between their users, and other hosting service providers;	Provisional agreement 6th trilogue 14/06/2022: - the ability to process or store data on behalf of the users to whom the service is provided for, where the storage of data is a defining component of the service provided to the user;
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	Presidency proposal 25/06/2022: [DELETE]

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			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:	Provisional agreement 6th trilogue 14/06/2022: (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	Provisional agreement 6th trilogue 14/06/2022: (a) enabling natural or legal persons in a Member State to use the services referred to in point (2); and
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);	Provisional agreement 6th trilogue 14/06/2022: b) having a substantial connection based on specific factual criteria to the Member State(s) referred to

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
				in point (a); such a substantial connection to the Union shall be considered to exist where the service provider has an establishment in the Union, or, in the absence of such an establishment, based on 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;
Article	2(4)			
55	(4) 'establishment' means either the actual pursuit of an	(4) 'establishment' means either the actual pursuit of an economic	(4) 'establishment' or 'being established' means either the	Provisional agreement 6th trilogue 14/06/2022:
	economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable	activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from	actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out	(4) 'establishment' means 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 the business is managed;
	infrastructure from where the business is managed;	where the business is managed;	or a stable infrastructure from where the business is managed;	(4a) 'designated establishment' means an establishment designated in writing by a service provider established in a Member State taking part in a

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
				legal instrument referred to in Article 1(2) of this Directive, for the purpose of Articles 1(1) and 3(1);
				[(4a) 'main establishment' means the head office or registered office of the service provider within which the principal financial functions and operational control are exercised.]
Article	2(5)			
56	(5) 'group' means a group as defined in Article 3(15) of	(5) 'group' means a group as defined in Article 3(15) of	(5) 'group' means a group as defined in Article 3(15) of	Provisional agreement 6th trilogue 14/06/2022:
	Directive (EU) 2015/849 of the	Directive (EU) 2015/849 of the	Directive (EU) 2015/849 of the	(5) 'group' means a group as
	European Parliament and of the	European Parliament and of the	European Parliament and of the	defined in Article 3(15) of
	Council ⁹ . ⁹ Directive (EU) 2015/849 of the 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	Council ⁹ . Directive (EU) 2015/849 of the 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	Ouncil ¹³ 9 Directive (EU) 2015/849 of the 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	Directive (EU) 2015/849 of the European Parliament and of the Council ¹³ ⁹ Directive (EU) 2015/849 of the 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

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	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, 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, 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).	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	Article 3 Legal representative	Article 3 Legal representative	Article 3 Legal representative	
Article	3(1)			
58	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	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	1. Member States shall ensure that service providers offering services in the Union designate at least one addressee for the receipt of, compliance with and enforcement of decisions and orders falling within the scope of Article 1(2) of this Directive issued by competent authorities of Member States for

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	and enforcement of decisions	decisions and orders issued by	decisions and orders issued by	the purpose of gathering evidence
	and orders issued by competent	eompetent authorities of Member	competent authorities of Member	in criminal proceedings: (a) For service providers
	authorities of Member States for	States for the purpose of	States for the purpose of	established in the Union,
	the purpose of gathering	gathering evidence in criminal	gathering evidence in criminal	the Member States where the service providers are
	evidence in criminal	proceedings. The legal	proceedings. The legal	established shall ensure
	proceedings. The legal	representative shall reside or be	representative shall reside or be	that such service providers designate the
	representative shall reside or be	established in one of the Member	established in one of the Member	establishment(s)
	established in one of the	States where the service provider	States where the service provider	responsible for the activities described in this
	Member States where the	is established or offers the	is established or offers the	paragraph ;
	service provider is established or	services.	services.	(b) For service providers that are not established in the
	offers the services.			Union, Member States
				shall ensure that such service providers offering
				services on their territory
				designate <i>the</i> legal
				representative(s), responsible for the
				activities described in this
				paragraph, <i>in Member</i>
				States taking part to the
				instruments referred to in
				Article 1(2) of this Directive;
				(c) For service providers
				established in Member

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
					States not taking part in a legal instrument referred to in Article 1(2), the Member States taking part in those instruments shall ensure that such service providers offering services on their territory designate the legal representatives, responsible for the activities described in this paragraph, in Member States taking part in such instruments.
A	Article	3(2)			
4 -	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	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	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	Presidency proposal 25/06/2022: [DELETE]

		Commission Proposal	EP mandate	Council Mandate	Draft agreement	
П		and orders issued by competent	competent authorities of Member	competent authorities of Member		
		authorities of Member States for	States for the purpose of	States for the purpose of		
		the purpose of gathering	gathering evidence in criminal	gathering evidence in criminal		
		evidence in criminal	proceedings. The legal	proceedings. The legal		
		proceedings. The legal	representative shall reside or be	representative shall reside or be		
		representative shall reside or be	established in one of the Member	established in one of the Member		
		established in one of the	States where the service provider	States where the service provider		
		Member States where the	offers the services.	offers the services.		
		service provider offers the				
		services.				
Н	Article	3(3)				
П	60	3. As regards the receipt of,	3. As regards the receipt of,	3. As regards the receipt of,	Presidency proposal 25/06/2022:	
		compliance with and	compliance with and enforcement	compliance with and enforcement		
		enforcement of decisions and	of decisions and orders issued by	of decisions and orders issued by	[DELETE]	
		orders issued by the competent	the competent authorities of	the competent authorities of		
		authorities of Member States	Member States under Union legal	Member States under Union legal		
		under Union legal instruments	instruments adopted within the	instruments adopted falling		
		adopted within the scope of	scope of Title V, Chapter 4, of	within the scope of Title V,		
		Title V, Chapter 4, of the Treaty	the Treaty on the Functioning of	Chapter 4, of the Treaty on the		

		Commission Proposal	EP mandate	Council Mandate	Draft agreement	
П		on the Functioning of the	the European Union for gathering	Functioning of the European		Т
		European Union for gathering	evidence in criminal proceedings,	Union for gathering evidence in		
		evidence in criminal	the Member States taking part in	criminal proceedings, the		
		proceedings, the Member States	those legal instruments shall	Member States taking part in		
		taking part in those legal	ensure that service providers	those legal instruments shall		
		instruments shall ensure that	offering services on their territory	ensure that service providers		
		service providers offering	designate at least one	offering services on their territory		
		services on their territory	representative in one of them.	designate at least one		
		designate at least one	The legal representative shall	representative in one of them.		
		representative in one of them.	reside or be established in one of	The legal representative shall		
		The legal representative shall	the Member States where the	reside or be established in one of		
		reside or be established in one of	service provider offers the	the Member States where the		
		the Member States where the	services.	service provider offers the		
		service provider offers the		services.		
		services.				
Ц						_
	Article	3(4)				
	61	4. Service providers shall be free	4. Service providers shall be free	4. Service providers shall be free	Presidency proposal 25/06/2022:	
		to designate additional legal	to designate additional legal	to-may designate additional legal	[DELETE]	
		representatives, resident or	representatives, resident or	representatives, resident or		

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
П		established in other Member	established in other Member	established in other Member	
Ш		States, including those where	States, including those where the	States , including those where the	
Ш		the service providers offer their	service providers offer their	service providers are estalished	
Ш		services. Service providers	services. Service providers which	or offer their services. Service	
Ш		which are part of a group shall	are part of a group shall be	providers which are part of a	
Ш		be allowed to collectively	allowed to collectively designate	group shall be allowed to	
Ш		designate one legal	one legal representative.	collectively designate one legal	
Ш		representative.		representative.	
Ц					
	Article	3(5)			
	62	5. Member States shall ensure	5. Member States shall ensure	5. Member States shall ensure	Presidency proposal 25/06/2022
П		that the decisions and orders by	that the decisions and orders by	that the decisions and orders by	2. Member States shall ensure that
Ш		their competent authorities for	their competent authorities for	the their competent authorities	the addressees defined in paragraph 1:
Ш		evidence gathering in criminal	evidence gathering in criminal	for evidence gathering in criminal	
Ш		proceedings are addressed to the	proceedings are addressed to the	proceedings are addressed to the	(a) reside in <i>a</i> Member State where the service providers offer
Ш		legal representative designated	legal representative designated by	legal representative designated by	the services; and
		by the service provider to that	the service provider to that effect.	the service provider to that effect.	(b) can be subject to enforcement
		effect. That representative shall	That representative shall be	That legal representative shall be	procedures
		be entrusted with the receipt,	entrusted with the receipt,	entrusted with the receipt, of and	3. Member States shall ensure that
		compliance and enforcement of	compliance and enforcement of	compliance with and	the decisions and orders issued by

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	those decisions and orders on behalf of the service provider concerned.	those decisions and orders on behalf of the service provider concerned.	enforcement of those decisions and orders on behalf of the service provider concerned, and can be subject to enforcement measures.	the competent authorities for evidence gathering in criminal proceedings are addressed to the designated establishment or legal representative designated by the service provider in accordance with paragraph (1) to that effect.
Article	3(6)			
63	6. To this end, Member States	6. To this end, Member States	6. Member States shall ensure	Presidency proposal 25/06/2022:
	shall ensure that the legal representative residing or	shall ensure that the legal representative residing or	that service providers established or offering services in their	4. Member States shall ensure that service providers established or offering services <i>o</i> n their territory
	established on their territory cooperates with the competent	established on their territory cooperates with the competent	territory provide their legal representative with the necessary	provide their designated establishments and legal representatives with the necessary
	authorities when receiving those decisions and orders, in	authorities when receiving those decisions and orders, in	powers and resources to comply with those decisions and orders	powers and resources to comply with those decisions and orders received from any Member
	accordance with the applicable legal framework.	accordance with the applicable legal framework.	received from any Member State.	State. Member States shall also verify that the designated establishments or legal
				representatives residing on their territory have received from the service providers the necessary powers and resources to comply with decisions and orders received from any Member State

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
					and that they cooperate with the competent authorities when receiving those decisions and orders, in accordance with the applicable legal framework.
Aı	rticle	3(7)			
64	4	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 receiving those decisions and	Presidency proposal 25/06/2022: [DELETE]

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
				orders, in accordance with the	
				applicable legal framework.	
				¹⁴ Paragraphs 6 and 7 of this	
				Article from the Commission	
				Proposal have been switched.	
_	Article	3(8)			
	65	8. Member States shall ensure	8. Member States shall ensure	8. Member States shall ensure	Presidency proposal 25/06/2022:
		that the designated legal	that the designated legal	that both the designated legal	5. Member States shall ensure that
		representative can be held liable	representative can be held liable	representative and the service	both the designated establishment
		for non-compliance with	for non-compliance with	provider can be held jointly and	or the legal representative and the service provider can be held
		obligations deriving from the	obligations deriving from the	severally liable for non-	jointly and severally liable for
		applicable legal framework	applicable legal framework when	compliance with obligations	non-compliance with obligations deriving from the applicable legal
		when receiving decisions and	receiving decisions and orders,	deriving from the applicable legal	framework when receiving
		orders, without prejudice to the	without prejudice to the liability	framework when receiving	decisions and orders falling within the scope of Article 1(2) of
		liability and legal actions that	and legal actions that could be	decisions and orders, without	this Directive, with the effect
		could be initiated against the	initiated against the service	prejudice to the liability and legal	that each of the designated establishment or the legal
		service provider. In particular,	provider. In particular, the lack of	actions that could be initiated	representative and the service
		the lack of appropriate internal	appropriate internal procedures	against the service provider with	provider may be sanctioned for non-compliance. In particular, the

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	procedures between the service	between the service provider and	the effect that each of the legal	lack of appropriate internal
	provider and the legal	the legal representatives cannot	representative and service	procedures between the service provider and <i>the designated</i>
	representatives cannot be used	be used as a justification for non-	provider may be sanctioned for	establishment or the legal
	as a justification for non-	eompliance with those	non-compliance of either of	representative cannot be used by either side as a justification for
	compliance with those	obligations.	them. In particular, the lack of	non-compliance with those
	obligations.		appropriate internal procedures	obligations. Joint and several liability shall not apply for
			between the service provider and	actions or omissions of either the
			the legal representatives cannot	service provider or the legal representative or the designated
			be used by either side as a	establishment which constitute a
			justification for non-compliance	criminal offence in the Member State applying the sanction.
			with those obligations. Joint and	State applying the sanction.
			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)			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
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.	Presidency proposal 25/06/2022: 6. Member States shall ensure that the obligation to designate establishments or legal representatives 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 that date.
Article	4			
67	Article 4 Notifications and languages	Article 4 Notifications and languages	Article 4 Notifications and languages	
Article	4(1)			

_		Commission Proposal	EP mandate	Council Mandate	Draft agreement
	68	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.	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.	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.	Provisional agreement 6th trilogue 14/06/2022: 1. Member States shall ensure that each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its designated establishment is established or where its legal representative resides, their contact details and any changes thereof.
	Article	4(2)			
	69	2. The notification shall specify the official language(s) of the Union, as referred to in	2. The notification shall specify the official language(s) of the Union, as referred to in	2. The notification shall specify the official language(s) of the Union, as referred to in	Provisional agreement 6th trilogue 14/06/2022: 2. The notification shall specify the official language(s) of the Union, as referred to in Regulation

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	Regulation 1/58, in which the	Regulation 1/58, in which the	Regulation 1/58, in which the	1/58, in which the legal
	legal representative can be	legal representative can be	legal representative can be	representative or designated establishment can be addressed.
	addressed. This shall include, at	addressed. This shall include, at	addressed. This shall include, at	This shall include one or more of
	least, one of the official	least, one of the official	least, one or more of the official	the official languages in accordance with the national
	languages of the Member State	languages of the Member State	languages in accordance with	law of the Member State where
	where the legal representative	where the legal representative	the national law of the Member	the legal representative resides or designated establishment is
	resides or is established.	resides or is established.	State where the legal	established.
			representative resides or is	
			established.	
Article	e 4(3)			
70	3. When a service provider	3. When a service provider		
			3. When a service provider	Presidency proposal 25/06/2022:
	designates several	designates several	designates several	
	designates several representatives, the notification	•	•	3. When a service provider designates several <i>designated</i>
		designates several	designates several	3. When a service provider designates several designated establishments or legal
	representatives, the notification	designates several representatives, the notification	designates several representatives, the notification	3. When a service provider designates several <i>designated establishments or</i> legal representatives in accordance with Article 3 (1), Member States shall
	representatives, the notification shall specify the official	designates several representatives, the notification shall specify the official	designates several representatives, the notification shall specify the official	3. When a service provider designates several <i>designated</i> establishments or legal representatives in accordance with Article 3 (1), Member States shall ensure that such service provider
	representatives, the notification shall specify the official language(s) of the Union or	designates several representatives, the notification shall specify the official language(s) of the Union or	designates several representatives, the notification shall specify the official language(s) of the Union or	3. When a service provider designates several <i>designated</i> establishments or legal representatives in accordance with Article 3 (1), Member States shall ensure that such service provider indicates the precise territorial scope of the designation for the
	representatives, the notification shall specify the official language(s) of the Union or Member States covered by each	designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each	designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each	3. When a service provider designates several <i>designated</i> establishments or legal representatives in accordance with Article 3 (1), Member States shall ensure that such service provider indicates the precise territorial

Commission Proposal	EP mandate	Council Mandate	Draft agreement
to be addressed. In duly justified	be addressed. In duly justified	to be addressed. In duly justified	Member States covered by each of
cases, Member States'	eases, Member States' authorities	eases, Member States'	them.
authorities may depart from	may depart from those	Competent authorities may	+ Accompanying recital:
those considerations.	eonsiderations.	depart from those considerations	Where a service provider
		on a case-by-case basis; where	designates several designated
		necessary Member States shall	establishments or legal representatives in accordance with
		ensure that in such cases, the	Article 3 (1), Member States
		addressed legal representative	should ensure that such service provider indicates, for each
		has to comply with these orders	designated establishment or legal
		and decisions.	designated establishment or legal representative, the precise territorial scope of its designation. The territory of all the Member States taking part in the instruments within the scope of this Directive should be covered. Member States should ensure that their respective competent authorities address all their decisions and orders in application of Article 1 of this Directive to the indicated designated establishment or legal representative of this service provider.

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
71	4. Member States shall ensure	4. Member States shall ensure	4. [Member States shall ensure	Provisional agreement 6th
	that the service provider makes	that the service provider makes	that the service provider makes	trilogue 14/06/2022:
	the information notified to them	the information notified to them	the information notified to them	4. Member States shall ensure that
	in accordance with this Article	in accordance with this Article	in accordance with this Article is	the information notified to them accordance with this Article is
	publicly available. Member	publicly available. Member	publicly available] Member	publicly available on a dedicated
	States shall publish that	States shall publish that	States shall publish that	internet page of the European Judicial Network in criminal
	information on a dedicated page	information on a dedicated page	information on a dedicated	matters. Member States shall
	of the e-Justice portal.	of the e Justice portal.	internet page of the e Justice	ensure that this information is regularly updated. This
			Portal of the European Judicial	information may be further
			Network in criminal matters.	disseminated to facilitate access by competent authorities.
			Member States shall ensure	a j competent unimornies
			that this information is	
			regularly updated. This	
			information may be further	
			disseminated to facilitate access	
			by competent authorities.	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
72	Article 5 Sanctions	Article 5 Sanctions	Article 5 Sanctions	
Article	5(1)			
73	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to 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.	Provisional agreement 6th trilogue 14/06/2022: 1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to Article 3 and 4 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	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules	Provisional agreement 6th trilogue 14/06/2022: 2. Member States shall, by the date set out in Article 7, notify the

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
		and of those measures and shall	and of those measures and shall	and of those measures and shall	Commission of those rules and of
		notify it, without delay, of any	notify it, without delay, of any	notify it, without delay, of any	those measures and shall notify it, without delay, of any subsequent
		subsequent amendment affecting	subsequent amendment affecting	subsequent amendment affecting	amendment affecting them.
		them. Member States shall also	them. Member States shall also	them. Member States shall also	Member States shall also inform the Commission on an annual
		inform the Commission on an	inform the Commission on an	inform the Commission on an	basis about non-compliant service
		annual basis about non-	annual basis about non-compliant	annual basis about non-compliant	providers, relevant enforcement action taken against them and the
		compliant service providers and	service providers and relevant	service providers and relevant	sanctions imposed.
		relevant enforcement action	enforcement action taken against	enforcement action taken against	
$ \ $		taken against them.	them.	them.	
Ц					
	Article	6			
				_	
	7.5	1 - 4 - 4 - 1 - C	4-4:-1- C	Article 6	
	75	Article 6	Article 6	Article 6 Coordination mechanismCentral	
	75	Article 6 Coordination mechanism	Article 6 Coordination mechanism		
		Coordination mechanism	III liele o	Coordination mechanismCentral	
	Article	Coordination mechanism	III liele o	Coordination mechanismCentral	
		Coordination mechanism	III liele o	Coordination mechanismCentral	Provisional agreement 6th
	Article	Coordination mechanism 6(1)	Coordination mechanism	Coordination mechanismCentral authorities	Provisional agreement 6th trilogue 14/06/2022:
	Article	Coordination mechanism 6(1) 1. Member States shall	Coordination mechanism 1. Member States shall designate	Coordination mechanismCentral authorities 1. In accordance with their	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	authority, to ensure the application of this Directive in a consistent and proportionate manner.	ensure the application of this Directive in a consistent and proportionate manner.	where its legal system so provides, more than one central authority, to ensure the application of this Directive in a consistent and proportionate manner.	authorities to ensure the application of this Directive in a consistent and proportionate manner.
Article	e 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	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	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	Provisional agreement 6th trilogue 14/06/2022: 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 and make it publicly available.

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
Article	service provider to the Member States where its legal representative resides or is established.	States where its legal representative resides or is established.	States where its legal representative resides or is established.	
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	Provisional agreement 6th trilogue 14/06/2022: 3. Member States shall ensure that their central authorities coordinate and cooperate with each other and, where relevant, with the Commission, and provide any appropriate information and assistance to each other in order to apply this Directive in a consistent and proportionate manner. The coordination, cooperation and provisioning of information and assistance shall cover, in particular, enforcement actions.

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			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 consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.	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 consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.	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 consistent and proportionate manner. Cooperation shall cover, in particular, enforcement actions.	Presidency proposal 25/06/2022: [DELETE]
Article	7			
80	Article 7 Transposition	Article 7 Transposition	Article 7 Transposition	
 Article	7(1)			

		Commission Proposal	EP mandate	Council Mandate	Draft agreement
81	i a n I	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.	Provisional agreement at interinstitutional technical level 13/06/2022: 1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [18] months after entry into force. They shall immediately inform the Commission thereof.
Art	rticle 7(2)			
82	t c c I a c c F r	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 official publication. The methods of making such reference shall be said down by Member States.	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 official publication. The methods of making such reference shall be laid down by Member States.	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 official publication. The methods of making such reference shall be laid down by Member States.	Provisional agreement 6th trilogue 14/06/2022: 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 official publication. The methods of making such reference shall be laid down by Member States.

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
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.	Provisional agreement 6th trilogue 14/06/2022: 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	Article 8 Evaluation	Article 8 Evaluation	Article 8 Evaluation	
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	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	Presidency proposal 25/06/2022: By [X years from the date of application of this Directive] at the latest, the Commission shall carry out an evaluation of the Directive. The Commission shall transmit this report to the European Parliament and the

		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.	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.	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.	Council. 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	Article 9 Entry into force	Article 9 Entry into force	Article 9 Entry into force	
_	Article 9, paragraph 1				
	87	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	Provisional agreement 6th trilogue 14/06/2022: This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

		Commission Proposal	EP mandate	Council Mandate	Draft agreement	
	Article	10				
	88	Article 10 Addressees	Article 10 Addressees	Article 10 Addressees		
	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.	Provisional agreement 6th trilogue 14/06/2022: 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 Formul	For the European Parliament The President	For the European Parliament The President	For the European Parliament The President		
	92	For the Council The President	For the Council The President	For the Council The President		