

ANNEX II

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

**DRAFT**

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

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

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

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

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

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

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

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

<sup>1</sup> 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.

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	of gathering evidence in criminal proceedings	<del>gathering evidence in criminal proceedings</del>	gathering evidence in criminal proceedings	
	Formula			
3	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,	<del>Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,</del>	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 62 thereof,	
	Formula			
4	Having regard to the proposal from the European Commission,	<del>Having regard to the proposal from the European Commission,</del>	Having regard to the proposal from the European Commission,	
	Formula			
5	After transmission of the draft legislative act to the national parliaments,	<del>After transmission of the draft legislative act to the national parliaments,</del>	After transmission of the draft legislative act to the national parliaments,	
	Formula			
6	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> , _____	<del>Having regard to the opinion of the European Economic and Social Committee <sup>1</sup>;</del> _____	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> , _____	

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	<sup>1</sup> OJ C , , p. .	<del><sup>1</sup> OJ C , , p. .</del>	<sup>1</sup> OJ C , , p. .	
	Formula			
7	Acting in accordance with the ordinary legislative procedure,	<del>Acting in accordance with the ordinary legislative procedure,</del>	Acting in accordance with the ordinary legislative procedure,	
	Formula			
8	Whereas:	<del>Whereas:</del>	Whereas:	
	Recital 1			
9	(1) Network-based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which	<del>(1) Network-based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which apply to the</del>	(1) Network-based services can in principle be provided from anywhere and do not require a physical infrastructure, corporate presence, or staff in the country where the services are offered, nor in the internal market itself. As a consequence, it can be difficult to apply and enforce obligations laid down in national and Union law which apply to the	

**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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	apply to the service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face difficulties with serving, ensuring compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.	<del>service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face difficulties with serving, ensuring compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.</del>	service providers concerned, in particular the obligation to comply with an order or a decision by a judicial authority. This is the case in particular in criminal law, where Member States' authorities face difficulties with serving, ensuring compliance and enforcing their decisions, in particular where relevant services are provided from outside their territory.	
Recital 2				
10	(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This	<del>(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This</del>	(2) Against that background, Member States have taken a variety of disparate measures to more effectively apply and enforce their legislation. This	

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

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

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

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

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

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



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	<p>electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> <p><sup>3</sup> <a href="#">Regulation (EU) 2016/679</a> of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	<p><del>on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</del></p> <p><sup>3</sup> <a href="#">Regulation (EU) 2016/679</a> of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	<p>on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> <p><sup>3</sup> <a href="#">Regulation (EU) 2016/679</a> of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).</p>	
	Recital 7			
15	<p>(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and</p>	<p><del>(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of</del></p>	<p>(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of</p>	



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

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

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			<p>legal representative, such as the [Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (“Regulation”)<sup>4</sup>], 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<sup>5</sup> and the 2000 Mutual Legal Assistance Convention<sup>6</sup>. Recourse to the legal representative should be in accordance with the procedures-set out in the instruments and legislation</p>	

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

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			<p>matters, OJ L 130, 1.5.2014, p.1.</p> <p><sup>6</sup> Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, OJ C 197, 12.7.2000, p. 1 and its Protocol, OJ C 326, 21.11.2001, p. 2.</p>	
Recital 9				
17	(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	<del>(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</del>	(9) Member States shall ensure that <b>service providers have</b> the obligation to designate a legal representative is immediate that <del>is from the date of transposition set out in Article 7 for service</del>	

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	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.	<del>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.</del>	<del>providers that offer services in the Union at that date by [6 months from the transposition deadline of this Directive]</del> or from the moment service providers start offering services in the Union for those service providers that will start offering services after <b>[6 months from the date of transposition deadline of this Directive]</b> .	
Recital 10				
18	(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is	<del>(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is established on the</del>	(10) The obligation to designate a legal representative should apply to service providers that offer services in the Union, meaning in one or more Member States. Situations where a service provider is established on the	

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

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	assistance and on mutual recognition in criminal matters.	<del>mutual recognition in criminal matters.</del>	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 <i>also</i> 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	<del>(12) The determination whether a service provider offers services in</del>	(12) The determination whether a service provider offers services in	



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

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

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

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

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	<p><sup>4</sup> <a href="#">Regulation (EU) 2018/302</a> of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</p>	<p><del>blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</del></p>	<p>the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).</p>	
	Recital 14			
22	<p>(14) Service providers obliged to designate a legal representative should be able to choose to that effect an existing</p>	<p><del>(14) Service providers obliged to designate a legal representative should be able to choose to that effect an existing establishment</del></p>	<p>(14) Service providers obliged to designate a legal representative should be able to choose to that effect an existing establishment</p>	

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



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

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



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

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal representative in one of the Member States participating in judicial cooperation instruments adopted under Title V of the Treaty.	<del>regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal representative in one of the Member States participating in judicial cooperation instruments adopted under Title V of the Treaty.</del>	regard to this free choice of service providers, notably that the legal representative should be established in a Member State where the service provider provides services or is established, as well as the obligation to designate a legal representative in one of the Member States participating in judicial cooperation instruments <del>adopted under falling within</del> Title V of the Treaty. <b>The sole designation of a legal representative should not be considered to constitute an establishment of the service provider.</b>	
Recital 16				

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

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

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	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.	<del>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.</del>	<p><b>Cybercrime. Processing of data should be understood in a technical sense, meaning the creation or manipulation of data, i.e. technical operations to produce or alter data by means of computer processing power.</b></p> <p><b>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</b></p>	

Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p>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.</p> <p><del>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.</del></p>	
Recital 17				

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



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



Commission Proposal		EP mandate	Council Mandate	Draft agreement
	neither for the service provider nor its legal representative.	<del>neither for the service provider nor its legal representative.</del>	neither for the service provider nor its legal representative. <b>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</b>	

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

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

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

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

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

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



Commission Proposal		EP mandate	Council Mandate	Draft agreement
			<p><b>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.</b> 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. <b>Central authorities should coordinate</b> to ensure a coherent and proportionate approach, <del>a coordination mechanism is provided.</del> The Commission could</p>	

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			<b>(20a) When determining in the individual case the appropriate and proportionate sanction, the competent authorities should also take into account the</b>	

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			<b>financial capacity of the service provider.</b>	
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.	<del>(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.</del>	(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 be put in place. For that purpose,	<del>(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,</del>	(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,	

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

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

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

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



Commission Proposal		EP mandate	Council Mandate	Draft agreement
<p>consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>6</sup> and delivered an opinion on (...)<sup>7</sup>,</p> <p>_____</p> <p><sup>6</sup> <a href="#">Regulation (EC) No 45/2001</a> of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</p> <p><sup>7</sup> OJ C , , p. .</p>		<p><del>consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>6</sup> and delivered an opinion on (...)<sup>7</sup>,</del></p> <p>_____</p> <p><del><sup>6</sup> <a href="#">Regulation (EC) No 45/2001</a> of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</del></p> <p><del><sup>7</sup> OJ C , , p. .</del></p>	<p>consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>9</sup> and delivered an opinion on (...)<sup>10</sup>,</p> <p>_____</p> <p><sup>9</sup> <a href="#">Regulation (EC) No 45/2001</a> of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</p> <p><sup>10</sup> OJ C , , p. .</p>	
Recital 25				

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

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
36	HAVE ADOPTED THIS DIRECTIVE:	<del>HAVE ADOPTED THIS DIRECTIVE:</del>	HAVE ADOPTED THIS DIRECTIVE:	
Article 1				
37	<i>Article 1</i> <i>Subject matter and scope</i>	<del><i>Article 1</i></del> <del><i>Subject matter and scope</i></del>	<i>Article 1</i> <i>Subject matter and scope</i>	
Article 1(1)				
38	1. This Directive lays down rules on the legal representation in the Union of certain service providers for receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of the Member States for the purposes of gathering	<del>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.</del>	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.	<b><i>Presidency proposal 25/06/2022:</i></b> 1. This Directive lays down the rules on the <b>designation of establishments and the appointment of legal representatives</b> of certain service providers <b>offering services in the Union</b> 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.

Commission Proposal	EP mandate	Council Mandate	Draft agreement
evidence in criminal proceedings.			<p>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.</p> <p>3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address directly service providers <i>via a designated establishment or legal representative</i> on their territory, for the purposes of gathering</p>

	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.	<del>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.</del>	2. Member States <del>may</del> 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.	<i>Presidency proposal 24/06/2022</i> 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.	<del>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.</del>	3. This Directive is without prejudice to the powers of national authorities in accordance with Union and national law to address <b>directly</b> service providers established on their territory for the purposes referred to in in paragraph 1.	<i>Presidency proposal 25/06/2022 :</i> [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.	<del>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.</del>	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.	<b>Presidency proposal 25/06/2022</b> 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	<i>Article 2 Definitions</i>	<del><i>Article 2 Definitions</i></del>	<i>Article 2 Definitions</i>	
Article 2, introductory part				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
43	For the purpose of this Directive, the following definitions apply:	<del>For the purpose of this Directive, the following definitions apply:</del>	For the purpose of this Directive, the following definitions apply:	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  For the purpose of this Directive, the following definitions apply:
Article 2(1)				
44	(1) 'legal representative' means a legal or natural person, designated in writing by a service provider for the purpose of Articles 1(1), 3(1), 3(2) and 3(3);	<del>(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);</del>	(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);	<b>Presidency proposal 25/06/2022:</b>  (1) 'legal representative' means a <b>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);</b>
Article 2(2)				



	Commission Proposal	EP mandate	Council Mandate	Draft agreement
45	(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services:	<del>(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services:</del>	(2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services, <b>with the exception of financial services referred to in Article 2(2)(b) of Directive 2006/123/EC:</b>	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  (2) ‘service provider’ means any natural or legal person that provides one or more of the following categories of services, <b>with the exception of financial services referred to in Article 2(2)(b) of Directive 2006/123/EC</b> , and, where it concerns personal data, acts as a data controller within the meaning of Regulation (EU) 2016/679);
Article 2(2), point a				
46	(a) electronic communications service as defined in Article 2(4) of [Directive establishing the European Electronic Communications Code];	<del>(a) electronic communications service as defined in Article 2(4) of [Directive establishing the European Electronic Communications Code];</del>	(a) electronic communications service as defined in Article 2(4) of {Directive (EU) 2018/1972 establishing the European Electronic Communications Code <sup>11</sup> };  <sup>11</sup> Directive (EU) 2018/1972 of the European Parliament and	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  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	<p>(b) information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>8</sup> for which the storage of data is a defining component of the service provided to the user, including social networks, online marketplaces facilitating transactions between their users, and other hosting service providers;</p> <p><sup>8</sup> <a href="#">Directive (EU) 2015/1535</a> of the European Parliament and of the Council of 9 September</p>	<p><del>(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<sup>8</sup> 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;</del></p> <p><del><sup>8</sup> <a href="#">Directive (EU) 2015/1535</a> of the European Parliament and of the Council of 9 September 2015</del></p>	<p>(b) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;</p>	<p><b>Provisional agreement 6th trilogue 14/06/2022:</b></p> <p><b>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;</b></p>

	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).	<del>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).</del>		
	Article 2(2), point c			
48	(c) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;	<del>(c) internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars and related privacy and proxy services;</del>	(c) other information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council <sup>12</sup> that provide:  <sup>12</sup> <a href="#">Directive (EU) 2015/1535</a> 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).	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  c) other information society services as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council <sup>19</sup> that provide:  <sup>19</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).
	Article 2(2), point c, line 1			

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
49			- the ability to its users to communicate with each other; or	<i>Provisional agreement 6th trilogue 14/06/2022:</i>  - 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;	<i>Provisional agreement 6th trilogue 14/06/2022:</i>  - 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	<i>Presidency proposal 25/06/2022 :</i> <b>[DELETE]</b>

	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:	<del>(3) 'offering services in a Member State' means:</del>	(3) 'offering services in a Member State' means:	<b>Provisional agreement 6th trilogue 14/06/2022:</b> (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	<del>(a) enabling legal or natural persons in a Member State to use the services referred to in point (2); and</del>	(a) enabling legal or natural persons in a Member State to use the services referred to in point (2); and	<b>Provisional agreement 6th trilogue 14/06/2022:</b> (a) enabling <i>natural</i> or <i>legal</i> 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);	<del>(b) having a substantial connection to the Member State referred to in point (a);</del>	(b) having a substantial connection <b>based on specific factual criteria</b> to the Member State referred to in point (a);	<b>Provisional agreement 6th trilogue 14/06/2022:</b> b) having a substantial connection <b>based on specific factual criteria</b> to the Member State(s) referred to

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
				in point (a); <i>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;</i>
Article 2(4)				
55	(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;	<del>(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;</del>	(4) ‘establishment’ or ‘being established’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the business of providing services is carried out or a stable infrastructure from where the business is managed;	<i>Provisional agreement 6th trilogue 14/06/2022:</i>  (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;  (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
				<p>legal instrument referred to in Article 1(2) of this Directive, for the purpose of Articles 1(1) and 3(1);</p> <p><del>{(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.}</del></p>
Article 2(5)				
56	<p>(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>9</sup>.</p> <p><sup>9</sup> <a href="#">Directive (EU) 2015/849</a> 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</p>	<p><del>(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>9</sup>.</del></p> <p><del><sup>9</sup> <a href="#">Directive (EU) 2015/849</a> 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</del></p>	<p>(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>13</sup></p> <p><sup>9</sup> <a href="#">Directive (EU) 2015/849</a> 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</p>	<p><i>Provisional agreement 6th trilogue 14/06/2022:</i></p> <p>(5) ‘group’ means a group as defined in Article 3(15) of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>13</sup></p> <p><sup>9</sup> <a href="#">Directive (EU) 2015/849</a> 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</p>



	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).	<del>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).</del>	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	<i>Article 3</i> <i>Legal representative</i>	<del><i>Article 3</i></del> <del><i>Legal representative</i></del>	<i>Article 3</i> <i>Legal representative</i>	
Article 3(1)				
58	1. Member States where a service provider offering services in the Union is established shall ensure that it designates at least one legal representative in the Union for the receipt of, compliance with	<del>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</del>	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	<b>Presidency proposal 23/06/2022</b> 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
<p>and enforcement of decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.</p>	<p><del>decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.</del></p>	<p>decisions and orders issued by competent authorities of Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall reside or be established in one of the Member States where the service provider is established or offers the services.</p>	<p>the purpose of gathering evidence in criminal proceedings:</p> <p>(a) For service providers established in the Union, the Member States where the service providers are established shall ensure that such service providers designate the establishment(s) responsible for the activities described in this paragraph :</p> <p>(b) For service providers that are not established in the 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 States taking part to the instruments referred to in Article 1(2) of this Directive</i>;</p> <p>(c) For service providers established in Member</p>

	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, <i>in Member States taking part in such instruments.</i>
	Article 3(2)			
59	2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions	<del>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</del>	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	<b>Presidency proposal 25/06/2022 :</b> <b>[DELETE]</b>

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

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

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

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



	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.
Article 3(7)				
64	7. Member States shall ensure that service providers established or offering services in their territory provide their legal representative with the necessary powers and resources to comply with those decisions and orders.	<del>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.</del>	7. <sup>14</sup> To this end, The Member States <del>where shall ensure that the</del> legal representatives <del>are</del> residing or <del>are</del> established <del>on their</del> territory <b>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</b>	<b>Presidency proposal 25/06/2022 :</b> <b>[DELETE]</b>



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

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	procedures between the service provider and the legal representatives cannot be used as a justification for non-compliance with those obligations.	<del>between the service provider and the legal representatives cannot be used as a justification for non-compliance with those obligations.</del>	<b>the effect that each of the legal representative and service provider may be sanctioned for non-compliance of either of them.</b> In particular, the lack of appropriate internal procedures between the service provider and the legal representatives cannot be used <b>by either side</b> as a justification for non-compliance with those obligations. <b>Joint and several liability shall not apply for actions or omissions of either the service provider or the legal representative which constitute a criminal offence in the Member State applying the sanction.</b>	lack of appropriate internal procedures between the service provider and <i>the designated establishment or</i> the legal representative cannot be used <b>by either side</b> as a justification for non-compliance with those obligations. <b>Joint and several liability shall not apply for actions or omissions of either the service provider or the legal representative or the designated establishment which constitute a criminal offence in the Member State applying the sanction.</b>
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.	<del>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.</del>	9. Member States shall ensure that the obligation to designate a legal representative <del>applies is</del> 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 <del>the date of transposition of the Directive</del> that date.	<b>Presidency proposal 25/06/2022 :</b> 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	<i>Article 4</i> Notifications and languages	<del><i>Article 4</i></del> <del>Notifications and languages</del>	<i>Article 4</i> 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.	<del>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.</del>	1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1), (2), <del>and (3) and (4)</del> , 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.	<b>Provisional agreement 6th trilogue 14/06/2022:</b> 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, <i>their</i> contact details <i>and</i> any changes thereof.
Article 4(2)				
69	2. The notification shall specify the official language(s) of the Union, as referred to in	<del>2. The notification shall specify the official language(s) of the Union, as referred to in</del>	2. The notification shall specify the official language(s) of the Union, as referred to in	<b>Provisional agreement 6th trilogue 14/06/2022:</b> 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 legal representative can be addressed. This shall include, at least, one of the official languages of the Member State where the legal representative resides or is established.	<del>Regulation 1/58, in which the legal representative can be addressed. This shall include, at least, one of the official languages of the Member State where the legal representative resides or is established.</del>	Regulation 1/58, in which the legal representative can be addressed. This shall include, at least, one or more of the official languages in accordance with the national law of the Member State where the legal representative resides or is established.	1/58, in which the legal representative or designated establishment can be addressed. This shall include one or more of the official languages in accordance with the national law of the Member State where the legal representative resides or designated establishment is established.
Article 4(3)				
70	3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or any other considerations to determine the appropriate legal representative	<del>3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or any other considerations to determine the appropriate legal representative to</del>	3. When a service provider designates several representatives, the notification shall specify the official language(s) of the Union or Member States covered by each of them or and any other considerations to determine the appropriate legal representative	<b>Presidency proposal 25/06/2022 :</b> 3. When a service provider designates several <b>designated establishments or</b> 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 <b>the designated establishment or</b> legal representatives. The notification shall specify the official language(s) of the Union or

Commission Proposal		EP mandate	Council Mandate	Draft agreement
	to be addressed. In duly justified cases, Member States' authorities may depart from those considerations.	<del>be addressed. In duly justified cases, Member States' authorities may depart from those considerations.</del>	to be addressed. <del>In duly justified cases, Member States'</del> <b>Competent</b> authorities may depart from those considerations <b>on a case-by-case basis; where necessary Member States shall ensure that in such cases, the addressed legal representative has to comply with these orders and decisions.</b>	Member States covered by each of them.  <b>+ Accompanying recital :</b>  Where a service provider designates several <i>designated establishments or</i> legal representatives in accordance with Article 3 (1), <b>Member States should ensure that such service provider indicates, for each 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.</b>
Article 4(4)				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
71	4. Member States shall ensure that the service provider makes the information notified to them in accordance with this Article publicly available. Member States shall publish that information on a dedicated page of the e-Justice portal.	<del>4. Member States shall ensure that the service provider makes the information notified to them in accordance with this Article publicly available. Member States shall publish that information on a dedicated page of the e-Justice portal.</del>	4. {Member States shall ensure that the service provider makes the information notified to them in accordance with this Article is publicly available} Member States shall publish that information on a dedicated internet page of the e-Justice Portal of the European Judicial Network in criminal matters. Member States shall ensure that this information is regularly updated. This information may be further disseminated to facilitate access by competent authorities.	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  4. Member States shall ensure that the information notified to them in accordance with this Article is publicly available on a dedicated internet page of the European Judicial Network in criminal matters. Member States shall ensure that this information is regularly updated. This information may be further disseminated to facilitate access by competent authorities.
Article 5				



	Commission Proposal	EP mandate	Council Mandate	Draft agreement
72	<i>Article 5 Sanctions</i>	<del><i>Article 5 Sanctions</i></del>	<i>Article 5 Sanctions</i>	
Article 5(1)				
73	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	<del>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.</del>	1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to <b>Article 3 and 4</b> this Directive and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  1. Member States shall lay down rules on sanctions applicable to infringements of national provisions adopted pursuant to <b>Article 3 and 4</b> 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	<del>2. Member States shall, by the date set out in Article 7, notify the Commission of those rules</del>	2. Member States shall, by the date set out in Article 7, notify the Commission of those rules	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  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 notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.	<del>and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.</del>	and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers and relevant enforcement action taken against them.	Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States shall also inform the Commission on an annual basis about non-compliant service providers, relevant enforcement action taken against them and the sanctions imposed.
Article 6				
75	<i>Article 6</i> <i>Coordination mechanism</i>	<del><i>Article 6</i></del> <del><i>Coordination mechanism</i></del>	<i>Article 6</i> <del><i>Coordination mechanism</i></del> <i>Central authorities</i>	
Article 6(1)				
76	1. Member States shall designate a central authority or, where its legal system so provides, more than one central	<del>1. Member States shall designate a central authority or, where its legal system so provides, more than one central authority, to</del>	1. In accordance with their legal systems, Member States shall designate one or more a central authorities authority or,	<b>Provisional agreement 6th trilogue 14/06/2022:</b> <b>1. In accordance with their legal systems, Member States shall designate one or more central</b>

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

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
			information and <del>mutual</del> 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.	<del>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.</del>	<del>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.</del>	<b>Presidency proposal 25/06/2022</b> <b>[DELETE]</b>
Article 7				
80	<i>Article 7</i> <i>Transposition</i>	<del><i>Article 7</i></del> <del><i>Transposition</i></del>	<i>Article 7</i> <i>Transposition</i>	
Article 7(1)				

	Commission Proposal	EP mandate	Council Mandate	Draft agreement
81	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 months after entry into force. They shall immediately inform the Commission thereof.	<del>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.</del>	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by <del>6</del> 18 months after entry into force. They shall immediately inform the Commission thereof.	<i>Provisional agreement at inter-institutional technical level 13/06/2022:</i>  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.
Article 7(2)				
82	2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.	<del>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.</del>	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.	<i>Provisional agreement 6th trilogue 14/06/2022:</i>  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.	<del>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.</del>	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.	<b>Provisional agreement 6th trilogue 14/06/2022:</b> 3. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.
Article 8				
84	<i>Article 8 Evaluation</i>	<del><i>Article 8 Evaluation</i></del>	<i>Article 8 Evaluation</i>	
Article 8, paragraph 1				
85	By [5 years from the date of application of this Directive] at the latest, the Commission shall carry out an evaluation of the Directive and present a report to the European Parliament and to the Council on the application of this Directive, which shall	<del>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</del>	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	<b>Presidency proposal 25/06/2022:</b> 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.	<del>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.</del>	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	<i>Article 9</i> <i>Entry into force</i>	<del><i>Article 9</i></del> <del><i>Entry into force</i></del>	<i>Article 9</i> <i>Entry into force</i>	
Article 9, paragraph 1				
87	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	<del>This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</del>	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .



	Commission Proposal	EP mandate	Council Mandate	Draft agreement
	Article 10			
88	<i>Article 10</i> <i>Addressees</i>	<del><i>Article 10</i></del> <del><i>Addressees</i></del>	<i>Article 10</i> <i>Addressees</i>	
	Article 10, paragraph 1			
89	This Directive is addressed to the Member States in accordance with the Treaties.	<del>This Directive is addressed to the Member States in accordance with the Treaties.</del>	This Directive is addressed to the Member States in accordance with the Treaties.	<b>Provisional agreement 6th trilogue 14/06/2022:</b>  This Directive is addressed to the Member States in accordance with the Treaties.
	Formula			
90	Done at Brussels,	<del>Done at Brussels,</del>	Done at Brussels,	
	Formula			
91	<i>For the European Parliament</i> <i>The President</i>	<del><i>For the European Parliament</i></del> <del><i>The President</i></del>	<i>For the European Parliament</i> <i>The President</i>	
	Formula			
92	<i>For the Council</i> <i>The President</i>	<del><i>For the Council</i></del> <del><i>The President</i></del>	<i>For the Council</i> <i>The President</i>	



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