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NOTE

From:	Presidency
To:	Law Enforcement Working Party (Police)
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Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse – Presidency compromise texts

With a view to the Law Enforcement Working Party (Police) meeting on 16 March 2023, delegations will find in the Annex Presidency compromise texts on the above proposal.

Changes to the Commission proposal are marked in **bold** and ~~striketrough~~.

New changes to the Commission proposal in comparison to document 6276/23 and 14143/22 are marked in **bold underline** and ~~striketrough underline~~.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down rules to prevent and combat child sexual abuse

(Text with EEA relevance)

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

[...]

[No new compromise texts in this Article]

Article 2

Definitions

[...]

[No new compromise texts in this Article]

CHAPTER II

OBLIGATIONS OF PROVIDERS OF RELEVANT INFORMATION SOCIETY SERVICES TO PREVENT AND COMBAT ONLINE CHILD SEXUAL ABUSE

Section 1

Risk assessment and mitigation obligations

Article 3

Risk assessment

[...]

[No new compromise texts in this Article]

Article 4

Risk mitigation

[...]

[No new compromise texts in this Article]

Article 5

Risk reporting

[...]

[No new compromise texts in this Article]

Article 6

Obligations for software application stores

[...]

[No new compromise texts in this Article]

Section 2

Detection obligations

Article 7

Issuance of detection orders

[...]

[No new compromise texts in this Article]

Article 8

Additional rules regarding detection orders

[...]

[No new compromise texts in this Article]

Article 9

Redress, information, reporting and modification of detection orders

[...]

[No new compromise texts in this Article]

Article 10

Technologies and safeguards

[...]

[No new compromise texts in this Article]

Article 11

Guidelines regarding detection obligations

[...]

[No new compromise texts in this Article]

Section 3

Reporting obligations

Article 12

Reporting obligations

1. Where a provider of hosting services or a provider of interpersonal communications services becomes aware in any manner other than through a removal order issued in accordance with this Regulation of any information ~~that giving rise to a suspicion of~~ **indicate potential** online child sexual abuse on its services, it shall promptly submit a report thereon to the EU Centre in accordance with Article 13. It shall do so through the system established in accordance with Article 39(2).
2. Where the provider submits a report pursuant to paragraph 1, it shall inform the user concerned, **in accordance with the following sub-paragraphs** providing information on the main content of the report, ~~on the manner in which the provider has become aware of the potential child sexual abuse concerned, on the follow-up given to the report insofar as such information is available to the provider and on the user's possibilities of redress, including on the right to submit complaints to the Coordinating Authority in accordance with Article 34.~~

The provider shall inform the user concerned without undue delay, either after having received a communication from the EU Centre indicating that it considers the report to be manifestly unfounded as referred to in Article 48(2), or after the expiry of a time period of ~~six three~~ months from the date of the report without having received a communication from the EU Centre indicating that the information is not to be provided as referred to in Article 48(6), point (a), whichever occurs first. **The time period of six months referred to in this subparagraph shall be extended by up to 6 months where so requested by the competent authority referred to in Article 48(6), point a.**

Where within the ~~three months~~² time period referred to in the second subparagraph the provider receives such a communication from the EU Centre indicating that the information is not to be provided, it shall inform the user concerned, without undue delay, after the expiry of the time period set out in that communication.

3. The provider shall establish and operate an **easy to access, accessible, effective, child-friendly** ~~age-appropriate~~ and user-friendly mechanism that allows users to **notify** ~~flag~~ to the provider **information that indicate** potential online child sexual abuse on ~~its the~~ service. **Those mechanisms shall allow for the submission of notices by individuals or entities exclusively by electronic means and without requiring that the user declare name or email address.**

The mechanisms shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices. To that end, the providers shall take the necessary measures, with particular attention to the needs of the child, to enable and to facilitate the submission of notices, with a view to receiving:

- (a) a sufficiently substantiated explanation of the reasons why the user alleges the information in question to be online child sexual abuse;
- (b) a clear indication of the online location of that information [, such as the exact URL or URLs,] and, where necessary, additional information enabling the identification of the online location of the alleged online child sexual abuse adapted to the specific type of service.

4. The Commission, in cooperation with Coordinating Authorities and the EU Centre and after having conducted a public consultation, shall issue guidelines on the application of paragraph 3, having due regard in particular to the child's age, maturity, views, needs and concerns.

Article 13

Specific requirements for reporting¹

- 1. Providers of hosting services and providers of interpersonal communications services shall submit the report referred to in Article 12 using the template set out in Annex III. The report shall include:
 - (a) identification details of the provider and, where applicable, its legal representative;
 - (b) the date, time stamp and electronic signature of the provider;
 - (ba) manner in which the provider became aware of the potential child sexual abuse;**
 - (c) ~~all~~ content data **related to the reported potential online child sexual abuse,**
~~including images, videos and text;~~
 - (d) ~~all~~ **other** available data related to the **reported** potential online child sexual abuse,
including metadata related to media files and communications;²
 - (e) whether the potential online child sexual abuse concerns the dissemination of known or new child sexual abuse material or the solicitation of children;

¹ PCY comment: a recital could be included that would explain that since this CSA Regulation is *lex specialis* to the DSA, reporting on CSA will only be carried out pursuant to this CSA Regulation and not pursuant to the DSA. That means that double reporting on CSA will be avoided.

² PCY comment: we conclude from the discussion in LEWP on 24 February that the reference to metadata in this Article may need further elaboration. **What is the view of delegations on this point?**

- (f) information concerning the geographic location related to the potential online child sexual abuse, such as the Internet Protocol address **of upload, with associated date and time stamp, and port number**;
- (g) information concerning the identity of any user involved in the potential online child sexual abuse;
- (h) whether the provider has also reported, or will also report, the **information that indicate** potential online child sexual abuse to a public authority or other entity competent to receive such reports **from** ~~of~~ a third country and if so, which authority or entity;
- (i) where the **information that indicate** potential online child sexual abuse concerns the dissemination of known or new child sexual abuse material, whether the provider has removed or disabled access to the material;
- (j) **whether the provider considers that the report involves an imminent threat to the life or safety of a child or** requires urgent action;³
- (k) a reference to this Regulation as the legal basis for reporting.

2. **In the case of an imminent threat to the life or safety of a child, the providers of hosting services and providers of interpersonal communications services shall promptly and directly, in addition to paragraph 1(j), inform authorities competent to for the investigation and prosecution of criminal offences in the Member States concerned⁴. Where the provider cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or where its legal representative resides or is established or inform Europol, or both⁵.**

3.2. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annex III to improve the template where necessary in view of relevant technological developments or practical experiences gained.

³ In the template of Annex III, section 2, point 1, we could add the reason for the urgency.

⁴ Wording copied from Art. 14(5) of the TCO Regulation.

⁵ Wording copied from Art. 18(2) of the DSA.

Section 4 Removal obligations

Article 14

Removal orders

- ~~1. The Coordinating Authority of establishment shall have the power to request the competent judicial authority of the Member State that designated it or another independent administrative authority of that Member State to issue a removal order requiring a provider of hosting services under the jurisdiction of the Member State that designated that Coordinating Authority to remove or disable access in all Member States of one or more specific items of material that, after a diligent assessment, the Coordinating Authority or the courts or other independent administrative authorities referred to in Article 36(1) identified as constituting child sexual abuse material.~~
1. **The competent authority shall have the power to issue a removal order requiring a provider of hosting services to remove or disable access in all Member States of one or more specific items of material** that, after a diligent assessment, ~~the Coordinating Authority or the courts or other independent administrative authorities referred to in Article 36(1)~~ **is identified as constituting child sexual abuse material.**
2. The provider shall execute the removal order as soon as possible and in any event within 24 1 hours of receipt thereof.⁶ **The provider shall take the necessary measures to ensure that it is capable to reinstate the material or access thereto in accordance with Article 15(1a).**
3. ~~The competent judicial authority or the independent administrative authority shall issue a~~ **A removal order shall be issued** using the template set out in Annex IV. Removal orders shall include:
 - (a) identification details of the ~~competent judicial or independent administrative~~ authority issuing the removal order and authentication of the removal order by that authority;
 - (b) the name of the provider and, where applicable, of its legal representative;
 - (c) the specific service **in respect** of ~~for~~ which the removal order is issued;

⁶ PCY comment: we interpret the discussions in LEWP on 24 February as non-conclusive. Therefore, there will be a need to settle the issue regarding the time period (one hour, 24 hours or something else).

- (d) a sufficiently detailed statement of reasons explaining why the removal order is issued ~~and in particular why the material constitutes child sexual abuse material~~;
- (da) where applicable, a statement of reasons explaining why the order is issued to a service provider that does not have its main establishment or legal representative in the Member State of the issuing authority according to the procedure provided for in Article 14a;**
- (e) ~~an exact uniform resource locator and, where necessary, additional clear information for the identification of~~ **enabling the provider to identify and locate** the child sexual abuse material **and, where necessary, additional information**⁷;
- (f) where applicable, the information about non-disclosure during a specified time period, in accordance with Article 15(4), point (c);
- (fa) reporting requirements pursuant to point 7;**
- (g) a reference to this Regulation as the legal basis for the removal order;
- (h) the date, time stamp and electronic signature of the ~~judicial or independent administrative competent~~ authority issuing the removal order;
- (i) easily understandable information about the redress available to the addressee of the removal order, including information about redress to a court and about the time periods applicable to such redress.

4. The ~~judicial authority or the independent administrative~~ **authority** issuing the removal order shall address it to the main establishment of the provider or, where applicable, to its legal representative designated in accordance with Article 24.

~~It shall transmit~~ The removal order **shall be transmitted** to the **the provider's** point of contact referred to in Article 23(1) by electronic means capable of producing a written record under conditions that allow to establish the authentication of the sender, including the accuracy of the date and the time of sending and receipt of the order, to the Coordinating Authority **of establishment** and to the EU Centre, through the system established in accordance with Article 39(2).

It shall ~~draft~~ **transmit** the removal order in **any of the official** languages declared by the provider pursuant to Article 23(3).

The order may also be transmitted in any of the official languages of the Member State issuing the order, provided that it is accompanied by a translation of at least the most important elements necessary for the execution of the order into any of the official languages declared by the provider in accordance with article 23(3).

⁷ Copied from Art. 9(2) (iv) of DSA.

5. If the provider cannot execute the removal order on grounds of force majeure or de facto impossibility not attributable to it, including for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the **authority issuing the order of establishment** of those grounds, using the template set out in Annex V.

The time period set out in paragraph 21 shall start to run as soon as the reasons referred to in the first subparagraph have ceased to exist.

6. If the provider cannot execute the removal order because it contains manifest errors or does not contain sufficient information for its execution, it shall, without undue delay, request the necessary clarification ~~to~~ **from** the **authority issuing the order of establishment**, using the template set out in Annex V.

The time period set out in paragraph 21 shall start to run as soon as the provider has received the necessary clarification.

7. The provider shall, without undue delay and using the template set out in Annex VI, inform the **issuing authority**, ~~Coordinating Authority of establishment and the EU Centre~~ of the measures taken to execute the removal order, indicating, in particular, whether the provider removed the child sexual abuse material or disabled access thereto in all Member States and the date and time thereof.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annexes IV, V and VI where necessary to improve the templates in view of relevant technological developments or practical experiences gained.

Article 14a

Procedure for cross-border removal orders

1. **Subject to Article 14, where the hosting service provider does not have its main establishment or legal representative in the Member State of the authority that issued the removal order, that authority shall, simultaneously, transmit a copy of the removal order to the Coordinating Authority of the Member State where the hosting service provider has its main establishment or where its legal representative resides or is established. If the receiving Coordinating Authority is not the competent authority, it shall transmit the order to the competent authority for the purpose of the procedure of this Article.**
2. **Where a hosting service provider receives a removal order as referred to in this Article, it shall take the measures provided for in Article 14 and take the necessary measures to be able to reinstate the content or access thereto, in accordance with paragraph 6 of this Article.**

3. The Coordinating Authority or the competent authority of the Member State where the hosting service provider has its main establishment or where its legal representative resides or is established may, on its own initiative, within 72 hours of receiving the copy of the removal order in accordance with paragraph 1, scrutinise the removal order to determine whether it seriously or manifestly infringes this Regulation or the fundamental rights and freedoms guaranteed by the Charter.

Where it finds an infringement, it shall, within the same period, adopt a reasoned decision to that effect.

4. The Coordinating Authority or the competent authority shall, before adopting a decision pursuant to the second subparagraph of paragraph 3, inform the competent authority that issued the removal order of its intention to adopt the decision and of its reasons for doing so.
5. Where the Coordinating Authority or the competent authority adopts a reasoned decision in accordance with paragraph 3 of this Article, it shall, without delay, transmit that decision to the authority that issued the removal order, the hosting service provider and the EU Centre.

Where the decision finds an infringement pursuant to paragraph 3 of this Article, the removal order shall cease to have legal effects.

6. Upon receiving a decision finding an infringement communicated in accordance with paragraph 5, the hosting service provider concerned shall without undue delay reinstate the content or access thereto, without prejudice to the possibility to enforce its terms and conditions in accordance with Union and national law.

Article 15

Redress and provision of information

1. Providers of hosting services that have received a removal order issued in accordance with Article 14, as well as the users who provided the material, shall have the right to an effective redress. That right shall include the right to challenge such a removal order before the courts of the Member State of the ~~competent judicial authority or independent administrative authority~~ that issued the removal order.
- 1a. **If the order is repealed as a result of a redress procedure, the provider shall without undue delay reinstate the material or access thereto, without prejudice to the possibility to enforce its terms and conditions in accordance with Union and national law⁸.**

⁸ Copied from Art. 4(7) of the TCO Regulation.

2. When the removal order becomes final, the ~~competent judicial authority or independent administrative authority~~ that issued the removal order shall, without undue delay, transmit a copy thereof **and copies of the information it has received pursuant to Article 14 (5) to (7)** to the Coordinating Authority **of establishment**. The Coordinating **Authority of establishment** shall then, without undue delay, transmit ~~a copy~~ **copies** thereof to all other Coordinating Authorities **and the EU Centre** through the system established in accordance with Article 39(2).

For the purpose of the first subparagraph, a removal order shall become final upon the expiry of the time period for appeal where no appeal has been lodged in accordance with national law or upon confirmation of the removal order following an appeal.

3. Where a provider removes or disables access to child sexual abuse material pursuant to a removal order issued in accordance with Article 14, it shall without undue delay, inform the user who provided the material of the following:
- (a) the fact that it removed the material or disabled access thereto;
 - (b) the reasons for the removal or disabling, providing a copy of the removal order upon the user's request;
 - (c) the user's right to judicial redress referred to in paragraph 1 and the user's right to submit complaints to the Coordinating Authority in accordance with Article 34.
4. The **issuing authority** ~~Coordinating Authority of establishment~~ may **decide request, when requesting the judicial authority or independent administrative authority issuing the removal order, and** after having consulted **if necessary** with relevant public authorities, that the provider is not to disclose any information regarding the removal of or disabling of access to the child sexual abuse material, where and to the extent necessary to avoid interfering with activities for the prevention, detection, investigation and prosecution of child sexual abuse **or related criminal** offences.

In such a case:

- (a) the ~~judicial authority or independent administrative authority~~ issuing the removal order shall **inform the provider of its decision specifying the applicable time period that shall be set the time period** not longer than necessary and not exceeding **twelve six** weeks, during which the provider is not to disclose such information;
- (b) the obligations set out in paragraph 3 shall not apply during that time period;
- (c) ~~that judicial authority or independent administrative authority shall inform the provider of its decision, specifying the applicable time period.~~

The issuing ~~That judicial authority or independent administrative authority~~ may decide to extend the time period referred to in the second subparagraph, point (a), by a further time period of maximum six weeks, where and to the extent the non-disclosure continues to be necessary. In that case, **the issuing** ~~that judicial authority or independent administrative authority~~ shall inform the provider of its decision, specifying the applicable time period. ~~Article 14(3) shall apply to that decision.~~

Section 5

Blocking obligations

Article 16

Blocking orders

1. The **competent authority** ~~Coordinating Authority of establishment~~ shall have the power to request the ~~competent judicial authority of the Member State that designated it or an independent administrative authority of that Member State~~ to issue a blocking order requiring a provider of internet access services under the jurisdiction of that Member State to take reasonable measures to prevent users from accessing ~~known~~ child sexual abuse material indicated by all uniform resource locators on the list of uniform resource locators included in the database of indicators, in accordance with Article 44(2), point (b) and provided by the EU Centre.⁹
- 1a. **The provider shall execute the blocking order as soon as possible and in any event within one week of receipt thereof. The provider shall take the necessary measures to ensure that it is capable of reinstating access in accordance with Article 18(1a).**
- ~~2. The Coordinating Authority of establishment shall, before requesting the issuance of a blocking order, carry out all investigations and assessments necessary to determine whether the conditions of paragraph 4 have been met.~~

~~To that end, it shall, where appropriate:~~

 - ~~(a) verify that, in respect of all or a representative sample of the uniform resource locators on the list referred to in paragraph 1, the conditions of Article 36(1), point (b), are met, including by carrying out checks to verify in cooperation with the EU Centre that the list is complete, accurate and up-to-date;~~

⁹ PCY comment: see footnote 10 below.

- ~~(b) require the provider to submit, within a reasonable time period set by that Coordinating Authority, the necessary information, in particular regarding the accessing or attempting to access by users of the child sexual abuse material indicated by the uniform resource locators, regarding the provider's policy to address the risk of dissemination of the child sexual abuse material and regarding the provider's financial and technological capabilities and size;~~
 - ~~(c) request the EU Centre to provide the necessary information, in particular explanations and assurances regarding the accuracy of the uniform resource locators in indicating child sexual abuse material, regarding the quantity and nature of that material and regarding the verifications by the EU Centre and the audits referred to in Article 36(2) and Article 46(7), respectively;~~
 - ~~(d) request any other relevant public authority or relevant experts or entities to provide the necessary information.~~
3. ~~The Coordinating Authority of establishment shall, before requesting the issuance of the blocking order, inform the provider of its intention to request the issuance of the blocking order, specifying the main elements of the content of the intended blocking order and the reasons to request the blocking order. It shall afford the provider an opportunity to comment on that information, within a reasonable time period set by that Coordinating authority.~~
4. The Coordinating Authority of establishment shall request the issuance of the blocking order, and the competent judicial authority or independent authority shall issue the A blocking order **shall be issued**, where it considers that the following conditions are met:
- (a) other equally effective and less intrusive measures than blocking cannot be taken to prevent access to child sexual abuse material or it is likely that such measure will fail;** ~~there is evidence of the service having been used during the past 12 months, to an appreciable extent, for accessing or attempting to access child sexual abuse material indicated by the uniform resource locators;~~
 - (b) the blocking order is necessary to prevent the dissemination of the child sexual abuse material to users in the Union, having regard in particular to the quantity and nature of the material, to the need to protect the rights of the victims and the existence and implementation by the provider of a policy to address the risk of such dissemination;**
 - (c) the uniform resource locators indicate, in a sufficiently reliable manner, child sexual abuse material;**

- (d) the reasons for issuing the blocking order outweigh negative consequences for the rights and legitimate interests of all parties affected, having regard in particular to the need to ensure a fair balance between the fundamental rights of those parties, including the exercise of the users' freedom of expression and information and the provider's freedom to conduct a business.

When assessing whether the conditions of the first subparagraph have been met, account shall be taken of all relevant facts and circumstances of the case at hand. ~~including any information obtained pursuant to paragraph 2 and the views of the provider submitted in accordance with paragraph 3.~~

5. ~~The Coordinating Authority of establishment when requesting the issuance of blocking orders, and the competent judicial or independent administrative authority when issuing the~~ A blocking order, shall:
- (a) **where necessary**, specify effective and proportionate limits and safeguards necessary to ensure that any negative consequences referred to in paragraph 4, point (d), remain limited to what is strictly necessary;
- (b) subject to paragraph 6, ensure that the period of application remains limited to what is strictly necessary.
6. The **issuing** ~~Coordinating~~ authority shall specify in the blocking order the period during which it applies, indicating the start date and the end date.

The period of application of blocking orders shall not exceed five years.

7. ~~In respect of the blocking orders that the competent judicial authority or independent administrative authority issued at its request, the~~ **The Coordinating Authority or the issuing authority** shall, where necessary and at least once every year, assess whether any substantial changes to the grounds for issuing the blocking orders **have** occurred and, ~~in particular~~, whether the conditions of paragraph 4 continue to be met.

~~The Coordinating Authority shall request to the competent judicial authority or independent administrative authority that issued the blocking order the modification or revocation of such order, w~~Where necessary in the light of the outcome of that assessment or to take account of justified requests or **other relevant information, including information obtained through** the reports referred to in Article 18 17(5a) and (6), respectively **an order shall be modified or repealed by the issuing authority, where relevant at the request of the Coordinating Authority.** ~~The provisions of this Section shall apply to such requests, *mutatis mutandis*.~~

Article 17

Additional rules regarding blocking orders

1. ~~The Coordinating Authority of establishment shall issue the A~~ blocking orders referred to in Article 16 shall be issued using the template set out in Annex VII. Blocking orders shall include:
 - ~~(a) the reference to the list of uniform resource locators, provided by the EU Centre, and the safeguards to be provided for, including the limits and safeguards specified pursuant to Article 16(5) and, where applicable, the reporting requirements set pursuant to Article 18(6)¹⁰;~~
 - (b) identification details of the competent judicial authority or the independent administrative authority issuing the blocking order and authentication of the blocking order by that authority;
 - (c) the name of the provider and, where applicable, its legal representative;
 - (d) **clear information enabling the provider to identify and locate the child sexual abuse material and, where necessary, additional information**; ~~the specific service in respect of which the detection order is issued;~~
 - (e) the start date and the end date of the blocking order;
 - (ea) **where applicable, the effective and proportionate limits and necessary safeguards pursuant to Article 16(5);**
 - (f) a sufficiently detailed statement of reasons explaining why the blocking order is issued;
 - (fa) reporting requirements pursuant to paragraph 5a;**
 - (g) a reference to this Regulation as the legal basis for the blocking order;
 - (h) the date, time stamp and electronic signature of the judicial authority or the independent administrative authority issuing the blocking order;
 - (i) easily understandable information about the redress available to the addressee of the blocking order, including information about redress to a court and about the time periods applicable to such redress.

¹⁰ PCY comment: the proposal means that a blocking order can only be issued if the subject-matter of the blocking is on the list provided for by the EU Centre. This list is compiled according to Article 36(1)(b) that stipulates additional requirements, including that the blocked online location must be displayed from a third country. **Do Member States think that there should be such a requirement? Or should it be sufficient that Member States share their blocking orders with the EU Centre and other Member States once they become final?**

2. The ~~competent judicial authority or independent administrative~~ authority issuing the blocking order shall address it to the main establishment of the provider or, where applicable, to its legal representative designated in accordance with Article 24.
3. The blocking order shall be transmitted to the provider's point of contact referred to in Article 23(1) **by electronic means capable of producing a written record under conditions that allow to establish the authentication of the sender, including the accuracy of the date and the time of sending and receipt of the order**, to the Coordinating Authority **of establishment** and to the EU Centre, through the system established in accordance with Article 39(2).
4. The blocking order shall be ~~drafted~~ **transmitted** in **any of the official** languages declared by the provider pursuant to Article 23(3).

The order may also be transmitted in any of the official languages of the Member State issuing the order, provided that it is accompanied by a translation of at least the most important elements necessary for the execution of the order into any of the official languages declared by the provider in accordance with article 23(3).

- 4a. **If the provider cannot execute the blocking order on grounds of force majeure or de facto impossibility not attributable to it, including for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the authority issuing the order of those grounds, using the template set out in Annex yy.**
5. If the provider cannot execute the blocking order because it contains manifest errors or does not contain sufficient information for its execution, the provider shall, without undue delay, request the necessary clarification ~~to~~ **from** the **authority issuing the order** ~~Coordinating Authority of establishment~~ using the template set out in Annex VIII.
- 5a. **The provider shall, without undue delay and using the template set out in Annex xx, inform the issuing authority of the measures taken to execute the blocking order, indicating, in particular, whether the provider has prevented access to child sexual abuse material.**

The authority issuing the order may require the provider to report to it at regular intervals on the measures taken and their functioning to execute a blocking order, including the effective and proportionate limitations and safeguards provided for.

Upon request of the issuing authority, the provider shall also provide, without undue delay, such reports or any other information relating to the execution of the blocking order needed for the purpose of the assessment referred to in Article 16(7).

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annexes VII, yy, ~~and VIII and xx~~ where necessary to improve the templates in view of relevant technological developments or practical experiences gained.

Article 18

Redress and provision of information , ~~information and reporting of blocking orders~~

1. Providers of internet access services that have received a blocking order, ~~as well as~~ **and** users who provided ~~or were prevented from accessing a specific item of~~ **blocked** material ~~indicated by the uniform resource locators in execution of such orders~~, shall have a right to effective redress. That right shall include the right to challenge the blocking order before the courts of the Member State of the ~~competent judicial authority or independent administrative authority that issued the blocking order.~~

1a. If the order is repealed as a result of a redress procedure, the provider shall without undue delay reinstate access to the material, without prejudice to the possibility to enforce its terms and conditions in accordance with Union and national law.

2. When the blocking order becomes final, the ~~competent judicial authority or independent administrative authority that issued the blocking order shall~~, without undue delay, transmit a copy thereof **and copies of information it has received pursuant to Article 17 (4a) to (5a) the Coordinating Authority of establishment**. The Coordinating Authority **of establishment** shall then, without undue delay, transmit ~~a copy~~ **copies** thereof to all other Coordinating Authorities **and the EU Centre** through the system established in accordance with Article 39(2).

For the purpose of the first subparagraph, a blocking order shall become final upon the expiry of the time period for appeal where no appeal has been lodged in accordance with national law or upon confirmation of the removal order following an appeal.

3. The provider shall establish and operate an accessible, age-appropriate and user-friendly mechanism that allows users to submit to it, ~~within a reasonable timeframe~~, complaints about alleged infringements of its obligations under this Section. It shall process such complaints in an objective, effective and timely manner.¹¹
4. Where a provider prevents users from accessing **child sexual abuse material** ~~the uniform resource locators pursuant to a blocking order issued in accordance with Article 17~~, it shall take reasonable measures to inform ~~the~~ **those** users of the following:
 - (a) the fact that it does so pursuant to a blocking order;
 - (b) ~~the reasons for doing so, providing, upon request, a copy of the blocking order;~~

¹¹ PCY comment: this complaint mechanism applies only to blocking orders. **Do Member States think that a horizontal mechanism of providers along the lines of Article 20 DSA would be preferable (in combination with the complaint mechanism of Coordinating Authorities in Article 34)?**

- (c) the ~~users'~~ **right of users who provided the blocked material to** judicial redress referred to in paragraph 1, ~~their rights of users~~ **to submit complaints to the provider** through the mechanism referred to in paragraph 3 and to the Coordinating Authority in accordance with Article 34, ~~as well as their right to submit the requests referred to in paragraph 5.~~

~~5. The provider and the users referred to in paragraph 1 shall be entitled to request the Coordinating Authority that requested the issuance of the blocking order to assess whether users are wrongly prevented from accessing a specific item of material indicated by uniform resource locators pursuant to the blocking order. The provider shall also be entitled to request modification or revocation of the blocking order, where it considers it necessary due to substantial changes to the grounds for issuing the blocking orders that occurred after the issuance thereof, in particular substantial changes preventing the provider from taking the required reasonable measures to execute the blocking order.~~

~~The Coordinating Authority shall, without undue delay, diligently assess such requests and inform the provider or the user submitting the request of the outcome thereof. Where it considers the request to be justified, it shall request modification or revocation of the blocking order in accordance with Article 16(7) and inform the EU Centre.~~

~~6. Where the period of application of the blocking order exceeds 24 months, the Coordinating Authority of establishment shall require the provider to report to it on the measures taken to execute the blocking order, including the safeguards provided for, at least once, halfway through the period of application.~~

Section 5a
Delisting obligations

Article 18a

Delisting orders

1. The competent authority shall have the power to issue an order requiring a provider of online search engines under the jurisdiction of that Member State to take reasonable measures to delist an online location where child sexual abuse material can be found from appearing in search results.
2. The provider shall execute the delisting order without undue delay and in any event within one week of receipt of the order. The provider shall take the necessary measures to ensure that it is capable of reinstating the delisted online location to appear in search results in accordance with Article 18c(2).
4. A delisting order shall be issued where the following conditions are met:
 - (a) the delisting is necessary to prevent the dissemination of the child sexual abuse material in the Union, having regard in particular to the need to protect the rights of the victims;
 - (b) search results correspond, in a sufficiently reliable manner, to online locations where child sexual abuse material can be found.
5. The issuing authority shall specify in the delisting order the period during which it applies, indicating the start date and the end date.

The period of application of delisting orders shall not exceed five years.
6. The Coordinating Authority or the issuing authority shall, where necessary and at least once every year, assess whether any substantial changes to the grounds for issuing the delisting orders have occurred and whether the conditions of paragraph 4 continue to be met.

Where necessary in the light of the outcome of that assessment or information of the reports referred to in Article 18b(6) an order may be modified or repealed by the issuing authority, where relevant at the request of the Coordinating Authority.

Article 18b

Additional rules regarding delisting orders

1. A delisting order shall be issued using the template set out in annex zz. Delisting orders shall include:
 - (a) identification details of the authority issuing the delisting order and authentication of the order by that authority;
 - (b) the name of the provider and, where applicable, its legal representative;
 - (c) clear information enabling the provider to identify and locate the child sexual abuse material and, where necessary, additional information;
 - (d) the start and end date of the delisting;
 - (e) a sufficiently detailed statement of reasons explaining why the delisting order is issued;
 - (f) reporting requirements pursuant to point 6;
 - (g) a reference to this Regulation as the legal basis for delisting;
 - (h) the date, time stamp and electronic signature of the authority issuing the delisting order;
 - (i) easily understandable information about the redress available, including information about redress to a court and about the time periods applicable to such redress.

2. The authority issuing the delisting order shall address it to the main establishment of the provider or, where applicable, to its legal representative designated in accordance with Article 24.

The delisting order shall be transmitted to the provider's point of contact referred to in Article 23(1) by electronic means capable of producing a written record under conditions that allow to establish the authentication of the sender, including the accuracy of the date and the time of sending and receipt of the order to the Coordinating Authority of establishment and to the EU Centre, through the system established in accordance with Article 39(2).

3. The delisting order shall be transmitted in any of the official languages declared by the provider pursuant to Article 23(3).

The order may also be transmitted in any of the official languages of the Member State issuing the order, provided that it is accompanied by a translation of at least the most important elements necessary for the execution of the order into any of the official languages declared by the provider in accordance with Article 23(3).

4. If the provider cannot execute the delisting order on grounds of force majeure or de facto impossibility not attributable to it, including for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the authority issuing the order of those grounds, using the template set out in Annex qq.
5. If the provider cannot execute the delisting order because it contains manifest errors or does not contain sufficient information for its execution, the provider shall, without undue delay, request the necessary clarification from the authority issuing the order, using the template set out in Annex pp.
6. The provider shall, without undue delay and using the template set out in Annex ww, inform the issuing authority of the measures taken to execute the delisting order, indicating, in particular, whether the provider has prevented search results for the online location with child sexual abuse material to appear.

The authority issuing the order may require the provider to report to it regularly on the measures taken to execute a delisting order.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annexes zz, qq and pp where necessary to improve the templates in view of relevant technological developments or practical experiences gained.

Article 18c

Redress and provision of information

1. Providers of online search engines that have received a delisting order and users that provided the material to a delisted online location shall have a right to effective redress. That right shall include the right to challenge the delisting order before the courts of the Member State of the authority that issued the delisting order.
2. If the order is repealed as a result of a redress procedure, the provider shall without undue delay reinstate the delisted online location to appear in search results, without prejudice to the possibility to enforce its terms and conditions in accordance with Union and national law.
3. When the delisting order becomes final, the issuing authority shall, without undue delay, transmit a copy thereof and information it has received pursuant to Article 18b (4) to (6) to the Coordinating Authority of establishment. The Coordinating Authority of establishment shall then, without undue delay, transmit a copies thereof to all other Coordinating Authorities and the EU Centre through the system established in accordance with Article 39(2).

For the purpose of the first subparagraph, a delisting order shall become final upon the expiry of the time period for appeal where no appeal has been lodged in accordance with national law or upon confirmation of the delisting order following an appeal.

4. Where a provider prevents users from obtaining search results for child sexual abuse material corresponding to an online location pursuant to a delisting order, it shall take reasonable measures to inform users that provided the material to a delisted online location and those users of the following:
- (a) the fact that it does so pursuant to a delisting order;
 - (b) the right of users that provided the material to a delisted online location to judicial redress referred to in paragraph 1 and users' right to submit complaints to the Coordinating Authority in accordance with Article 34.

Section 6 Additional provisions

Article 19

Liability of providers

Providers of relevant information society services shall not be liable for child sexual abuse offences ~~if solely because they carry out, in good faith, the necessary activities to comply with the requirements of this Regulation, in particular activities aimed at~~ **assessing and mitigating risk, detecting, identifying, reporting, removing, disabling of access to, blocking or delisting from search results** ~~reporting online child sexual abuse in accordance with those requirements.~~

Article 20

Victims' right to information

1. Persons residing in the Union shall have the right to receive, upon their request, from the Coordinating Authority ~~designated by~~ **in** the Member State where they reside, information regarding any instances where the dissemination of known child sexual abuse material depicting them is reported to the EU Centre pursuant to Article 12. Persons with disabilities shall have the right to ask and receive such an information in a manner accessible to them.

That Coordinating Authority shall transmit the request to the EU Centre through the system established in accordance with Article 39(2) and shall communicate the results received from the EU Centre to the person making the request.

2. The request referred to in paragraph 1 shall indicate:
- (a) the relevant item or items of known child sexual abuse material;
 - (b) where applicable, the individual or entity that is to receive the information on behalf of the person making the request;
 - (c) sufficient elements to demonstrate the identity of the person making the request.

3. The information referred to in paragraph 1 shall include:
- (a) the identification of the provider that submitted the report;
 - (b) the date of the report;
 - (c) whether the EU Centre forwarded the report in accordance with Article 48(3) and, if so, to which authorities;
 - (d) whether the provider reported having removed or disabled access to the material, in accordance with Article 13(1), point (i).

Article 21

Victims' right of assistance and support for removal

1. Providers of hosting services shall provide ~~reasonable~~ assistance, on request, to persons residing in the Union that seek to have one or more specific items of known child sexual abuse material depicting them removed or to have access thereto disabled by the provider.
2. Persons residing in the Union shall have the right to receive **support**, ~~upon their request, from the Coordinating Authority designated by in the Member State where they person resides, to request assistance, support~~ from the EU Centre when they seek to have a provider of hosting services remove or disable access to one or more specific items of known child sexual abuse material depicting them. Persons with disabilities shall have the right to ask and receive any information relating to such support in a manner accessible to them.

That Coordinating Authority shall transmit the request to the EU Centre through the system established in accordance with Article 39(2) and shall communicate the results received from the EU Centre to the person making the request.

3. The requests referred to in paragraphs 1 and 2 shall indicate the relevant item or items of child sexual abuse material. **The request does not have to indicate a specific provider.**
4. The EU Centre's support referred to in paragraph 2 shall include, as applicable:
- ~~(a) support in connection to requesting the provider's assistance referred to in paragraph 1;~~
 - (b) verifying whether the provider removed or disabled access to that item or those items, including by conducting the searches referred to in Article 49(1);
 - (c) notifying the item or items of known child sexual abuse material depicting the person to the provider and requesting removal or disabling of access, in accordance with Article 49(2);
 - (d) where necessary, informing the Coordinating Authority of establishment of the presence of that item or those items on the service, with a view to the issuance of a removal order pursuant to Article 14.

Article 22

Preservation of information

1. Providers of hosting services and providers of interpersonal communications services shall preserve the content data and other data processed ~~in connection to the measures taken~~ to comply with this Regulation and the personal data generated through such processing, when the following measures have been taken or for the purposes of complaints or redress procedures ~~complaints only for one or more of the following purposes~~, as applicable:
 - (a) executing a detection order issued pursuant to Article 7, or a removal order issued pursuant to Article 14 **[or a blocking order pursuant to Article 16 or a delisting order pursuant to Article 18a]**;
 - (b) reporting **information that indicate** potential online child sexual abuse to the EU Centre pursuant to Article 12;
 - (c) blocking the account of, or suspending or terminating the provision of the service to, the user concerned;
 - (d) handling users' complaints to the provider or to the Coordinating Authority, or the exercise of users' right to administrative or judicial redress, in respect of alleged infringements of this Regulation;
 - (e) —

1a. Upon a request ~~responding to requests~~ issued by a competent ~~law enforcement~~ authorities ~~ies and judicial authorities~~ [in accordance with the applicable law], **providers shall with a view to providing them requesting authority** with the necessary information for the prevention, detection, investigation or prosecution of child sexual abuse offences, **or the handling of complaints or administrative or judicial redress proceedings**, insofar as the content data and other data **have been preserved for one of the purposes in paragraphs 1(a) to (d)**, ~~relate to a report that the provider has submitted to the EU Centre pursuant to Article 12.~~

As regards the first subparagraph, point (a), the provider may also preserve the information for the purpose of improving the effectiveness and accuracy of the technologies to detect online child sexual abuse for the execution of a detection order issued to it in accordance with Article 7. However, it shall not store any personal data for that purpose.

2. Providers shall preserve the information referred to in paragraph 1 for no longer than necessary for the applicable purpose and, in any event, no longer than 12 months from the date of the **measures taken that led to the obligation to preserve the content data and other data processed** ~~reporting or of the removal or disabling of access, whichever occurs first.~~

Providers ~~They~~ shall, upon request from the competent ~~national~~ authority ~~—or court~~, preserve the information for a further specified period, set by ~~that~~ the requesting authority ~~or court~~ where and to the extent necessary for ongoing administrative or judicial redress proceedings, as referred to in paragraph 1, point (d).

- 3.** Providers shall ensure that the information referred to in paragraph 1 is preserved in a secure manner and that the preservation is subject to appropriate technical and organisational safeguards. Those safeguards shall ensure, in particular, that the information can be accessed and processed only for the purpose for which it is preserved, that a high level of security is achieved and that the information is deleted upon the expiry of the applicable time periods for preservation. Providers shall regularly review those safeguards and adjust them where necessary.
- 4.** **When a detection order pursuant to Article 7, a removal order issued pursuant to Article 14 [, a blocking order pursuant to Article 16 or a delisting order pursuant to Article 18a] is repealed, the obligation to preserve the content data and other data according to paragraph 1 is discontinued.**

Article 23

Points of contact

1. Providers of relevant information society services shall establish a single point of contact allowing for direct communication, by electronic means, with the Coordinating Authorities, other competent authorities of the Member States, the Commission and the EU Centre, for the application of this Regulation.
2. The providers shall communicate to the EU Centre and make public the information necessary to easily identify and communicate with their single points of contact, including their names, addresses, the electronic mail addresses and telephone numbers.
3. The providers shall specify in the information referred to in paragraph 2 the official language or languages of the Union, which can be used to communicate with their points of contact.

The specified languages shall include at least one of the official languages of the Member State in which the provider has its main establishment or, where applicable, where its legal representative resides or is established.

Article 24

Legal representative

1. Providers of relevant information society services which do not have their main establishment in the Union shall designate, in writing, a natural or legal person as its legal representative in the Union **for the purposes of this Regulation**.
2. The legal representative shall reside or be established in one of the Member States where the provider offers its services.
3. The provider shall mandate its legal representatives to be addressed in addition to or instead of the provider by the Coordinating Authorities, other competent authorities of the Member States and the Commission on all issues necessary for the receipt of, compliance with and enforcement of **orders and** decisions issued in relation to this Regulation, including detection orders, removal orders ~~and~~, blocking orders **and delisting orders**.
4. The provider shall provide its legal representative with the necessary powers and resources to cooperate with the Coordinating Authorities, other competent authorities of the Member States and the Commission and **to** comply with the **orders and** decisions referred to in paragraph 3.
5. The ~~designated~~ legal representative may be held liable for non-compliance with obligations of the provider under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider.
6. The provider shall notify the name, address, the electronic mail address and telephone number of its legal representative designated pursuant to paragraph 1 to the Coordinating Authority in the Member State where that legal representative resides or is established, and to the EU Centre. **The provider or the legal representative** ~~They~~ shall ensure that that information is up to date and publicly available.
7. The designation of a legal representative within the Union pursuant to paragraph 1 shall not amount to an establishment in the Union.

CHAPTER III

SUPERVISION, ENFORCEMENT AND COOPERATION

Section 1

Coordinating Authorities of the Member States for child sexual abuse issues

Article 25

Coordinating Authorities for child sexual abuse issues and other competent authorities

1. Member States shall, by ~~[Date – two~~ **twelve** months from the date of entry into force of this Regulation], designate one or more competent authorities as responsible for the application and enforcement of this Regulation ('competent authorities')
2. Member States shall, by the date referred to in paragraph 1, designate one of the competent authorities as their Coordinating Authority for child sexual abuse issues ('Coordinating Authority').

The Coordinating Authority shall be responsible for all matters related to **the** application and enforcement of this Regulation in the Member State concerned, unless that Member State has assigned certain specific tasks or sectors to other competent authorities.

The Coordinating Authority shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective ~~efficient~~ and consistent application and enforcement of this Regulation throughout the Union.

3. Where a Member State designates more than one competent authority in addition to the Coordinating Authority, it shall ensure that the respective tasks of those authorities and of the Coordinating Authority are clearly defined and that they cooperate closely and effectively when performing their tasks. ~~The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the EU Centre and the Commission.~~
4. Within one week after the designation of the Coordinating Authorities and ~~any~~ other competent authorities ~~pursuant to paragraph 1~~, Member States shall make publicly available, and communicate to the Commission and the EU Centre, the names of their Coordinating Authority **and other competent authorities as well as their respective tasks or sectors**. They shall keep that information updated.
5. ~~Each~~ Member States shall ~~ensure that a contact point is designated or established a~~ **contact point** within **its** ~~the~~ Coordinating Authority's office to handle requests for clarification, feedback and other communications in relation to all matters related to the application and enforcement of this Regulation ~~in that Member State~~. Member States shall make the information on the contact point publicly available and communicate it to the EU Centre. They shall keep that information updated.

6. Within two weeks after the designation of the Coordinating Authorities pursuant to paragraph 2, the EU Centre shall set up an online register listing the Coordinating Authorities and their contact points. The EU Centre shall regularly publish any modification thereto.
7. Coordinating Authorities may, where necessary for the performance of their tasks under this Regulation, request the assistance of the EU Centre in carrying out those tasks, in particular, by requesting the EU Centre to:
 - (a) provide certain information or technical expertise on matters covered by this Regulation;
 - (b) assist in assessing, in accordance with Article 5(2), the risk assessment conducted or updated or the mitigation measures taken by a provider of hosting or interpersonal communication services under the jurisdiction of the Member State that designated the requesting Coordinating Authority;
 - (c) **provide opinion on** ~~verify~~ the possible need to request competent ~~national~~ authorities to issue a detection order, ~~a removal order, or a blocking order~~ in respect of a service under the jurisdiction of the Member State that designated that Coordinating Authority;
 - (d) **provide opinion on** ~~verify~~ the effectiveness of a detection order ~~or a removal order~~ issued upon the request of the requesting Coordinating Authority.
8. The EU Centre shall provide such assistance free of charge and in accordance with its tasks and obligations under this Regulation ~~and insofar as its resources and priorities allow.~~
- ~~9. The requirements applicable to Coordinating Authorities set out in Articles 26, 27, 28, 29 and 30 shall also apply to any other competent authorities that the Member States designate pursuant to paragraph 1.~~

Article 26

Requirements for Coordinating Authorities

1. Member States shall ensure that the Coordinating Authorities that they **have** designated **carry out** ~~perform~~ their tasks under this Regulation in an objective, ~~impartial, transparent and timely~~ **and non-discriminatory** manner, while fully respecting ~~the~~ fundamental rights ~~of all parties affected~~¹². Member States shall ensure that their Coordinating Authorities have adequate technical, financial and human resources to carry out their tasks.

The Coordinating Authorities shall not seek or take instructions from any other body in relation to carrying out their tasks under this Regulation.

¹² Copied from Art. 13(2) of TCO Regulation.

- ~~2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Coordinating Authorities shall act with complete independence. To that aim, Member States shall ensure, in particular, that they:~~
- ~~(a) are legally and functionally independent from any other public authority;~~
 - ~~(b) have a status enabling them to act objectively and impartially when carrying out their tasks under this Regulation;~~
 - ~~(c) are free from any external influence, whether direct or indirect;~~
 - ~~(d) neither seek nor take instructions from any other public authority or any private party;~~
 - ~~(e) are not charged with tasks relating to the prevention or combating of child sexual abuse, other than their tasks under this Regulation.~~
3. Paragraph 2-1 shall not prevent supervision of the Coordinating Authorities in accordance with national constitutional law, ~~to the extent that such supervision does not affect their independence as required under this Regulation.~~
4. The Coordinating Authorities **and other competent authorities** shall ensure that **their relevant members of** staff have the required qualifications, experience, **integrity** and technical skills to perform their duties.
5. The management and other staff of the Coordinating Authorities shall, in accordance with Union or national law, be subject to a duty of professional secrecy both during and after their term of office, with regard to any confidential information which has come to their knowledge in the course of the performance of their tasks. Member States shall ensure that the management and other staff are subject to rules guaranteeing that they can carry out their tasks in an objective, impartial and independent manner, in particular as regards their appointment, dismissal, remuneration and career prospects.

Section 2
Powers of ~~Coordinating the~~ Authorities of Member States

Article 27¹³

*Investigatory **and enforcement** powers*

1. Where needed **in order to** ~~for~~ carrying out their tasks **under this Regulation**, Coordinating Authorities **or other competent authorities** shall have the following powers of investigation, in respect of **conduct by** providers of relevant information society services **falling within the competence under the jurisdiction of the their Member State that designated them**:
 - (a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, to provide such information **without undue delay** ~~within a reasonable time period~~;
 - (b) the power to carry out, **or to request a judicial authority to order, on-site inspections** of any premises that those providers or ~~the other~~ **those** persons ~~referred to in point (a)~~ use for purposes related to their trade, business, craft or profession, or to request other public authorities to do so, in order to examine, seize, take or obtain copies of information relating to a suspected infringement ~~of this Regulation~~ in any form, irrespective of the storage medium;
 - (c) the power to ask any member of staff or representative of those providers or ~~the other~~ **those persons** to give explanations in respect of any information relating to a suspected infringement ~~of this Regulation~~ and to record the answers **by any technical means**;
 - (d) the power to request information, including to assess whether the measures taken to execute a detection order, removal order, ~~or~~ blocking order **or delisting order** comply with the requirements of this Regulation.
- ~~2. Member States may grant additional investigative powers to the Coordinating Authorities.~~

¹³ PCY comment: copied word for word from Art. 51 of the DSA as a baseline for further discussions. Differences include that (i) both the Coordinating and competent authorities are included; (ii) this text speaks about “user”, not “the recipient of a service” and (iii) in point 3b below the wording “or the infringement results in the regular and structural facilitation of child sexual abuse offences” has been maintained. The restructuring of Articles 27 to 30 to ensure alignment with DSA has lead to the fact that some cross-references need to be corrected. This will be done once the text is stable.

Article 28

Enforcement powers

2.1. Where needed for carrying out their tasks under this Regulation, Coordinating Authorities or other competent authorities shall have the following enforcement powers, in respect of providers of relevant information society services falling within the competence under the jurisdiction of the their Member State that designated them:

- (a) the power to accept the commitments offered by those providers in relation to their compliance with this Regulation and to make those commitments binding;
- (b) the power to order the cessation of infringements of this Regulation and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end or to request a judicial authority in their Member States to do so;
- (c) the power to impose fines, or request a judicial authority in their Member State to do so, in accordance with Article 35 for failure to comply with infringements of this Regulation, including non-compliance with any of the investigative orders issued pursuant to paragraph 1 of this Article 27 and to point (b) of this paragraph;
- (d) the power to impose a periodic penalty payment, or to request a judicial authority to do so, in accordance with Article 35 to ensure that an infringement of this Regulation is terminated in compliance with an order issued pursuant to point (b) of this subparagraph or for failure to comply with any of the orders issued pursuant to paragraph 1 of this Article. 27 and to point (b) of this paragraph;
- (e) the power to adopt interim measures or to request the competent national judicial authority to do so, to avoid the risk of serious harm.

2. Member States may grant additional enforcement powers to the Coordinating Authorities.

3. As regards the first subparagraph 1, points (c) and (d), Coordinating Authorities or other competent authorities shall also have the enforcement powers set out in those points also in respect of the other persons referred to in paragraph 1 Article 27, for failure to comply with any of the orders issued to them pursuant to that paragraph Article. 4. They shall only exercise those enforcement powers after having provided those other persons in good time with all relevant information relating to such orders, including the applicable time period, the fines or periodic payments that may be imposed for failure to comply and redress the possibilities for redress.

Article 29

Additional enforcement powers

~~3.1.~~ Where needed for carrying out their tasks **under this Regulation**, Coordinating Authorities **or other competent authorities** shall have the additional enforcement powers referred to in paragraph 2, in respect of providers of relevant information society services **falling within the competence under the jurisdiction** of their Member State, **where that designated them, provided that:**

- ~~(a)~~ all other powers pursuant to **this** Articles ~~27 and 28~~ to bring about the cessation of an infringement ~~of this Regulation~~ have been exhausted;
- ~~(b)~~ **and** the infringement **has not been remedied or is continuing and is** ~~persists~~;
- ~~(c)~~ ~~the infringement causes~~ **causing** serious harm which cannot be avoided through the exercise of other powers available under Union or national law, **also have the power to take the following measures:**

~~2.~~ ~~Coordinating Authorities shall have the additional enforcement powers to take the following measures:~~

- ~~(a)~~ **to** require the management body of the providers, **without undue delay**, to examine the situation, ~~within a reasonable time period and to:~~
 - ~~(i)~~ adopt and submit an action plan setting out the necessary measures to terminate the infringement;
 - ~~(ii)~~ ensure that the provider takes those measures; **and**
 - ~~(iii)~~ report on the measures taken;
- ~~(b)~~ **where the Coordinating Authority or other competent authorities consider that a provider of relevant information society services has not sufficiently complied with the requirements of point (a), that the infringement has not been remedied or is continuing and is causing serious harm, and that that infringement entails a criminal offence involving a threat to the life or safety of persons or the infringement results in the regular and structural facilitation of child sexual abuse offences,** to request **that** the competent judicial authority or **other** independent administrative authority of its ~~the~~ Member State ~~that designated the Coordinating Authority to~~ order the temporary restriction of access of users of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider on which the infringement takes place. ~~where the Coordinating Authority considers that:~~
 - ~~(i)~~ ~~the provider has not sufficiently complied with the requirements of point (a);~~
 - ~~(ii)~~ ~~the infringement persists and causes serious harm;~~
 - ~~(iii)~~ ~~the infringement results in the regular and structural facilitation of child sexual abuse offences.~~

~~3.~~—The Coordinating Authority **or other competent authorities** shall, prior to submitting the request referred to in **this** paragraph 2, point (b), invite interested parties to submit written observations **within a period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority or other independent administrative authority.**

~~on its intention to submit that request within a reasonable time period set by that Coordinating Authority. That time period shall not be less than two weeks.~~

~~The invitation to submit written observations shall:~~

~~(a) describe the measures that it intends to request;~~

~~(b) identify the intended addressee or addressees thereof.~~

~~The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings regarding the request.~~

4.—Any measure ordered ~~upon the request referred to in paragraph 2, point (b),~~ shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by users of the service concerned.

The ~~temporary~~ restriction **of access** shall ~~be apply~~ for a period of four weeks, subject to the possibility for the competent judicial authority **or other independent administrative authority of the Member State**, in its order, to allow the Coordinating Authority **or other competent authority** to extend that period for further periods of the same lengths, subject to a maximum number of extensions set by ~~a~~ **that** judicial authority **or other independent administrative authority**.

The Coordinating Authority **or other competent authority** referred to in the previous subparagraph shall only extend the period where ~~it considers~~, having regard to the rights and ~~legitimate~~ interests of all parties affected by ~~the~~ **that** restriction and all relevant ~~facts~~ ~~and~~ circumstances, including any information that the provider, the addressee or addressees and any other third party that demonstrated a legitimate interest may provide to it, **it considers** that both of the following conditions have been met:

- (a) the provider has failed to take the necessary measures to terminate the infringement;
- (b) the temporary restriction does not unduly restrict access to lawful information by users of the service, having regard to the number of users affected and whether any adequate and readily accessible alternatives exist.

Where the Coordinating Authority **or other competent authority** considers that **the conditions set out in the fourth subparagraph, points (a) and (b)** ~~those two conditions~~ have been met but it cannot further extend the period pursuant to the **fourth** ~~second~~ subparagraph, it shall submit a new request to the competent judicial authority **or other independent administrative authority**, as referred to in **the first** subparagraph ~~2~~, point (b).

Article 30

Common provisions on investigatory and enforcement powers

- 4.1.**—The measures taken by the Coordinating Authorities **or other competent authorities** in the exercise of their ~~investigatory and enforcement~~ powers **listed in paragraphs 1, 2 and 3 referred to in Articles 27, 28 and 29** shall be effective, dissuasive and proportionate, having regard, in particular, to the nature, gravity, recurrence and duration of the infringement ~~of this Regulation~~ or suspected infringement to which those measures relate, as well as the economic, technical and operational capacity of the provider of relevant information society services concerned, where **relevant applicable**.
- 5.2.**—Member States shall **lay down specific rules and procedures for the exercise of the powers pursuant to paragraphs 1, 2 and 3 and shall** ensure that any exercise of **those the investigatory and enforcement** powers ~~referred to in Articles 27, 28 and 29~~ is subject to adequate safeguards laid down in the applicable national law **in compliance with the Charter and with the general principles of Union law** ~~to respect the fundamental rights of all parties affected~~. In particular, those measures shall only be taken in accordance with the right to respect for private life and the rights of defence, including the rights to be heard and of access to the file, and subject to the right to an effective judicial remedy of all ~~parties~~ affected **parties**.

Article 31

Searches to verify compliance

Coordinating Authorities **or other competent authorities** shall have the power to carry out searches on publicly accessible material on hosting services to detect the dissemination of known or new child sexual abuse material, using the indicators contained in the databases referred to in Article 44(1), points (a) and (b), where necessary to verify whether the providers of hosting services under the jurisdiction of the Member State that designated the Coordinating Authorities comply with their obligations under this Regulation.

Article 32

Notification of known child sexual abuse material

Coordinating Authorities **or other competent authorities** shall have the power to notify providers of hosting services under the jurisdiction of the Member State that designated them of the presence on their service of one or more specific items of known child sexual abuse material and to request them to remove or disable access to that item or those items, for the providers' voluntary consideration.

The request shall clearly set out the identification details of the Coordinating Authority making the request and information on its contact point referred to in Article 25(5), the necessary information for the identification of the item or items of known child sexual abuse material concerned, as well as the reasons for the request. The request shall also clearly state that it is for the provider's voluntary consideration.

Section 3

Other provisions on enforcement

Article 33

Jurisdiction

1. The Member State in which the main establishment of the provider of relevant information society services is located shall have jurisdiction for the purposes of this Regulation.
2. A provider of relevant information society services which does not have an establishment in the Union shall be deemed to be under the jurisdiction of the Member State where its legal representative resides or is established.

Where a provider failed to appoint a legal representative in accordance with Article 24, all Member States shall have jurisdiction. Where a Member State decides to exercise jurisdiction under this subparagraph, it shall inform all other Member States and ensure that the principle of *ne bis in idem* is respected.

Article 34¹⁴

Right ~~of users of the service~~ to lodge a complaint

1. Users **and any body, organisation or association mandated to exercise the rights conferred by this Regulation on their behalf** shall have the right to lodge a complaint **against providers of relevant information society services** alleging an infringement of this Regulation ~~affecting them against providers of relevant information society services~~ with the Coordinating Authority designated by the Member State where the user **is located** ~~resides or is established~~.
2. Coordinating Authorities shall provide child-friendly mechanisms to submit a complaint under this Article and adopt a child-sensitive approach when handling complaints submitted by children, taking due account of the child's age, maturity, views, needs and concerns.
3. The Coordinating Authority ~~receiving the complaint~~ shall assess the complaint and, where appropriate, transmit it to the Coordinating Authority of establishment, **accompanied, where considered appropriate, by an opinion.**

Where the complaint falls under the responsibility of another competent authority **in its** Member State, ~~that designated~~ the Coordinating Authority receiving the complaint, ~~that Coordinating Authority~~ shall transmit it to that ~~other competent~~ authority.

4. **During these proceedings, both parties shall have the right to be heard and receive appropriate information about the status of the complaint, in accordance with national law.**

¹⁴ PCY comment: copied word for word from Art. 53 of the DSA.

Article 34b¹⁵

Representation

1. Without prejudice to Directive (EU) 2020/1828 or to any other type of representation under national law, users of relevant information society services shall at least have the right to mandate a body, organisation or association to exercise the rights conferred by this Regulation on their behalf, provided the body, organisation or association meets all of the following conditions:
 - (a) it operates on a non-profit basis;
 - (b) it has been properly constituted in accordance with the law of a Member State;
 - (c) its statutory objectives include a legitimate interest in ensuring that this Regulation is complied with.
2. Providers of relevant information society services shall take the necessary technical and organisational measures to ensure that complaints submitted by bodies, organisations or associations referred to in paragraph 1 of this Article on behalf of recipients of the service through the mechanisms referred to in Article xx are processed and decided upon with priority and without undue delay.

Article 35¹⁶

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the obligations pursuant to Chapters II and V of this Regulation by providers of relevant information society services within their competence under their jurisdiction and shall take all the necessary measures to ensure that they are implemented in accordance with Article 27.

~~The p~~Penalties shall be effective, proportionate and dissuasive. Member States shall, by [Date of application of this Regulation], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.

¹⁵ PCY comment: copied word for word from Art. 86 of the DSA. To be discussed in relation to Articles 18(3) and 34.

¹⁶ PCY comment: copied word for word from Art. 52 of the DSA (except paragraph 4 that is taken from the TCO Regulation).

2. Member States shall ensure that the maximum amount of **finances that may be penalties** imposed for ~~an~~ **a failure to comply with an obligation laid down in Chapters II and V** ~~infringement~~ of this Regulation shall be ~~not exceed~~ 6 % of the annual **worldwide income** ~~or global~~ turnover of the **providers concerned in the** preceding financial ~~business year of the provider~~. ~~3. Member States shall ensure that the maximum amount of the fine that may be imposed~~ **Penalties** for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information ~~or~~ **and failure** to submit to an ~~on-site~~ inspection shall ~~be not exceed~~ 1% of the annual income or worldwide ~~global~~ turnover of the ~~preceding business year of the~~ provider or ~~the other~~ person concerned in the preceding financial year ~~referred to in Article 27~~.
34. Member States shall ensure that the maximum amount of a periodic penalty payment shall ~~be not exceed~~ 5 % of the average daily **worldwide** ~~global~~ turnover **or income** of the provider ~~or the other person referred to in Article 27~~ in the preceding financial year per day, calculated from the date specified in the decision concerned.
45. Member States shall ensure **that the competent authorities**, when deciding whether to impose a penalty and when determining the type and level of penalty, account is taken of all relevant circumstances, including:
- (a) the nature, gravity and duration of the infringement;
 - (b) whether the infringement was intentional or negligent;
 - (c) ~~any~~ previous infringements by the provider or the other person;
 - (d) the financial strength of the provider ~~or the other person~~;
 - (e) the level of cooperation of the provider **with the competent authorities** ~~or the other person~~;
 - (f) the nature and size of the provider ~~or the other person~~, in particular whether it is a micro, small or medium-sized enterprise;
 - (g) the degree of fault of the provider **or other person**, taking into account the technical and organisational measures taken by **the provider** it to comply with this Regulation.

Section 4

Cooperation

Article 36¹⁷

Identification and submission of online child sexual abuse

1. Coordinating Authorities shall submit to the EU Centre, without undue delay and through the system established in accordance with Article 39(2):
 - (a) specific items of material and transcripts of conversations that Coordinating Authorities or that the competent judicial authorities or other independent administrative authorities of a Member State have identified, after a diligent assessment, as constituting child sexual abuse material or the solicitation of children, as applicable, for the EU Centre to generate indicators in accordance with Article 44(3);
 - (b) exact uniform resource locators indicating **the electronic location of the information** ~~specific items of material~~ that Coordinating Authorities or that competent judicial authorities or other independent administrative authorities of a Member State have identified, after a diligent assessment, as constituting child sexual abuse material, hosted by providers of hosting services not offering services in the Union, that cannot be removed due to those providers' refusal to remove or disable access thereto and to the lack of cooperation by the competent authorities of the third country having jurisdiction, for the EU Centre to compile the list of uniform resource locators in accordance with Article 44(3).

Member States shall take the necessary measures to ensure that the Coordinating Authorities that they designated receive, without undue delay, the material identified as child sexual abuse material, the transcripts of conversations identified as the solicitation of children, and the uniform resource locators, identified by a competent judicial authority or other independent administrative authority than the Coordinating Authority, for submission to the EU Centre in accordance with the first subparagraph.

2. Upon the request of the EU Centre where necessary to ensure that the data contained in the databases referred to in Article 44(1) are complete, accurate and up-to-date, Coordinating Authorities shall verify or provide clarifications or additional information as to whether the conditions of paragraph 1, points (a) and (b) have been and, where relevant, continue to be met, in respect of a given submission to the EU Centre in accordance with that paragraph.

¹⁷ **PCY comment:** the LEWP should leave this Article for now and return to it once more clarity is reached on the detection and blocking orders.

3. Member States shall ensure that, where their law enforcement authorities receive a report of the dissemination of new child sexual abuse material or of the solicitation of children forwarded to them by the EU Centre in accordance with Article 48(3), a diligent assessment is conducted in accordance with paragraph 1 and, if the material or conversation is identified as constituting child sexual abuse material or as the solicitation of children, the Coordinating Authority submits the material to the EU Centre, in accordance with that paragraph, within one month from the date of reception of the report or, where the assessment is particularly complex, two months from that date.
4. They shall also ensure that, where the diligent assessment indicates that the material does not constitute child sexual abuse material or the solicitation of children, the Coordinating Authority is informed of that outcome and subsequently informs the EU Centre thereof, within the time periods specified in the first subparagraph.

Article 37¹⁸

Cross-border cooperation among Coordinating Authorities

1. Where a Coordinating Authority that is not the Coordinating Authority of establishment has reasons to suspect that a provider of relevant information society services infringed this Regulation **in a manner negatively affecting the users of the service in the Member State of that Coordinating Authority**, it ~~may~~ **shall** request the Coordinating Authority of establishment to assess the matter and **to** take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

~~Where the Commission has reasons to suspect that a provider of relevant information society services infringed this Regulation in a manner involving at least three Member States, it may recommend that the Coordinating Authority of establishment assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.~~

2. ~~The A~~ request ~~or recommendation~~ **pursuant** referred to in paragraph 1 shall **be duly reasoned and** at least indicate:
 - (a) the point of contact of the provider as set out in Article 23;
 - (b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Coordinating Authority that sent the request, ~~or the Commission~~ suspects, that the provider infringed this Regulation **including the description of the negative effects of the alleged infringement**;
 - (c) any other information that the Coordinating Authority that sent the request, ~~or the Commission~~, considers relevant, including, where appropriate, information gathered on its own initiative ~~and~~ **or** suggestions for specific investigatory or enforcement measures to be taken, **including interim measures**.

¹⁸ PCY comment: copied word for word from Art. 58 of the DSA.

3. The Coordinating Authority of establishment shall **take utmost account of the requests pursuant to paragraph 1 of this Article** ~~assess the suspected infringement, taking into utmost account the request or recommendation referred to in paragraph 1.~~ Where it considers that it has insufficient information to ~~asses the suspected infringement or to act upon the request or recommendation~~ and has reasons to consider that the Coordinating Authority that sent the request, ~~or the Commission,~~ could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.
4. The Coordinating Authority of establishment shall, without undue delay and in any event not later than two months following receipt of the request ~~or recommendation pursuant referred to in paragraph 1,~~ communicate to the Coordinating Authority that sent the request, ~~or the Commission,~~ the ~~outcome of its~~ assessment of the suspected infringement, ~~or that of any other competent authority pursuant to national law where relevant, and, where applicable,~~ an explanation of the investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

Article 38¹⁹

Joint investigations

1. Coordinating Authorities may participate in joint investigations, which may be coordinated with the support of the EU Centre, of matters covered by this Regulation, concerning providers of relevant information society services that offer their services in several Member States.
- Such joint investigations are without prejudice to the tasks and powers of the participating Coordinating Authorities and the requirements applicable to the performance of those tasks and exercise of those powers provided for in this Regulation.
2. The participating Coordinating Authorities shall make the results of the joint investigations available to other Coordinating Authorities, the Commission and the EU Centre, through the system established in accordance with Article 39(2), for the fulfilment of their respective tasks under this Regulation.

¹⁹ PCY comment: The PCY observes that a number of delegations have requested clarifications about what is meant with joint investigations, a concept that is close also to law enforcement and judicial cooperation. The PCY notes that the elements of the Article can be found in Article 58 of the DSA. **Do delegations believe that there is need for this Article in this context? Are there elements of Article 57 of the DSA on mutual assistance, for instance on exchange of information, that can be more relevant? Do delegations wish to include an additional article along the lines of Art. 57 of the DSA on mutual assistance?**

Article 39

General eCooperation, **coordination** and information-sharing system

1. Coordinating Authorities shall cooperate with each other, other competent authorities of the Member States ~~that designated the Coordinating Authority~~, the Commission, the EU Centre and other relevant Union agencies, including Europol, to facilitate the performance of their respective tasks under this Regulation and **to** ensure its effective, efficient and consistent application and enforcement.
- 1a. The authorities and agencies referred to in paragraph 1 may, including with the support from the EU Centre, coordinate their work under this Regulation with a view to avoiding interference with criminal investigations in different Member States and to avoiding duplication of efforts.**
2. The EU Centre shall establish and maintain one or more reliable and secure information sharing systems supporting communications between Coordinating Authorities, the Commission, the EU Centre, other relevant Union agencies and providers of relevant information society services.
3. The Coordinating Authorities, the Commission, the EU Centre, other relevant Union agencies and providers of relevant information society services shall use the information-sharing systems referred to in paragraph 2 for all relevant communications pursuant to this Regulation.
4. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information-sharing systems referred to in paragraph 2 and their interoperability with other relevant systems. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 87.