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**NOTE**

From:	Presidency
To:	Law Enforcement Working Party (Police)
No. prev. doc.:	9068/22, 12354/22, 14008/22, 14143/22; 6276/23; 7038/23; 7595/23; 7842/23, 8845/23
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 25 and 26 May 2023, delegations will find in the Annex Presidency compromise texts on the above proposal.

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

New changes to the Commission proposal in comparison to documents 8845/23 are marked in **bold underline** and ~~strikethrough 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*

1. This Regulation lays down uniform rules to **prevent** and address the misuse of relevant information society services for online child sexual abuse in the internal market.

It establishes, in particular:

- (a) obligations on providers of relevant information society services to minimise the risk that their services are misused for online child sexual abuse;
- (b) obligations on providers of hosting services and providers of interpersonal communication services to detect and report online child sexual abuse;
- (c) obligations on providers of hosting services to remove or disable access to child sexual abuse material on their services;
- (d) obligations on providers of internet access services to **prevent users from accessing** access child sexual abuse material;
- (da) obligations on providers of online search engines to delist websites indicating specific items of child sexual abuse;**
- (e) rules on the implementation and enforcement of this Regulation, including as regards the designation and functioning of the competent authorities of the Member States, the EU Centre on Child Sexual Abuse established in Article 40 ('EU Centre') and cooperation and transparency.

2. This Regulation shall apply to providers of relevant information society services offering such services in the Union, irrespective of their place of main establishment.
3. This Regulation shall not affect the rules laid down by the following legal acts:
  - (a) Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA;
  - (b) Directive 2000/31/EC and Regulation (EU) .../... [on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC];
  - (ba) Regulation (EU) 2022/... of ... on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act);**
  - (c) Directive 2010/13/EU;
  - (d) Regulation (EU) 2016/679, Directive 2016/680, Regulation (EU) 2018/1725, and, subject to paragraph 4 of this Article, Directive 2002/58/EC;
  - (e) Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online.**
- 3a. **This Regulation shall not have the effect of modifying the obligation to respect the rights, freedoms and principles referred to in Article 6 TEU and shall apply without prejudice to fundamental principles relating to the right for respect to private life and family life and to freedom of expression and information.<sup>1</sup>**
4. This Regulation limits the exercise of the rights and obligations provided for in 5(1) and (3) and Article 6(1) of Directive 2002/58/EC insofar as necessary for the execution of the detection orders issued in accordance with Section 2 of Chapter 4 II of this Regulation.

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<sup>1</sup> Wording copied from Art. 1(4) of TCO Regulation with an additional reference to the right to private life.

*Article 2*  
*Definitions*

For the purpose of this Regulation, the following definitions apply:

- (a) ‘hosting service’ means an information society service as defined in Article 2, point (f), third indent, of Regulation (EU) .../... [*on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC*];
- (b) ‘**number-independent** interpersonal communications service’ means a publicly available service as defined in Article 2, point 7 5, of Directive (EU) 2018/1972, including services which enable direct interpersonal and interactive exchange of information merely as a minor ancillary feature that is intrinsically linked to another service;<sup>2</sup>
- (c) ‘software application’ means a digital product or service as defined in Article 2, point 13, of Regulation (EU) .../... [*on contestable and fair markets in the digital sector (Digital Markets Act)*];
- (d) ‘software application store’ means a service as defined in Article 2, point 12, of Regulation (EU) .../... [*on contestable and fair markets in the digital sector (Digital Markets Act)*];
- (e) ‘internet access service’ means a service as defined in Article 2(2), point 2, of Regulation (EU) 2015/2120 of the European Parliament and of the Council<sup>3</sup>;
- (f) ‘relevant information society services’ means all of the following services:
  - (i) a hosting service;
  - (ii) an interpersonal communications service;
  - (iii) a software applications store;
  - (iv) an internet access service;
  - (v) **online search engines.**

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<sup>2</sup> PCY comment: See Article 2(1) of the Temporary Regulation (EU) 2021/1232. Many opinions have been expressed that the scope should not include regular telecom providers but be limited to the number-independent service providers. The draft opinion of the IMCO Committee in the EP is also going in this direction and provides elaborate additions to recital 5.

<sup>3</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

- (g) ‘to offer services in the Union’ means to offer services in the Union as defined in Article 2, point (d), of Regulation (EU) .../... [*on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC*];
- (h) ‘user’ means any natural or legal person who uses a relevant information society service;
- (i) ‘child’ means any natural person below the age of 18 years;<sup>4</sup>
- ~~(j) ‘child user’ means a natural person who uses a relevant information society service and who is a natural person below the age of 17 years;<sup>5</sup>~~
- (k) ‘micro, small or medium-sized enterprise’ means an enterprise as defined in Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises<sup>6</sup>;
- (l) ‘child sexual abuse material’ means: material constituting child pornography or pornographic performance as defined in Article 2, points (c) and (e), respectively, of Directive 2011/93/EU;
- (m) ‘known child sexual abuse material’ means potential child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (a);
- (n) ‘new child sexual abuse material’ means potential child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (b);
- (o) ‘solicitation of children’ means the solicitation of children for sexual purposes as referred to in Article 6 of Directive 2011/93/EU;
- (p) ‘online child sexual abuse’ means the online dissemination of child sexual abuse material and the solicitation of children;

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<sup>4</sup> PCY comment: The term child appears 511 times in the whole proposal including in the explanatory statements. The PCY is of the view that the term child can be used where it does not lead to problematic incompatibilities between the exercise of powers by Member States, for instance when it comes to the notice mechanism being developed under Article 12.

<sup>5</sup> PCY comment: It seems superfluous to define child user since child is already defined in point (i) (in document 14143/22 the age was set at 18). Furthermore, the term child user appears in Articles 3(2)(e)(ii) and (iii), 4(3), 6(1)(b) and (c) and 7(7), i.e on six occasions. As those Articles and paragraphs are discussed, alternative wording should be developed.

<sup>6</sup> Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36–41).

- (q) ‘child sexual abuse offences’ means offences as defined in Articles 3 to 7 of Directive 2011/93/EU;
- (r) ‘recommender system’ means the system as defined in Article 2, point (o), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (s) ‘content data’ means data as defined in Article 2, point 10, of Regulation (EU) ... [on European Production and Preservation Orders for electronic evidence in criminal matters (.../... e-evidence Regulation)];
- (t) ‘content moderation’ means the activities as defined in Article 2, point (p), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (u) ‘Coordinating Authority of establishment’ means the Coordinating Authority for child sexual abuse issues designated in accordance with Article 25 by the Member State where the provider of information society services has its main establishment or, where applicable, where its legal representative resides or is established;
- (v) ‘terms and conditions’ means terms and conditions as defined in Article 2, point (q), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (w) ‘main establishment’ means the head office or registered office of the provider of relevant information society services within which the principal financial functions and operational control are exercised;
- (x) **‘online search engine’ means an intermediary service as defined in Article 3, point (j), of Regulation (EU) .../... [on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC].**

## 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*

1. Providers of hosting services and providers of interpersonal communications services shall identify, analyse and assess, for each such service that they offer, the risk of use of the service for the purpose of online child sexual abuse.
2. When carrying out a risk assessment, the provider shall take into account, in particular:
  - (a) any previously identified instances of use of its services for the purpose of online child sexual abuse;
  - (b) the existence and implementation by the provider of a policy and the availability of functionalities to address the risk referred to in paragraph 1, including through the following:
    - prohibitions and restrictions laid down in the terms and conditions;
    - measures taken to enforce such prohibitions and restrictions;
    - functionalities enabling age verification;
    - functionalities enabling users to flag online child sexual abuse to the provider through tools that are easily accessible and age-appropriate;
  - (c) the manner in which users use the service and the impact thereof on that risk;
  - (d) the manner in which the provider designed and operates the service, including the business model, governance and relevant systems and processes, and the impact thereof on that risk;

- (e) with respect to the risk of solicitation of children:
  - (i) the extent to which the service is used or is likely to be used by children;
  - (ii) where the service is used by children, the different age groups of the child users and the risk of solicitation of children in relation to those age groups;
  - (iii) the availability of functionalities creating or reinforcing the risk of solicitation of children, including the following functionalities:
    - enabling users to search for other users and, in particular, for adult users to search for child users;
    - enabling users to establish contact with other users directly, in particular through private communications;
    - enabling users to share images or videos with other users, in particular through private communications.

3. The provider may request the EU Centre to perform an analysis of representative, anonymized data samples to identify potential online child sexual abuse, to support the risk assessment.

The costs incurred by the EU Centre for the performance of such an analysis shall be borne by the requesting provider. However, the EU Centre shall bear those costs where the provider is a micro, small or medium-sized enterprise, provided the request is reasonably necessary to support the risk assessment.

The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to supplement this Regulation with the necessary detailed rules on the determination and charging of those costs and the application of the exemption for micro, small and medium-sized enterprises.

4. The provider shall carry out the first risk assessment by *[Date of application of this Regulation + 3 months]* or, where the provider did not offer the service in the Union by *[Date of application of this Regulation]*, by three months from the date at which the provider started offering the service in the Union.

Subsequently, the provider shall update the risk assessment where necessary and at least once every three years from the date at which it last carried out or updated the risk assessment. However:

- (a) for a service which is subject to a detection order issued in accordance with Article 7, the provider shall update the risk assessment at the latest ~~two~~ **four** months before the expiry of the period of application of the detection order;



- (b) the Coordinating Authority of establishment may require the provider to update the risk assessment at a reasonable earlier date than the date referred to in the second subparagraph, where there is evidence indicating a possible substantial change in the risk that the service is used for the purpose of online child sexual abuse.
- 5. The risk assessment shall include an assessment of any potential remaining risk that, after taking the mitigation measures pursuant to Article 4, the service is used for the purpose of online child sexual abuse.
- 6. The Commission, in cooperation with Coordinating Authorities and the EU Centre and after having conducted a public consultation, may issue guidelines on the application of paragraphs 1 to 5, having due regard in particular to relevant technological developments and to the manners in which the services covered by those provisions are offered and used.

#### *Article 4*

##### *Risk mitigation*

- 1. Providers of hosting services and providers of interpersonal communications services shall take reasonable mitigation measures, tailored to the risk identified pursuant to Article 3, to minimise that risk. Such measures shall include some or all of the following:
  - (a) adapting, through appropriate technical and operational measures and staffing, the provider's content moderation or recommender systems, its decision-making processes, the operation or functionalities of the service, or the content or enforcement of its terms and conditions;
  - (b) reinforcing the provider's internal processes or the internal supervision of the functioning of the service;
  - (c) initiating or adjusting cooperation, in accordance with competition law, with other providers of hosting services or providers of interpersonal communication services, public authorities, civil society organisations or, where applicable, entities awarded the status of trusted flaggers in accordance with Article 19 of Regulation (EU) .../... [on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC] .
- 2. The mitigation measures shall be:
  - (a) effective in mitigating the identified risk;
  - (b) targeted and proportionate in relation to that risk, taking into account, in particular, the seriousness of the risk as well as the provider's financial and technological capabilities and the number of users;

- (c) applied in a diligent and non-discriminatory manner, having due regard, in all circumstances, to the potential consequences of the mitigation measures for the exercise of fundamental rights of all parties affected;
  - (d) introduced, reviewed, discontinued or expanded, as appropriate, each time the risk assessment is conducted or updated pursuant to Article 3(4), within three months from the date referred to therein.
3. Providers of interpersonal communications services that have identified, pursuant to the risk assessment conducted or updated in accordance with Article 3, a risk of use of their services for the purpose of the solicitation of children, shall take the necessary age verification and age assessment measures to reliably identify child users on their services, enabling them to take the mitigation measures.
  4. Providers of hosting services and providers of interpersonal communications services shall clearly describe in their terms and conditions the mitigation measures that they have taken. That description shall not include information that may reduce the effectiveness of the mitigation measures.
  5. The Commission, in cooperation with Coordinating Authorities and the EU Centre and after having conducted a public consultation, may issue guidelines on the application of paragraphs 1, 2, 3 and 4, having due regard in particular to relevant technological developments and in the manners in which the services covered by those provisions are offered and used.

#### *Article 5*

##### *Risk reporting*

1. Providers of hosting services and providers of interpersonal communications services shall transmit, by three months from the date referred to in Article 3(4), to the Coordinating Authority of establishment a report specifying the following:
  - (a) the process and the results of the risk assessment conducted or updated pursuant to Article 3, including the assessment of any potential remaining risk referred to in Article 3(5);
  - (b) any mitigation measures taken pursuant to Article 4.
2. Within three months after receiving the report, the Coordinating Authority of establishment shall assess it and determine, on that basis and taking into account any other relevant information available to it, whether the risk assessment has been carried out or updated and the mitigation measures have been taken in accordance with the requirements of Articles 3 and 4.

3. Where necessary for that assessment, that Coordinating Authority may require further information from the provider, within a reasonable time period set by that Coordinating Authority. That time period shall not be longer than two weeks.

The time period referred to in ~~the first subparagraph~~ **paragraph 2 of this Article** shall be suspended until that additional information is provided.

4. Without prejudice to Articles 7 and 27 to 29, where the requirements of Articles 3 and 4 have not been met, that Coordinating Authority shall require the provider to re-conduct or update the risk assessment or to introduce, review, discontinue or expand, as applicable, the mitigation measures, within a reasonable time period set by that Coordinating Authority. That time period shall not be longer than one month.
5. Providers shall, when transmitting the report to the Coordinating Authority of establishment in accordance with paragraph 1, transmit the report also to the EU Centre.
6. Providers shall, upon request, transmit the report to the providers of software application stores, insofar as necessary for the assessment referred to in Article 6(2). Where necessary, they may remove confidential information from the reports.

## *Article 6*

### *Obligations for software application stores*

1. Providers of software application stores shall:
  - (a) make reasonable efforts to assess, where possible together with the providers of software applications, whether each service offered through the software applications that they intermediate presents a risk of being used for the purpose of the solicitation of children;
  - (b) take reasonable measures to prevent child users from accessing the software applications in relation to which they have identified a significant risk of use of the service concerned for the purpose of the solicitation of children;
  - (c) take the necessary age verification and age assessment measures to reliably identify child users on their services, enabling them to take the measures referred to in point (b).
2. In assessing the risk referred to in paragraph 1, the provider shall take into account all the available information, including the results of the risk assessment conducted or updated pursuant to Article 3.

3. Providers of software application stores shall make publicly available information describing the process and criteria used to assess the risk and describing the measures referred to in paragraph 1. That description shall not include information that may reduce the effectiveness ~~of the assessment~~ of those measures.
4. The Commission, in cooperation with Coordinating Authorities and the EU Centre and after having conducted a public consultation, may issue guidelines on the application of paragraphs 1, 2 and 3, having due regard in particular to relevant technological developments and to the manners in which the services covered by those provisions are offered and used.

## **Section 2**

### **Detection obligations**

#### *Article 7*

#### *Issuance of detection 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 detection order requiring a provider of hosting services or a provider of interpersonal communications services under the jurisdiction of that Member State to take the measures specified in Article 10 to detect online child sexual abuse on a specific service.
2. The Coordinating Authority of establishment shall, before requesting the issuance of a detection order, carry out the investigations and assessments necessary to determine whether the conditions of paragraph 4 have been met.

To that end, it may, where appropriate, require the provider to submit the necessary information, additional to the report and the further information referred to in Article 5(1) and (3), respectively, within a reasonable time period set by that Coordinating Authority, or request the EU Centre, another public authority or relevant experts or entities to provide the necessary additional information.
3. Where the Coordinating Authority of establishment takes the preliminary view that the conditions of paragraph 4 have been met, it shall:
  - (a) establish a draft request for the issuance of a detection order, specifying the main elements of the content of the detection order it intends to request and the reasons for requesting it;
  - (b) submit the draft request to the provider and the EU Centre;
  - (c) afford the provider an opportunity to comment on the draft request, within a reasonable time period set by that Coordinating Authority;
  - (d) invite the EU Centre to provide its opinion on the draft request, within a time period of four weeks from the date of receiving the draft request.

Where, having regard to the comments of the provider and the opinion of the EU Centre, that Coordinating Authority continues to be of the view that the conditions of paragraph 4 have met, it shall re-submit the draft request, adjusted where appropriate, to the provider. In that case, the provider shall do all of the following, within a reasonable time period set by that Coordinating Authority:

- (a) draft an implementation plan setting out the measures it envisages taking to execute the intended detection order, including detailed information regarding the envisaged technologies and safeguards;
- (b) where the draft implementation plan concerns an intended detection order concerning the solicitation of children other than the renewal of a previously issued detection order without any substantive changes, conduct a data protection impact assessment and a prior consultation procedure as referred to in Articles 35 and 36 of Regulation (EU) 2016/679, respectively, in relation to the measures set out in the implementation plan;
- (c) where point (b) applies, or where the conditions of Articles 35 and 36 of Regulation (EU) 2016/679 are met, adjust the draft implementation plan, where necessary in view of the outcome of the data protection impact assessment and in order to take into account the opinion of the data protection authority provided in response to the prior consultation;
- (d) submit to that Coordinating Authority the implementation plan, where applicable attaching the opinion of the competent data protection authority and specifying how the implementation plan has been adjusted in view of the outcome of the data protection impact assessment and of that opinion.

Where, having regard to the implementation plan of the provider and the opinion of the data protection authority, that Coordinating Authority continues to be of the view that the conditions of paragraph 4 have met, it shall submit the request for the issuance of the detection, adjusted where appropriate, to the competent judicial authority or independent administrative authority. It shall attach the implementation plan of the provider and the opinions of the EU Centre and the data protection authority to that request.

4. The Coordinating Authority of establishment shall request the issuance of the detection order, and the competent judicial authority or independent administrative authority shall issue the detection order where it considers that the following conditions are met:
- (a) there is evidence of a significant risk of the service being used for the purpose of online child sexual abuse, within the meaning of paragraphs 5, 6 and 7, as applicable;
  - (b) the reasons for issuing the detection 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.

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, in particular:

- (a) the risk assessment conducted or updated and any mitigation measures taken by the provider pursuant to Articles 3 and 4, including any mitigation measures introduced, reviewed, discontinued or expanded pursuant to Article 5(4) where applicable;
- (b) any additional information obtained pursuant to paragraph 2 or any other relevant information available to it, in particular regarding the use, design and operation of the service, regarding the provider's financial and technological capabilities and size and regarding the potential consequences of the measures to be taken to execute the detection order for all other parties affected;
- (c) the views and the implementation plan of the provider submitted in accordance with paragraph 3;
- (d) the opinions of the EU Centre and of the data protection authority submitted in accordance with paragraph 3.

As regards the second subparagraph, point (d), where that Coordinating Authority substantially deviates from the opinion of the EU Centre, it shall inform the EU Centre and the Commission thereof, specifying the points at which it deviated and the main reasons for the deviation.

5. As regards detection orders concerning the dissemination of known child sexual abuse material, the significant risk referred to in paragraph 4, first subparagraph, point (a), shall be deemed to exist where the following conditions are met:
  - (a) it is likely, despite any mitigation measures that the provider may have taken or will take, that the service is used, to an appreciable extent for the dissemination of known child sexual abuse material;
  - (b) there is evidence of the service, or of a comparable service if the service has not yet been offered in the Union at the date of the request for the issuance of the detection order, having been used in the past 12 months and to an appreciable extent for the dissemination of known child sexual abuse material.
6. As regards detection orders concerning the dissemination of new child sexual abuse material, the significant risk referred to in paragraph 4, first subparagraph, point (a), shall be deemed to exist where the following conditions are met:
  - (a) it is likely that, despite any mitigation measures that the provider may have taken or will take, the service is used, to an appreciable extent, for the dissemination of new child sexual abuse material;

- (b) there is evidence of the service, or of a comparable service if the service has not yet been offered in the Union at the date of the request for the issuance of the detection order, having been used in the past 12 months and to an appreciable extent, for the dissemination of new child sexual abuse material;
  - (c) for services other than those enabling the live transmission of pornographic performances as defined in Article 2, point (e), of Directive 2011/93/EU:
    - (1) a detection order concerning the dissemination of known child sexual abuse material has been issued in respect of the service;
    - (2) the provider submitted a significant number of reports concerning known child sexual abuse material, detected through the measures taken to execute the detection order referred to in point (1), pursuant to Article 12.
7. As regards detection orders concerning the solicitation of children, the significant risk referred to in paragraph 4, first subparagraph, point (a), shall be deemed to exist where the following conditions are met:
- (a) the provider qualifies as a provider of interpersonal communication services;
  - (b) it is likely that, despite any mitigation measures that the provider may have taken or will take, the service is used, to an appreciable extent, for the solicitation of children;
  - (c) there is evidence of the service, or of a comparable service if the service has not yet been offered in the Union at the date of the request for the issuance of the detection order, having been used in the past 12 months and to an appreciable extent, for the solicitation of children.
- The detection orders concerning the solicitation of children shall apply only to interpersonal communications where one of the users is a child ~~user~~<sup>7</sup>.
8. The Coordinating Authority of establishment when requesting the issuance of detection orders, and the competent judicial or independent administrative authority when issuing the detection order, shall target and specify it in such a manner that the negative consequences referred to in paragraph 4, first subparagraph, point (b), remain limited to what is strictly necessary to effectively address the significant risk referred to in point (a) thereof.

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<sup>7</sup> PCY comment: The PCY concludes that both the term ‘child’ and ‘child user’ as defined at present will cause difficult issues requiring further work.

To that aim, they shall take into account all relevant parameters, including the availability of sufficiently reliable detection technologies in that they limit to the maximum extent possible the rate of errors regarding the detection and their suitability and effectiveness for achieving the objectives of this Regulation, as well as the impact of the measures on the rights of the users affected, and require the taking of the least intrusive measures, in accordance with Article 10, from among several equally effective measures.

In particular, they shall ensure that:

- (a) where that risk is limited to an identifiable part or component of a service, the required measures are only applied in respect of that part or component;
  - (b) where necessary, in particular to limit such negative consequences, effective and proportionate safeguards additional to those listed in Article 10(4), (5) and (6) are provided for;
  - (c) subject to paragraph 9, the period of application remains limited to what is strictly necessary.
9. The competent judicial authority or independent administrative authority shall specify in the detection order the period during which it applies, indicating the start date and the end date.

The start date shall be set taking into account the time reasonably required for the provider to take the necessary measures to prepare the execution of the detection order. It shall not be earlier than three months from the date at which the provider received the detection order and not be later than 12 months from that date.

The period of application of detection orders concerning the dissemination of known or new child sexual abuse material shall not exceed 24 months and that of detection orders concerning the solicitation of children shall not exceed 12 months.

#### *Article 8*

##### *Additional rules regarding detection orders*

1. The competent judicial authority or independent administrative authority shall issue the detection orders referred to in Article 7 using the template set out in Annex I. Detection orders shall include:
- (a) information regarding the measures to be taken to execute the detection order, including the indicators to be used and the safeguards to be provided for, including the reporting requirements set pursuant to Article 9(3) and, where applicable, any additional safeguards as referred to in Article 7(8);



- (b) identification details of the competent judicial authority or the independent administrative authority issuing the detection order and authentication of the detection order by that judicial or independent administrative authority;
  - (c) the name of the provider and, where applicable, its legal representative;
  - (d) the specific service in respect of which the detection order is issued and, where applicable, the part or component of the service affected as referred to in Article 7(8);
  - (e) whether the detection order issued concerns the dissemination of known or new child sexual abuse material or the solicitation of children;
  - (f) the start date and the end date of the detection order;
  - (g) a sufficiently detailed statement of reasons explaining why the detection order is issued;
  - (h) a reference to this Regulation as the legal basis for the detection order;
  - (i) the date, time stamp and electronic signature of the judicial or independent administrative authority issuing the detection order;
  - (j) easily understandable information about the redress available to the addressee of the detection order, including information about redress to a court and about the time periods applicable to such redress.
2. The competent judicial authority or independent administrative authority issuing the detection 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 detection order shall be transmitted to the provider's point of contact referred to in Article 23(1), to the Coordinating Authority of establishment and to the EU Centre, through the system established in accordance with Article 39(2).

The detection 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 authority 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).**

3. If the provider cannot execute the detection 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 the Coordinating Authority of establishment, using the template set out in Annex II.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annexes I and II where necessary to improve the templates in view of relevant technological developments or practical experiences gained.

#### *Article 9*

##### *Redress, information, reporting and modification of detection orders*

1. Providers of hosting services and providers of interpersonal communications services that have received a detection order, as well as users affected by the measures taken to execute it, shall have a right to effective redress. That right shall include the right to challenge the detection order before the courts of the Member State of the competent judicial authority or independent administrative authority that issued the detection order.
2. When the detection order becomes final, the competent judicial authority or independent administrative authority that issued the detection order shall, without undue delay, ~~transmit a copy thereof to~~ **inform** the Coordinating Authority of establishment. The Coordinating Authority of establishment shall then, without undue delay, transmit a copy ~~thereof~~ **of the detection order** to all other Coordinating Authorities through the system established in accordance with Article 39(2).

For the purpose of the first subparagraph, a detection 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 detection order following an appeal.

3. Where the period of application of the detection order exceeds 12 months, or six months in the case of a detection order concerning the solicitation of children, the Coordinating Authority of establishment shall require the provider to report to it on the execution of the detection order at least once, halfway through the period of application.

Those reports shall include a detailed description of the measures taken to execute the detection order, including the safeguards provided, and information on the functioning in practice of those measures, in particular on their effectiveness in detecting the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable, and on the consequences of those measures for the rights and legitimate interests of all parties affected.

4. In respect of the detection orders that the competent judicial authority or independent administrative authority issued at its request, the Coordinating Authority of establishment shall, where necessary and in any event following reception of the reports referred to in paragraph 3, assess whether any substantial changes to the grounds for issuing the detection orders occurred and, in particular, whether the conditions of Article 7(4) continue to be met. In that regard, it shall take account of additional mitigation measures that the provider may take to address the significant risk identified at the time of the issuance of the detection order.

That Coordinating Authority shall request to the competent judicial authority or independent administrative authority that issued the detection order the modification or revocation of such order, where necessary in the light of the outcome of that assessment. The provisions of this Section shall apply to such requests, *mutatis mutandis*.

#### *Article 10*

##### *Technologies and safeguards*

1. Providers of hosting services and providers of interpersonal communication services that have received a detection order shall execute it by installing and operating technologies to detect the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable, using the corresponding indicators provided by the EU Centre in accordance with Article 46.
2. The provider shall be entitled to acquire, install and operate, free of charge, technologies made available by the EU Centre in accordance with Article 50(1), for the sole purpose of executing the detection order. The provider shall not be required to use any specific technology, including those made available by the EU Centre, as long as the requirements set out in this Article are met. The use of the technologies made available by the EU Centre shall not affect the responsibility of the provider to comply with those requirements and for any decisions it may take in connection to or as a result of the use of the technologies.
3. The technologies shall be:
  - (a) effective in detecting the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable;
  - (b) not be able to extract any other information from the relevant communications than the information strictly necessary to detect, using the indicators referred to in paragraph 1, patterns pointing to the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable;
  - (c) in accordance with the state of the art in the industry and the least intrusive in terms of the impact on the users' rights to private and family life, including the confidentiality of communication, and to protection of personal data;
  - (d) sufficiently reliable, in that they limit to the maximum extent possible the rate of errors regarding the detection.

4. The provider shall:
- (a) take all the necessary measures to ensure that the technologies and indicators, as well as the processing of personal data and other data in connection thereto, are used for the sole purpose of detecting the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable, insofar as strictly necessary to execute the detection orders addressed to them;
  - (b) establish effective internal procedures to prevent and, where necessary, detect and remedy any misuse of the technologies, indicators and personal data and other data referred to in point (a), including unauthorized access to, and unauthorised transfers of, such personal data and other data;
  - (c) ensure regular human oversight as necessary to ensure that the technologies operate in a sufficiently reliable manner ~~and, where necessary, in particular when potential errors and potential solicitation of children are detected, human intervention~~<sup>8</sup>;
  - (d) 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, as well as any decisions that the provider may have taken in relation to the use of the technologies, including the removal or disabling of access to material provided by users, blocking the users' accounts or suspending or terminating the provision of the service to the users, and process such complaints in an objective, effective and timely manner;
  - (e) inform the Coordinating Authority, at the latest one month before the start date specified in the detection order, on the implementation of the envisaged measures set out in the implementation plan referred to in Article 7(3);
  - (f) regularly review the functioning of the measures referred to in points (a), (b), (c) and (d) of this paragraph and adjust them where necessary to ensure that the requirements set out therein are met, as well as document the review process and the outcomes thereof and include that information in the report referred to in Article 9(3).
5. The provider shall inform users in a clear, prominent and comprehensible way of the following:
- (a) the fact that it operates technologies to detect online child sexual abuse to execute the detection order, the ways in which it operates those technologies and the impact on the confidentiality of users' communications;

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<sup>8</sup> Will be included in a recital.

- (b) the fact that it is required to report potential online child sexual abuse to the EU Centre in accordance with Article 12;
- (c) the users' right of judicial redress referred to in Article 9(1) and their rights to submit complaints to the provider through the mechanism referred to in paragraph 4, point (d) and to the Coordinating Authority in accordance with Article 34.

The provider shall not provide information to users that may reduce the effectiveness of the measures to execute the detection order.

- 6. Where a provider detects potential online child sexual abuse through the measures taken to execute the detection order, it shall inform the users concerned without undue delay, after ~~Europol~~ or the national law enforcement authority of a Member State that received the report pursuant to Article 48 has confirmed that the information to the users would not interfere with activities for the prevention, detection, investigation and prosecution of child sexual abuse offences.

#### *Article 11*

##### *Guidelines regarding detection obligations*

The Commission, in cooperation with the Coordinating Authorities and the EU Centre and after having conducted a public consultation, may issue guidelines on the application of Articles 7 to 10, having due regard in particular to relevant technological developments and the manners in which the services covered by those provisions are offered and used.

### **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 ~~indicating~~ **that 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~~<sup>2</sup> 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.**

**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) **the reasons why the user claims that the notice contains online child sexual abuse;**
- (b) **a clear indication of the online location of the alleged online child sexual abuse and, where necessary, additional information specific to a service that enables the identification of its online location.**

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 reporting*

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<sup>9</sup>;**
  - (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 unique identifiers of the user and metadata<sup>10</sup> related to media files and communications;**
  - (e) whether the potential online child sexual abuse concerns the dissemination of known or new child sexual abuse material or the solicitation of children;
  - (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 **third-country** public authority or other entity competent to receive such reports ~~of a third country~~ and if so, which authority or entity;

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<sup>9</sup> PCY comment: the type of source of the report will be included in Annex III, Chapter II, point 8.

<sup>10</sup> PCY comment: the following text could be added to recital 29 in order to explain what metadata is: “**Metadata is information about documents/files relating to their content, technical and physical parameters. It also includes information such as the time and place of their creation, information about the devices used in their creation, and about the modifications made to the files.**”

- (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, **including on a voluntary basis and, where relevant, whether it has been done on a voluntary basis**;
  - (j) **whether the provider considers that the report ~~involves an imminent threat to the life or safety of a child or~~** requires urgent action;<sup>11</sup>
  - (k) a reference to this Regulation as the legal basis for reporting.
- 1a. By deviation from paragraph 1, where the information referred to in Article 12(1) reasonably justifies the conclusion that there is likely to be an imminent threat to the life or safety of a child or when the information indicates ongoing abuse, the report referred to in paragraph 1 of this Article shall include:
- (a) in any event, the information referred to in points (a), (b), (f), (j) and (k) of paragraph 1 of this Article;
  - (b) the information referred to in the other points of paragraph 1 of this Article, only insofar as that information is immediately available and the inclusion thereof in the report does not delay the submission of the report.

Where the report referred to in the first subparagraph does not contain all information referred to in paragraph 1 of this Article in accordance with point (b) of the first subparagraph, the provider of hosting services or of interpersonal communications services concerned shall be promptly submit an additional report containing all that information, updated or completed where relevant. That additional report shall include a reference to the initial report submitted in accordance with the first subparagraph and shall indicate which information has been updated or completed.

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.

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<sup>11</sup> In the template of Annex III, section 2, point 1, we could add the reason for the urgency.



### *Article 13a*

#### *Emergency reporting*

1. ~~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) of Article 13, inform authorities competent to for the investigation and prosecution of criminal offences in the Member States concerned<sup>12</sup>. 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 and inform Europol<sup>13</sup>.—~~
2. ~~For the purpose of paragraph 1, the Member State concerned shall be the Member State in which the offence is suspected to have taken place, to be taking place or to be likely to take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected offence resides or is located.~~

### **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.~~

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<sup>12</sup> Wording copied from Art. 14(5) of the TCO Regulation.

<sup>13</sup> Wording copied from Art. 18(2) of the DSA.

- 1<sup>14</sup>. **The competent authority shall have the power to issue a removal order, in accordance with relevant national requirements, requiring a provider of hosting services to remove or disable access in all Member States of one or more specific and publicly available items of material ~~disseminated to the public~~<sup>15</sup> 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.**
- 1a. **By deviation from the first subparagraph, and without causing undue delays in the process of issuance of those orders, Member States may decide that such orders can only be issued by a judicial authority at the request of the competent authority. Where a Member State makes use of this possibility, it shall inform the Commission thereof and maintain this information updated keep it up-to-date. The Commission shall make the information received publicly available and maintain this information updated keep it up-to-date<sup>16</sup>.**
2. The provider shall execute the removal order as soon as possible and in any event within **24** ~~1~~ hours of receipt thereof. **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).**

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14 PCY comment: this text could be included as a recital: **(31a) "The rules of this Regulation should not be understood as affecting the relevant national requirements providing procedural safeguards regarding the issuing of removal, blocking or delisting orders, such as the control of the regularity conformity with the applicable legal requirements of these orders by an independent authority."**

15 PCY comment: the PCY wishes to discuss with delegations case examples in which a limitation to CSAM disseminated to the public would too narrowly define the scope of the removal order.

16 PCY comment: This text will be accompanied by this recital: "In order to allow Member States to organise the process of issuance of removal, blocking or delisting orders in a manner compatible with their respective constitutional requirements and to enhance prior judicial control where deemed appropriate, they should have the possibility to require their respective competent authorities to request the competent judicial authority of the Member State concerned to issue some or all of those three types of orders under this Regulation. That possibility to derogate should however only concern the question which authority issues the orders. Accordingly, when a Member State makes use of that possibility, the competent authority concerned should remain responsible for assessing the need for the order at stake and for complying with all of the procedural requirements of this Regulation related to its preparation and follow-up. In that case, whilst it is for the competent judicial authority to conduct an additional verification of whether the conditions of this Regulation for issuing the order in question have been met, those conditions themselves should remain unaltered and be applied consistently across the Union. In the interest of effectiveness, that possibility should be subject to the Member State concerned taking all reasonable measures to ensure that the issuance of the orders by their judicial authorities does not lead to any undue delays. In addition, in the interest of transparency and legal certainty, it should be ensured that the necessary information regarding the use of the possibility is publicly available."

Obtenu par CONTEXTE

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;
  - (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;
  - (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 **in which the order was issued** ~~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).**

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 ~~24~~ 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 ~~24~~ 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 Request for cross-border removal orders<sup>17</sup>

1. Competent authorities of a Member State where the hosting service provider does not have its main establishment or legal representative shall have the power to request the issuance of a removal order to the competent authorities of the Member State where the hosting service provider has its main establishment or where its legal representative resides or is established. The communication of the request to issue the order shall take place via the respective Coordinating Authorities.

~~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 to issuing the order to the hosting service provider, transmit, if necessary through the Coordinating Authority, 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 the competent authorities of the Member State where the hosting service has its main establishment or where its legal representative resides or is established decide to issue the removal order, such an order shall be issued in accordance with Article 14.

~~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 request to issue a removal order referred to in paragraph 1 shall be transmitted in any of the official languages of the Member State where the hosting service provider has its main establishment or where its legal representative resides or is established.

~~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.~~

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<sup>17</sup> PCY comment: Due to the complexity of the cross-border special procedure, the Presidency is seeking a possible way forward with this text proposal.

4. ~~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 competent authority adopts a reasoned decision in accordance with paragraph 3 of this Article, it shall, without delay, transmit that decision, if necessary through the Coordinating Authority, 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 law<sup>18</sup>.**
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.

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<sup>18</sup> Wording copied from Art. 4(7) of the TCO Regulation.

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.
- 3a. **The provider shall establish and operate an accessible, age-appropriate and user-friendly mechanism that allows users to submit to it complaints about alleged infringements of its obligations under this Section. It shall process such complaints in an objective, effective and timely manner.**
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, **in accordance with relevant national requirements**, 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.~~ **The competent authorities may make use of 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.**

By deviation from the first subparagraph, and without causing undue delays in the process of issuance of those orders, Member States may decide that such orders can only be issued by a judicial authority at the request of the competent authority. Where a Member State makes use of this possibility, it shall inform the Commission thereof and maintain this information updated keep it up-to-date. The Commission shall make the information received publicly available and maintain this information updated keep it up-to-date.

- 1a. The provider shall execute the blocking order as soon as possible and in any event within a reasonable time period set by the issuing authority ~~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;~~

- (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<sup>19</sup> than blocking cannot be taken to prevent access to child sexual abuse material ~~or if 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;~~

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<sup>19</sup> PCY comment: examples of “less intrusive measures” can for instance be a failed notice, a removal order that cannot be executed or a removal order towards a so-called “bulletproof service provider”.

- (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 **a blocking order is targeted and 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, t~~ **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 48 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) **where applicable**, 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);~~
  - (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**; ~~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) the limits referred to in 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.
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 **in which the order was issued** ~~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).**~~<sup>20</sup>

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.

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<sup>20</sup> PCY comment: not necessary considering wording of Article 23(3).

*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.
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;~~
  - (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, in accordance with relevant national requirements, 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. The competent authorities may make use of 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.

- 1a. By deviation from the first subparagraph, and without causing undue delays in the process of issuance of those orders, Member States may decide that such orders can only be issued by a judicial authority at the request of the competent authority. Where a Member State makes use of this possibility, it shall inform the Commission thereof and maintain this information updated keep it up-to-date. The Commission shall make the information received publicly available and maintain this information updated keep it up-to-date.**

2. The provider shall execute the delisting order without undue delay and in any event within a reasonable time period set by the issuing authority ~~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).
3. 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.
4. 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.
5. 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;



- (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 in which the order was issued 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).<sup>21</sup>~~
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.

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<sup>21</sup> PCY comment: not necessary considering wording of Article 23(3).

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.

- 3a. The provider shall establish and operate an accessible, age-appropriate and user-friendly mechanism that allows users to submit to it complaints about alleged infringements of its obligations under this Section. It shall process such complaints in an objective, effective and timely manner.
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.
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.

*Preservation of information*

1. Providers of hosting services and providers of interpersonal communications services shall preserve the **necessary** content data and other data processed **that is necessary for taking 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:
  - (xa) **insofar as strictly necessary for using the technologies referred to in Article 10, involving in particular the automatic, intermediate and temporary preservation of such data for the use of the indicators provided by the EU Centre, as well as for applying the safeguards referred to in Article 10, when executing a detection order issued pursuant to Article 7;**

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<sup>22</sup> PCY comment: recital 39 could be amended as follows: “(39) To avoid disproportionate interferences with users’ rights to private and family life and to protection of personal data, the data related to instances of potential online child sexual abuse should not be preserved by providers of relevant information society services, unless and for no longer than necessary for one or more of the purposes specified in this Regulation and subject to an appropriate maximum duration. **In that regard, the requirements to preserve such data in connection to the execution of detection orders should not be understood as allowing or requiring the preservation of all users’ data processed for such detection purposes in general. They should rather be understood as requiring only the preservation of content data and other data processed insofar as this is strictly necessary to use the relevant technologies meeting the requirements of this Regulation, covering in particular caching-like activities involving the automatic and intermediate preservation for purely technical reasons and for very short periods of time needed to use the relevant indicators to detect possible child sexual abuse online, as well as to apply the safeguards required under this Regulation in connection to the use of those technologies, covering in particular the application of measures to prevent, detect and remedy misuse, to ensure regular human oversight and to carry out regular reviews.** As those preservation requirements relate only to this Regulation, they should not be understood as affecting the possibility to store relevant content data and traffic data in accordance with Directive 2002/58/EC or the application of any legal obligation to preserve data that applies to providers under other acts of Union law or under national law that is in accordance with Union law.”

<sup>23</sup> PCY comment: once more clarity is achieved on the detection order, the PCY is of the view that this article must be discussed in terms of its scope in order to minimise legal risks, in particular in view of the fact that this article covers content data in interpersonal communications.

- (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 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<sup>24</sup>**

##### *Article 25<sup>25</sup>*

##### *Coordinating Authorities for child sexual abuse issues and other competent authorities*

1. Member States shall, by ~~{Date— two—~~**eighteen** months from the date of entry into force of this Regulation], designate one or more competent authorities as responsible for the application, **and supervision and** enforcement of this Regulation ('competent authorities').
2. **Where a Member State designates more than one competent authority, it shall appoint one of those competent authorities as Coordinating Authority. Where it designates only one competent authority, that competent authority shall be the Coordinating Authority.**
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.~~

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<sup>24</sup> PCY comment: see in annex a list of the tasks of the Coordinated Authorities.

<sup>25</sup> PCY comment: the new logic could be explained in a recital, as follows:

“With a view to leaving Member States a degree of flexibility so as to implement solutions best adapted to their particular circumstances, whilst also ensuring the coordination at domestic level and cooperation at EU level needed to ensure the consistent, efficient and effective application of this Regulation, Member States should be able to designate several competent authorities yet be required in that case to appoint one of them as the Coordinating for which certain tasks are exclusively reserved under this Regulation. Therefore, each mention of competent authorities in this Regulation should be interpreted as referring to the relevant competent authorities designated by the Member States, including where relevant Coordinating Authorities, while each mention of Coordinating Authorities should be interpreted as referring to Coordinating Authorities only, to the exclusion of any other competent authorities that the Member States may have designated. **Member States should also be able to provide for the ex post administrative or judicial review control of the orders issued by competent authorities, in accordance with national law, including when such control review is not specifically provided for in this Regulation.**”

The Coordinating Authority shall in any event be responsible for ensuring coordination at national level in respect of ~~those~~ **all matters relating to the application, supervision and enforcement of this Regulation** ~~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~~ **including those 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 **competent authorities, including the Coordinating Authorities** ~~and 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~~ **those 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~~ **establish 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. **Competent authorities** ~~Coordinating Authorities~~ may, where necessary for the performance of their tasks under this Regulation, request **through the Coordinating Authority**, 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 **competent authority** ~~Coordinating Authority~~;

- (c) **provide opinion on** ~~verify~~ the possible need **for a competent authority** to request ~~competent national authorities to issue~~ **the issuance of** 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;~~ ]<sup>26</sup>
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.~~ <sup>27</sup>
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~~ **competent** Authorities*

- 1.<sup>28</sup> Member States shall ensure that the **competent authorities** ~~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~~<sup>29</sup>. Member States shall ensure that ~~their Coordinating Authorities~~ **those authorities** have adequate technical, financial and human resources to carry out their tasks.

<sup>26</sup> PCY comment: to be revised pending further discussions on detection orders.

<sup>27</sup> PCY comment: moved to Art 43(5)(b) on the EU Centre.

<sup>28</sup> PCY comment: this recital (copied from recital 35 TCO, except for the marked changes) could be included: “For the purposes of this Regulation, Member States should designate competent authorities. This should not necessarily imply the establishment of a new authority and it should be possible to entrust an existing body with the functions provided for in this Regulation. This Regulation should require the designation of authorities competent for issuing removal orders, scrutinising removal orders, overseeing specific measures and imposing penalties, while it should be possible for each Member State to decide on the number of competent authorities to be designated and whether they are administrative **or** law enforcement or judicial **other than courts**. Member States should ensure that the competent authorities fulfil their tasks in an objective and non-discriminatory manner and do not seek or take instructions from any other body in relation to the exercise of the tasks under this Regulation. This should not prevent supervision in accordance with national constitutional law. Member States should communicate the competent authorities designated under this Regulation to the Commission, which should publish online a register listing the competent authorities. That online register should be easily accessible to facilitate the swift verification of the authenticity of removal orders by the hosting service providers.”

<sup>29</sup> PCY comment: wording copied from Art. 13(2) of the TCO Regulation.

~~Those authorities~~ **The Coordinating Authorities** shall not seek or take instructions from any other body in relation to carrying out their tasks under this Regulation<sup>30</sup>.

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.~~
- 2-3. Paragraph 2-1 shall not prevent supervision of the ~~Coordinating~~ **competent a**Authorities in accordance with national constitutional law, ~~to the extent that such supervision does not affect their independence as required under this Regulation.~~
- 3 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~~ **carry out the application, supervision and enforcement under this Regulation** duties.

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<sup>30</sup> PCY comment: 1) This text could be included as a recital: **“Member States should be free to designate any national authority fulfilling the requirements of this Regulation as competent authority for the purpose of this Regulation. However, since the tasks of competent authorities under this Regulation are administrative in nature, they are subject to control by courts. Moreover, this Regulation requires certain orders to be issued by courts as an additional safeguard. Therefore, for reasons of legal clarity and by virtue of the specific role performed by courts in comparison with other administrative and judicial authorities, courts should not be designated as competent authorities. Nothing in Article 26 should be interpreted as meaning that Member States are required to apply differentiated independence requirement to, respectively, courts and other judicial authorities such as public prosecutors.”**

2) To address some delegations’ concerns that competent authorities would be getting “instructions” from judicial authorities, a recital could be added, as follows: “In order to ensure that the competent authorities designated under this Regulation carry out their tasks under this Regulation in an objective, adequate and responsible manner, in compliance with the fundamental rights guaranteed under the Charter and without any undue interference, certain requirements in this respect should be provided for. Those requirements should not be interpreted as precluding judicial review of the activities of competent authorities in accordance with EU law or with national law in accordance with EU law.”

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 competent authorities ~~the Coordinating Authorities~~ of Member States

#### Article 27<sup>31</sup>

##### *Investigatory and enforcement powers*

1. Where needed **in order to** ~~for~~ carrying out their tasks **under this Regulation, competent authorities** ~~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;

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<sup>31</sup> 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 led to the fact that some cross-references need to be corrected. This will be done once the text is stable. **For the delegations’ ease, a clean version of Articles 27-30 is in annex. The PCY is of the view that this section must be explained by recitals such as the ones in the DSA Regulation (114-116).**

- (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.~~

## *Article 28*

### *Enforcement powers*

2.1. ~~Where needed for carrying out their tasks~~ **under this Regulation, competent authorities** ~~Coordinating 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 4**, points (c) and (d), **competent authorities** ~~Coordinating 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**, **competent authorities** ~~Coordinating 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 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~~ **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 authorities, including the Coordinating Authorities,~~ to extend that period for further periods of the same lengths, subject to a maximum number of extensions set by ~~a that~~ **that** judicial authority **or other independent administrative authority**.

The ~~Coordinating Authority~~ **competent authority, including the Coordinating Authorities,** 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~~ **competent authority, including the Coordinating 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~~ **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*

**The competent authorities** ~~Coordinating 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 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.~~<sup>32</sup>

## 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.

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<sup>32</sup> PCY comment: It is the view of the PCY that this power can be explained and described in a recital that builds on recital 40 of the TCO Regulation and Article 16 DSA. The recital below clarifies that competent authorities can make use of notice and action mechanisms and be appointed as trusted flaggers: **“Nothing in this Regulation precludes competent authorities designated therein to submit notices to providers of hosting services on the basis of notice and action mechanisms pursuant to Article 16 of Regulation (EU) 2022/2065 (Digital Services Act) to notify them of the presence of one or more specific items of known child sexual abuse material, nor to request the status of trusted flagger under the conditions established under Article 22 of that Regulation.”**

*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~~ **in** 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 appropriate, by its reasoning**.  
  
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.**

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<sup>33</sup> PCY comment: copied word for word from Art. 53 of the DSA.

*Article 34b<sup>34</sup>*

*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 35<sup>35</sup>*

*Penalties<sup>36</sup>*

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.

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

<sup>35</sup> PCY comment: copied word for word from Art. 52 of the DSA (except paragraph 4 that is taken from the TCO Regulation).

<sup>36</sup> PCY comment: this should be understood as administrative sanctions, not criminal sanctions, i.e. penalties (TCO and DSA use the wording “penalties” when these are in fact administrative sanctions). A recital should be included to clarify this issue.

2. Member States shall ensure that the maximum amount of **fin**es 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 preceeding 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 36*<sup>37</sup>

*Identification and submission of online child sexual abuse*

1. Coordinating Authorities shall submit to the EU Centre, without without undue delay and through the system established in accordance with Article 39(2):
  - (a) specific items of material and ~~transcripts~~ **extracts** of **written** conversations that **competent authorities** ~~Coordinating Authorities or that the competent judicial authorities or other independent administrative authorities~~ of a Member State have identified, after a diligent assessment, **subject to adequate supervision by judicial authorities**<sup>38</sup>, 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 competent authorities~~ ~~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~~ **extracts** of **written** conversations identified as the solicitation of children, and the uniform resource locators, identified by **a competent authority** ~~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.

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<sup>37</sup> **PCY comment:** the LEWP should continue working on this Article and return to it once more clarity is reached on the detection orders.

<sup>38</sup> The Commission has provided a text proposal to make clear that law enforcement can be involved in the process to determine the illegality of the content, under judicial supervision (recital xx “**Member States should set up expedited procedures for the diligent assessment of suspected child sexual abuse, so as to allow for the swift submission to the EU Centre of the specific items of material, ~~transcripts~~ extracts of written conversations and uniform resource locators concerned upon the reliable establishment of the illegality. With a view to facilitating and expediting such assessment, it should be possible for Member States to provide that competent authorities ~~may~~ carry out the assessment of illegality of the content, under the supervision of the competent judicial authorities or independent administrative authorities.**”).



- 1a. By deviation from paragraph 1, Member States may decide that the submission to the EU Centre referred to in points a) and b) of paragraph 1 can be carried out by the competent authorities without undue delay and through the system established in accordance with Article 39(2). Where a Member State is making use of this possibility, the competent authority shall **include** **inform** the Coordinating Authority **in** **of** all the correspondence with the EU Centre.
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.
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~~ **two** months from the date of reception of the report or, where the assessment is particularly complex, ~~two~~ **six** 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<sup>39</sup>.

*Article 37<sup>40</sup>*

*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.

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<sup>39</sup> PCY comment: implications for law enforcement workload to be considered.

<sup>40</sup> PCY comment: copied word for word from Art. 58 of the DSA.

~~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**.
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 38<sup>41</sup>

*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.

Article 38a<sup>42</sup>

*Mutual assistance*

1. ***The Coordinating Authorities, the competent authorities of the Member States and the EU Centre Digital Services Coordinators and the Commission shall cooperate closely and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner. Mutual assistance shall include, in particular, exchange of information in accordance with this Article and the duty of the Digital Services Coordinator of establishment Coordinating Authority to inform all Coordinating Authorities Digital Services Coordinators of destination, the Board and the Commission about the opening of an investigation and the intention to take a final decision, including its assessment, in respect of a specific provider of a relevant information society intermediary service.***

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<sup>41</sup> PCY comment: recital to be added, as follows: “**Joint investigations**” under Article 38 should be interpreted as formal inquiries by Coordinating Authorities concerning the compliance of the provider of relevant information society services with the obligations arising from this Regulation. Insofar as the penalties for infringements of those obligations provided for by the Member State concerned pursuant to this Regulation are not criminal in nature, “joint investigations” under Article 38 should not be interpreted as criminal investigations, which are usually conducted by law enforcement authorities under national law.”

<sup>42</sup> Copied from Article 57 of the DSA (changes vis-à-vis the DSA in *italics*).

2. For the purpose of an investigation, a *Coordinating Authority the ~~Digital Services Coordinator of establishment~~* may request a *Coordinating Authority in another Member State other ~~Digital Services Coordinators~~* to provide specific information in their possession as regards a specific provider of *relevant information society intermediary* services or to exercise their investigative powers referred to in Article 27 ~~51(1)~~ with regard to specific information located in their Member State. Where appropriate, the *Coordinating Authority ~~Digital Services Coordinator~~* receiving the request may involve other competent authorities or other public authorities of the Member State in question.
3. The *Coordinating Authority ~~Digital Services Coordinator~~* receiving the request pursuant to paragraph 2 shall comply with such request and inform the *requesting Coordinating Authority ~~Digital Services Coordinator of establishment~~* about the action taken, without undue delay and ~~no later than two months after its receipt~~, unless:
- (a) the scope or the subject matter of the request is not sufficiently specified, justified or proportionate in view of the investigative purposes; or
  - (b) neither the requested *Coordinating Authority ~~Digital Service Coordinator~~* nor other competent authority or other public authority of that Member State is in possession of the requested information nor can have access to it; or
  - (c) the request cannot be complied with without infringing Union or national law.
- The *~~Digital Services Coordinator~~ Coordinating Authority* receiving the request shall justify its refusal by submitting a reasoned reply, within the period set out in the first subparagraph.

#### Article 39

##### *General ~~e~~Cooperation, **coordination** and information-sharing system*

1. **Competent authorities** ~~Coordinating Authorities~~ shall **sincerely** 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, **without prejudice to the possibility for Member States to provide for cooperation mechanisms and regular exchanges of views between the competent authorities where relevant for the performance of their respective tasks in accordance with this Regulation.**

- 1a. The authorities and agencies referred to in paragraph 1 ~~may~~ **shall**, 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 **competent authorities** ~~Coordinating Authorities~~, the Commission, the EU Centre, other relevant Union agencies and providers of relevant information society services.
- 2a. The information sharing system or systems referred to in paragraph 2 shall facilitate compliance with the obligations set out in Article 83(2) collecting in an automated manner and enabling an easy retrieving of relevant statistical information.**
3. The **competent authorities** ~~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.

## CHAPTER IV

### EU CENTRE TO PREVENT AND COMBAT CHILD SEXUAL ABUSE

#### Section 1

#### Principles

##### *Article 40*

##### *Establishment and scope of action of the EU Centre*

1. A European Union Agency to prevent and combat child sexual abuse, the EU Centre on Child Sexual Abuse, is established.
2. The EU Centre shall contribute to the achievement of the objective of this Regulation by supporting and facilitating the implementation of its provisions concerning the detection, reporting, removal or disabling of access to, and blocking of online child sexual abuse and gather and share information and expertise and facilitate cooperation between relevant public and private parties in connection to the prevention and combating of child sexual abuse, in particular online.

##### *Article 41*

##### *Legal status*

1. The EU Centre shall be a body of the Union with legal personality.
2. In each of the Member States the EU Centre shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.
3. The EU Centre shall be represented by its Executive Director.

##### *Article 42*

##### *Seat*

The seat of the EU Centre shall be The Hague, The Netherlands.

## Section 2

### Tasks

#### *Article 43*

#### *Tasks of the EU Centre*

The EU Centre shall:

- (1) facilitate the risk assessment process referred to in Section 1 of Chapter II, by:
  - (a) supporting the Commission in the preparation of the guidelines referred to in Article 3(8), Article 4(5), Article 6(4) and Article 11, including by collecting and providing relevant information, expertise and best practices, taking into account advice from the Technology Committee referred to in Article 66;
  - (b) upon request from a provider of relevant information services, providing an analysis of anonymised data samples for the purpose referred to in Article 3(3);
- (2) facilitate the detection process referred to in Section 2 of Chapter II, by:
  - (a) providing the opinions on intended detection orders referred to in Article 7(3), first subparagraph, point (d);
  - (b) maintaining and operating the databases of indicators referred to in Article 44;
  - (c) giving providers of hosting services and providers of interpersonal communications services that received a detection order access to the relevant databases of indicators in accordance with Article 46;
  - (d) making technologies available to providers for the execution of detection orders issued to them, in accordance with Article 50(1);
- (3) facilitate the reporting process referred to in Section 3 of Chapter II, by:
  - (a) maintaining and operating the database of reports referred to in Article 45;
  - (b) assessing, processing and, where necessary, forwarding the reports and providing feedback thereon in accordance with Article 48;
- (4) facilitate the removal process referred to in Section 4 of Chapter II and the other processes referred to in Section 5, **5a** and 6 of that Chapter, by:
  - (a) receiving the removal orders transmitted to it pursuant to Article 14(4) in order to fulfil the verification function referred to in Article 49(1);

- (aa) **receiving decisions on a cross-border removal order transmitted to it pursuant to Article 14a(5);**
  - (ab) **receiving copies of final removal orders and thereto connected information transmitted to it pursuant to Article 15(2);**
  - ~~(b) cooperating with and responding to requests of Coordinating Authorities in connection to intended blocking orders as referred to in Article 16(2);~~
  - (c) receiving and processing the blocking orders transmitted to it pursuant to Article 17(3);
  - (ca) **receiving copies of final blocking orders and thereto connected information transmitted to it pursuant to Article 18(2);**
  - (cb) **receiving the delisting orders transmitted to it pursuant to Article 18b(2);**
  - (cc) **receiving copies of final delisting orders and thereto connected information transmitted to it pursuant to Article 18c(3);**
  - (d) providing information and support to victims in accordance with Articles 20 and 21;
  - (e) maintaining up-to-date records of contact points and legal representatives of providers of relevant information society services as provided in accordance with Article 23(2) and Article 24(6);
- (5) support the **competent authorities, including the** Coordinating Authorities, and the Commission in the performance of their tasks under this Regulation and facilitate cooperation, coordination and communication in connection to matters covered by this Regulation, by:
- (a) creating and maintaining an online register listing the Coordinating Authorities and their contact points referred to in Article 25(6);
  - (b) providing assistance to the Coordinating Authorities **free of charge and in accordance with its tasks and obligations under this Regulation** ~~as provided for in Article 25(7);~~
  - (c) assisting the Commission, upon its request, in connection to its tasks under the cooperation mechanism referred to in Article 37;
  - (d) creating, maintaining and operating the information-sharing system referred to in Article 39;



- (e) assisting the Commission in the preparation of the delegated and implementing acts and the guidelines that the Commission adopts under this Regulation;
  - (f) providing information to Coordinating Authorities, upon their request or on its own initiative, relevant for the performance of their tasks under this Regulation, including by informing the Coordinating Authority of establishment of potential infringements identified in the performance of the EU Centre's other tasks;
- (6) facilitate the generation and sharing of knowledge with other Union institutions, bodies, offices and agencies, **competent authorities including** Coordinating Authorities, or other relevant authorities of the Member States to contribute to the achievement of the objective of this Regulation, by:
- (a) collecting, recording, analysing and providing information, providing analysis based on anonymised and non-personal data gathering, and providing expertise on matters regarding the prevention and combating of online child sexual abuse, in accordance with Article 51;
  - (b) supporting the development and dissemination of research and expertise on those matters and on assistance to victims, including by serving as a hub of expertise to support evidence-based policy;
  - (c) drawing up the annual reports referred to in Article 84.

#### *Article 44*

##### *Databases of indicators*

1. The EU Centre shall create, maintain and operate databases of the following three types of indicators of online child sexual abuse:
  - (a) indicators to detect the dissemination of child sexual abuse material previously detected and identified as constituting child sexual abuse material in accordance with Article 36(1);
  - (b) indicators to detect the dissemination of child sexual abuse material not previously detected and identified as constituting child sexual abuse material in accordance with Article 36(1);
  - (c) indicators to detect the solicitation of children.
2. The databases of indicators shall solely contain:
  - (a) relevant indicators, consisting of digital identifiers to be used to detect the dissemination of known or new child sexual abuse material or the solicitation of children, as applicable, on hosting services and interpersonal communications services, generated by the EU Centre in accordance with paragraph 3;

- (b) as regards paragraph 1, point (a), the relevant indicators shall include a lists of uniform resource locators compiled by the EU Centre in accordance with paragraph 3 **for the purpose of, respectively, the issuance of blocking orders in accordance with Article 16 and the issuance of delisting orders in accordance with Article 18a**;
- (c) the necessary additional information to facilitate the use of the indicators in accordance with this Regulation, including identifiers allowing for a distinction between images, videos and, where relevant, other types of material for the detection of the dissemination of known and new child sexual abuse material and language identifiers for the detection of solicitation of children.
3. The EU Centre shall generate the indicators referred to in paragraph 2, point (a), solely on the basis of the child sexual abuse material and the solicitation of children identified as such by the ~~Coordinating Authorities~~ **competent** authorities of the Member States, submitted to it by the Coordinating Authorities pursuant to Article 36(1), point (a), **or by other competent authorities pursuant to Article 36(1a)**.
- The EU Centre shall compile ~~the~~ lists of uniform resource locators referred to in paragraph 2, point (b), solely on the basis of the uniform resource locators submitted to it pursuant to Article 36(1), point (b) **for the purpose of, respectively, the issuance of blocking orders in accordance of Article 16 and the issuance of delisting orders in accordance with Article 18a**.
4. The EU Centre shall keep records of the submissions and of the process applied to generate the indicators and compile the lists referred to in the first and second subparagraphs. It shall keep those records for **no longer than** ~~as long as~~ the indicators, including the uniform resource locators, to which they correspond are contained in the databases of indicators referred to in paragraph 1.

#### *Article 45*

##### *Database of reports*

1. The EU Centre shall create, maintain and operate a database for the reports submitted to it by providers of hosting services and providers of interpersonal communications services in accordance with Article 12(1) and assessed and processed in accordance with Article 48.
2. The database of reports shall contain the following information:
- (a) the report;
  - (b) where the EU Centre considered the report manifestly unfounded, the reasons and the date and time of informing the provider in accordance with Article 48(2);

- (c) where the EU Centre forwarded the report in accordance with Article 48(3), the date and time of such forwarding and the name of the competent law enforcement authority or authorities to which it forwarded the report or, where applicable, information on the reasons for forwarding the report solely to Europol for further analysis;
- (d) where applicable, information on the requests for and provision of additional information referred to in Article 48(5);
- (e) where available, information indicating that the provider that submitted a report concerning the dissemination of known or new child sexual abuse material removed or disabled access to the material;
- (f) where applicable, information on the EU Centre's request to the ~~Coordinating Authority~~ **competent authority** of establishment to issue a removal order pursuant to Article 14 in relation to the item or items of child sexual abuse material to which the report relates;
- (g) relevant indicators and ancillary tags associated with the reported potential child sexual abuse material.

#### *Article 46*

##### *Access, accuracy and security*

1. Subject to paragraphs 2 and 3, solely EU Centre staff and auditors duly authorised by the Executive Director shall have access to and be entitled to process the data contained in the databases referred to in Articles 44 and 45.
2. The EU Centre shall give providers of hosting services, providers of interpersonal communications services, ~~and~~ providers of internet access services **and providers of online search engines** access to the databases of indicators referred to in Article 44, where and to the extent necessary for them to execute the detection or blocking orders that they received in accordance with Articles 7 or 16. It shall take measures to ensure that such access remains limited to what is strictly necessary for the period of application of the detection or blocking orders concerned and that such access does not in any way endanger the proper operation of those databases and the accuracy and security of the data contained therein.

3. The EU Centre shall give ~~Coordinating Authorities~~ **competent authorities** access to the databases of indicators referred to in Article 44 where and to the extent necessary for the performance of their tasks under this Regulation.
4. The EU Centre shall give Europol and the competent law enforcement authorities of the Member States access to the databases of indicators referred to in Article 44 where and to the extent necessary for the performance of their tasks of investigating suspected child sexual abuse offences<sup>43</sup>.
5. The EU Centre shall give Europol access to the databases of reports referred to in Article 45, where and to the extent necessary for the performance of its tasks of assisting investigations of suspected child sexual abuse offences
6. The EU Centre shall provide the access referred to in paragraphs 2, 3, 4 and 5 only upon the reception of a request, specifying the purpose of the request, the modalities of the requested access, and the degree of access needed to achieve that purpose. The requests for the access referred to in paragraph 2 shall also include a reference to the detection order or the blocking order, as applicable.

The EU Centre shall diligently assess those requests and only grant access where it considers that the requested access is necessary for and proportionate to the specified purpose.
7. The EU Centre shall regularly verify that the data contained in the databases referred to in Articles 44 and 45 is, in all respects, complete, accurate and up-to-date and continues to be necessary for the purposes of reporting, detection and blocking in accordance with this Regulation, as well as facilitating and monitoring of accurate detection technologies and processes. In particular, as regards the uniform resource locators contained in the database referred to Article 44(1), point (a), the EU Centre shall, where necessary in cooperation with the Coordination Authorities, regularly verify that the conditions of Article 36(1), point (b), continue to be met. Those verifications shall include audits, where appropriate. Where necessary in view of those verifications, it shall immediately complement, adjust or delete the data.

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<sup>43</sup> PCY comment : the PCY considers it necessary to include a recital outlining possible criteria concerning access refusal and justification thereof.

PCY comment: new recital to be included: **“Considering its role as central knowledge hub on matters related to the implementation of this Regulation at EU level, the EU Centre should leverage all means at its disposal to support the work of Europol and competent law enforcement authorities, for example by ensuring that information received by law enforcement authorities is relevant, complete and as easy as possible to access and consult. In particular, the EU Centre should give Europol and the competent law enforcement authorities of the Member States access to the database of indicators when necessary for the purpose of their tasks of investigating suspected child sexual abuse offences. This includes when law enforcement authorities need that access to verify whether certain items that are relevant in the context of national investigations have already been identified as online child sexual abuse, hashed and included in the database.”**

8. The EU Centre shall ensure that the data contained in the databases referred to in Articles 44 and 45 is stored in a secure manner and that the storage is subject to appropriate technical and organisational safeguards. Those safeguards shall ensure, in particular, that the data can be accessed and processed only by duly authorised persons for the purpose for which the person is authorised and that a high level of security is achieved. The EU Centre shall regularly review those safeguards and adjust them where necessary.

#### *Article 47*

##### *Delegated acts relating to the databases*

The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to supplement this Regulation with the necessary detailed rules concerning:

- (a) the types, precise content, set-up and operation of the databases of indicators referred to in Article 44(1), including the indicators and the necessary additional information to be contained therein referred to in Article 44(2);
- (b) the processing of the submissions by Coordinating Authorities, the generation of the indicators, the compilation of ~~the~~ lists of uniform resource locators and the record-keeping, referred to in Article 44(3);
- (c) the precise content, set-up and operation of the database of reports referred to in Article 45(1);
- (d) access to the databases referred to in Articles 44 and 45, including the modalities of the access referred to in Article 46(1) to (5), the content, processing and assessment of the requests referred to in Article 46(6), procedural matters related to such requests and the necessary measures referred to in Article 46(6);
- (e) the regular verifications and audits to ensure that the data contained in those databases is complete, accurate and up-to-date referred to in Article 46(7) and the security of the storage of the data, including the technical and organisational safeguards and regular review referred to in Article 46(8).

#### *Article 48*

##### *Reporting*

- 1. The EU Centre shall expeditiously assess and process reports submitted by providers of hosting services and providers of interpersonal communications services in accordance with Article 12 to determine whether the reports are manifestly unfounded or are to be forwarded.
- 2. Where the EU Centre considers that the report is manifestly unfounded, it shall inform the provider that submitted the report, specifying the reasons why it considers the report to be unfounded.

3. ~~Where the EU Centre considers that~~ **there are reasonable grounds for the EU Centre to consider that the** a report is ~~not manifestly unfounded~~, it shall forward the report, together with any additional relevant information available to it, to Europol and to the competent law enforcement authority or authorities of the Member State likely to have jurisdiction to investigate or prosecute the potential child sexual abuse to which the report relates.

Where that competent law enforcement authority or those competent law enforcement authorities cannot be determined with sufficient certainty, the EU Centre shall forward the report, together with any additional relevant information available to it, to Europol, for further analysis and subsequent referral by Europol to the competent law enforcement authority or authorities.

4. ~~Where a provider that submitted the report has indicated that the report requires urgent action, the EU Centre shall assess and process that report as a matter of priority and, where it forwards the report in accordance with paragraph 3 and it considers that the report requires urgent action, shall ensure that the forwarded report is marked as such.~~

**The EU Centre shall perform the assessment and processing referred to in paragraphs 1, 2 and 3 of this Article as a matter of priority in respect of reports submitted in accordance with Article 13(2), first subparagraph. In particular, where there are reasonable grounds for the EU Centre to consider that the report is founded and that there is likely to be an imminent threat to the life or safety of a child including when the report indicates ongoing abuse, it shall immediately forward the report in accordance with paragraph 3, marking it as requiring urgent action.**

**Where the EU Centre considers, in respect of a report submitted in accordance with Article 13(2), first subparagraph, that there is not likely to be an imminent threat to the life of a child including when the report does not indicate ongoing abuse, it shall indicate that when forwarding the report in accordance with paragraph 3 and it shall also inform the provider that submitted the report and the competent authority, specifying in all cases the reasons why it considers that there is not likely to be an imminent threat to the life of a child.**

5. Where the report does not contain all the information required in Article 13, the EU Centre may request the provider that submitted the report to provide the missing information.
6. Where so requested by a competent law enforcement authority of a Member State in order to avoid interfering with activities for the prevention, detection, investigation and prosecution of child sexual abuse offences, the EU Centre shall:
- (a) communicate to the provider that submitted the report that it is not to inform the user concerned, specifying the time period during which the provider is not to do so;
  - (b) where the provider that submitted the report is a provider of hosting services and the report concerns the potential dissemination of child sexual abuse material, communicate to the provider that it is not to remove or disable access to the material, specifying the time period during which the provider is not to do so.

7. The time periods referred to in the first subparagraph, points (a) and (b), shall be those specified in the competent law enforcement authority's request to the EU Centre, provided that they remain limited to what is necessary to avoid interference with the relevant activities and does not exceed 18 months.
8. The EU Centre shall verify whether a provider of hosting services that submitted a report concerning the potential dissemination of child sexual abuse material removed or disabled access to the material, insofar as the material is publicly accessible. Where it considers that the provider did not remove or disable access to the material expeditiously, the EU Centre shall inform the Coordinating Authority of establishment thereof.

#### *Article 49*

#### *Searches and notification*

1. The EU Centre shall have the power to conduct searches on hosting services for the dissemination of publicly accessible child sexual abuse material, using the relevant indicators from the database of indicators referred to in Article 44(1), points (a) and (b), in the following situations:
  - (a) where so requested to support a victim by verifying whether the provider of hosting services removed or disabled access to one or more specific items of known child sexual abuse material depicting the victim, in accordance with Article 21(4), point (c);
  - (b) where so requested to assist a ~~Coordinating Authority~~ **competent authority** by verifying the possible need for the issuance of a ~~detection order or a removal order in respect of a specific service or the effectiveness of a detection order or a removal order that the Coordinating Authority issued~~, in accordance with Article 25(7), points (c) and (d), respectively;
  - (c) **where so requested to assist a Coordinating Authority, by verifying the effectiveness of a detection order that the competent judicial authorities or other independent administrative authorities issued, in accordance with Article 25(7), point (d).**
2. The EU Centre shall have the power to notify, after having conducted the searches referred to in paragraph 1, providers of hosting services of the presence of one or more specific items of known child sexual abuse material on their services and 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 EU Centre and a contact point, the necessary information for the identification of the item or items, as well as the reasons for the request. The request shall also clearly state that it is for the provider's voluntary consideration.

3. Where so requested by a competent law enforcement authority of a Member State in order to avoid interfering with activities for the prevention, detection, investigation and prosecution of child sexual abuse offences, the EU Centre shall not submit a notice, for as long as necessary to avoid such interference but no longer than 18 months.

#### *Article 50*

##### *Technologies, information and expertise*

1. The EU Centre shall make available technologies that providers of hosting services and providers of interpersonal communications services may acquire, install and operate, free of charge, where relevant subject to reasonable licensing conditions, to execute detection orders in accordance with Article 10(1).

To that aim, the EU Centre shall compile lists of such technologies, having regard to the requirements of this Regulation and in particular those of Article 10(2).

Before including specific technologies on those lists, the EU Centre shall request the opinion of its Technology Committee and of the European Data Protection Board. The Technology Committee and the European Data Protection Board shall deliver their respective opinions within eight weeks. That period may be extended by a further six weeks where necessary, taking into account the complexity of the subject matter. The Technology Committee and the European Data Protection Board shall inform the EU Centre of any such extension within one month of receipt of the request for consultation, together with the reasons for the delay.

2. The EU Centre shall collect, record, analyse and make available relevant, objective, reliable and comparable information on matters related to the prevention and combating of child sexual abuse, in particular:
- (a) information obtained in the performance of its tasks under this Regulation concerning detection, reporting, removal or disabling of access to, and blocking of online child sexual abuse;
  - (b) information resulting from the research, surveys and studies referred to in paragraph 3;
  - (c) information resulting from research or other activities conducted by Member States' authorities, other Union institutions, bodies, offices and agencies, the competent authorities of third countries, international organisations, research centres and civil society organisations.



3. Where necessary for the performance of its tasks under this Regulation, the EU Centre shall carry out, participate in or encourage research, surveys and studies, either on its own initiative or, where appropriate and compatible with its priorities and its annual work programme, at the request of the European Parliament, the Council or the Commission.
4. The EU Centre shall provide the information referred to in paragraph 2 and the information resulting from the research, surveys and studies referred to in paragraph 3, including its analysis thereof, and its opinions on matters related to the prevention and combating of online child sexual abuse to other Union institutions, bodies, offices and agencies, Coordinating Authorities, other competent authorities and other public authorities of the Member States, either on its own initiative or at request of the relevant authority. Where appropriate, the EU Centre shall make such information publicly available.
5. The EU Centre shall develop a communication strategy and promote dialogue with civil society organisations and providers of hosting or interpersonal communication services to raise public awareness of online child sexual abuse and measures to prevent and combat such abuse.

### **Section 3**

#### **Processing of information**

##### *Article 51*

##### *Processing activities and data protection*

1. In so far as is necessary for the performance of its tasks under this Regulation, the EU Centre may process personal data.
2. The EU Centre shall process personal data as strictly necessary for the purposes of:
  - (a) providing the opinions on intended detection orders referred to in Article 7(3);
  - (b) cooperating with and responding to requests of Coordinating Authorities in connection to intended blocking orders as referred to in Article 16(2);
  - (c) receiving and processing blocking orders transmitted to it pursuant to Article 17(3);
  - (d) cooperating with Coordinating Authorities in accordance with Articles 20 and 21 on tasks related to victims' rights to information and assistance;

- (e) maintaining up-to-date records of contact points and legal representatives of providers of relevant information society services as provided in accordance with Article 23(2) and Article 24(6);
  - (f) creating and maintaining an online register listing the Coordinating Authorities and their contact points referred to in Article 25(6);
  - (g) providing assistance to Coordinating Authorities in accordance with Article 25(7);
  - (h) assisting the Commission, upon its request, in connection to its tasks under the cooperation mechanism referred to in Article 37;
  - (i) create, maintain and operate the databases of indicators referred to in Article 44;
  - (j) create, maintain and operate the database of reports referred to in Article 45;
  - (k) providing and monitoring access to the databases of indicators and of reports in accordance with Article 46;
  - (l) performing data quality control measures in accordance with Article 46(7);
  - (m) assessing and processing reports of potential online child sexual abuse in accordance with Article 48;
  - (n) cooperating with Europol and partner organisations in accordance with Articles 53 and 54, including on tasks related to the identification of victims;
  - (o) generating statistics in accordance with Article 83.
3. The EU Centre shall store the personal data referred to in paragraph 2 only where and for as long as strictly necessary for the applicable purposes listed in paragraph 2.
4. It shall ensure that the personal data is stored in a secure manner and that the storage is subject to appropriate technical and organisational safeguards. Those safeguards shall ensure, in particular, that the personal data can be accessed and processed only for the purpose for which it is stored, that a high level of security is achieved and that the personal data is deleted when no longer strictly necessary for the applicable purposes. It shall regularly review those safeguards and adjust them where necessary.

## Section 4

### Cooperation

#### *Article 52*

##### *Contact officers*

1. Each Coordinating Authority shall designate at least one contact officer, who shall be the main contact point for the EU Centre in the Member State concerned. The contact officers may be seconded to the EU Centre. Where several contact officers are designated, the Coordinating Authority shall designate one of them as the main contact officer.
2. Contact officers shall assist in the exchange of information between the EU Centre and the Coordinating Authorities that designated them. Where the EU Centre receives reports submitted in accordance with Article 12 concerning the potential dissemination of new child sexual abuse material or the potential solicitation of children, the contact officers designated by the competent Member State shall facilitate the process to determine the illegality of the material or conversation, in accordance with Article 36(1).
3. The Management Board shall determine the rights and obligations of contact officers in relation to the EU Centre. Contact officers shall enjoy the privileges and immunities necessary for the performance of their tasks.
4. Where contact officers are seconded to the EU Centre, the EU Centre shall cover the costs of providing them with the necessary premises within the building and adequate support for contact officers to perform their duties. All other costs that arise in connection with the designation of contact officers and the performance of their tasks shall be borne by the Coordinating Authority that designated them.

#### *Article 53<sup>44</sup>*

##### *Cooperation with Europol*

1. Where necessary for the performance of its tasks under this Regulation, within their respective mandates, the EU Centre shall cooperate with Europol.
2. Europol and the EU Centre shall provide each other with the fullest possible access to relevant information and information systems, where necessary for the performance of their respective tasks and in accordance with the acts of Union law regulating such access.

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<sup>44</sup> PCY comment : the PCY noted several questions from delegations on this Article and would welcome text proposals from delegations.

Without prejudice to the responsibilities of the Executive Director, the EU Centre shall maximise efficiency by sharing administrative functions with Europol, including functions relating to personnel management, information technology (IT) and budget implementation.

3. The terms of cooperation and working arrangements shall be laid down in a memorandum of understanding.

#### *Article 54*

##### *Cooperation with partner organisations*

1. Where necessary for the performance of its tasks under this Regulation, the EU Centre may cooperate with organisations and networks with information and expertise on matters related to the prevention and combating of online child sexual abuse, including civil society organisations and semi-public organisations.
2. The EU Centre may conclude memoranda of understanding with organisations referred to in paragraph 1, laying down the terms of cooperation, **including on data sharing**.

#### **Section 5**

#### **Organisation**

#### *Article 55*

##### *Administrative and management structure*

The administrative and management structure of the EU Centre shall comprise:

- (a) a Management Board, which shall exercise the functions set out in Article 57;
- ~~(b) an Executive Board which shall perform the tasks set out in Article 62;<sup>45</sup>~~
- (c) an Executive Director of the EU Centre, who shall exercise the responsibilities set out in Article 64;
- (d) a Technology Committee as an advisory group, which shall exercise the tasks set out in Article 66.

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<sup>45</sup> PCY comment : it seems to the PCY that several delegations oppose the establishment of an Executive Board. If the Executive Board is removed from the text, further text alignments will be needed, including reallocation of tasks etc.

## Part 1: Management Board

### Article 56

#### *Composition of the Management Board*

1. The Management Board shall be composed of one representative from each Member State and two representatives of the Commission, all as members with voting rights.
2. The Management Board shall also include one independent expert observer designated by the European Parliament, without the right to vote.

Europol may designate a representative to attend the meetings of the Management Board as an observer on matters involving Europol, **without the right to vote**, at the request of the Chairperson of the Management Board.
3. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his/her absence.
4. Members of the Management Board and their alternates shall be appointed in the light of their knowledge in the field of combating child sexual abuse, taking into account relevant managerial, administrative and budgetary skills. Member States shall appoint a representative of their Coordinating Authority, within four months of *[date of entry into force of this Regulation]*. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of its work. All parties shall aim to achieve a balanced representation between men and women on the Management Board.
5. The term of office for members and their alternates shall be four years. That term may be renewed.

### Article 57

#### *Functions of the Management Board*

1. The Management Board shall:
  - (a) give the general orientations for the EU Centre's activities;
  - (b) contribute to facilitate the effective cooperation with and between the Coordinating Authorities;

- (c) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as for the members of the Technological Committee and of any other advisory group it may establish and publish annually on its website the declaration of interests of the members of the Management Board. **The consent of its members must be obtained prior to publication;**
- (d) adopt the assessment of performance of the Executive Board referred to in Article 61(2);
- (e) adopt and make public its Rules of Procedure;
- (f) appoint the members of the Technology Committee, and of any other advisory group it may establish;
- (fa) consult the Victims Board in all cases where, in the performance of its tasks pursuant to points (a) and (h), interests of victims are concerned;**
- (g) adopt the opinions on intended detection orders referred to in Article 7(4), on the basis of a draft opinion provided by the Executive Director;
- (h) adopt and regularly update the communication and dissemination plans referred to in Article 77(3) based on an analysis of needs.

#### *Article 58*

##### *Chairperson of the Management Board*

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Chairperson and the Deputy Chairperson shall be elected by a majority of two thirds of the members of the Management Board.  
  
The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/her duties.
2. The term of office of the Chairperson and the deputy Chairperson shall be four years. Their term of office may be renewed once. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date.
3. **The detailed procedure for the election of the Chairperson and the Vice-Chairperson shall be set out in the rules of procedure of the Management Board.**

## Article 59

### *Meetings of the Management Board*

1. The Chairperson shall convene the meetings of the Management Board.
2. The Executive Director shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one-third of its members.
4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer, **including representatives of the Victims Board**.
5. The members of the Management Board and their alternates may, subject to its rules of procedure, be assisted at the meetings by advisers or experts, **including representatives of the Victims Board**.
6. The EU Centre shall provide the secretariat for the Management Board.

## Article 60

### *Voting rules of the Management Board*

1. Unless provided otherwise in this Regulation, the Management Board shall take decisions by absolute majority of its members **with voting rights**.
2. Each member shall have one vote. In the absence of a member **with the right to vote**, his/her alternate shall be entitled to exercise his/her right to vote.
3. The Executive Director shall not take part in the voting.
4. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

## Part 2: Executive Board

### Article 61

#### *Composition and appointment of the Executive Board*

1. The Executive Board shall be composed of the Chairperson and the Deputy Chairperson of the Management Board, two other members appointed by the Management Board from among its members with the right to vote and two representatives of the Commission to the Management Board. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board.

The Executive Director shall participate in meetings of the Executive Board without the right to vote.

2. The term of office of members of the Executive Board shall be four years. In the course of the 12 months preceding the end of the four-year term of office of the Chairperson and five members of the Executive Board, the Management Board or a smaller committee selected among Management Board members including a Commission representative shall carry out an assessment of performance of the Executive Board. The assessment shall take into account an evaluation of the Executive Board members' performance and the EU Centre's future tasks and challenges. Based on the assessment, the Management Board may extend their term of office once.

### Article 62

#### *Tasks of the Executive Board*

1. The Executive Board shall be responsible for the overall planning and the execution of the tasks conferred on the EU Centre pursuant to Article 43. The Executive Board shall adopt all the decisions of the EU Centre with the exception of the decisions that shall be taken by the Management Board in accordance with Article 57.
2. In addition, the Executive Board shall have the following tasks:
  - (a) adopt, by 30 November of each year, on the basis of a proposal by the Executive Director, the draft Single Programming Document, and shall transmit it for information to the European Parliament, the Council and the Commission by 31 January the following year, as well as any other updated version of the document;
  - (b) adopt the draft annual budget of the EU Centre and exercise other functions in respect of the EU Centre's budget;



- (c) assess and adopt a consolidated annual activity report on the EU Centre's activities, including an overview of the fulfilment of its tasks and send it, by 1 July each year, to the European Parliament, the Council, the Commission and the Court of Auditors and make the consolidated annual activity report public;
- (d) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented, an efficiency gains and synergies strategy, a strategy for cooperation with third countries and/or international organisations, and a strategy for the organisational management and internal control systems
- (e) adopt rules for the prevention and management of conflicts of interest in respect of its members;
- (f) adopt its rules of procedure;
- (g) exercise, with respect to the staff of the EU Centre, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the EU Centre Empowered to Conclude a Contract of Employment<sup>46</sup> ("the appointing authority powers");
- (h) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110(2) of the Staff Regulations;
- (i) appoint the Executive Director and remove him/her from office, in accordance with Article 65;
- (j) appoint an Accounting Officer, who may be the Commission's Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of other servants, who shall be totally independent in the performance of his/her duties;
- (k) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-Fraud Office (OLAF);
- (l) adopt the financial rules applicable to the EU Centre;

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<sup>46</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1)

- (m) take all decisions on the establishment of the EU Centre's internal structures and, where necessary, their modification.
  - (n) appoint a Data Protection Officer;
  - (o) adopt internal guidelines further specifying the procedures for the processing of information in accordance with Article 51, after consulting the European Data Protection Supervisor;
  - (p) authorise the conclusion of memoranda of understanding referred to in Article 53(3) and Article 54(2).
3. With respect to the powers mentioned in paragraph 2 point (g) and (h), the Executive Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Executive Director. The Executive Director shall be authorised to sub-delegate those powers.
  4. In exceptional circumstances, the Executive Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any sub-delegation by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.
  5. Where necessary because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular on administrative management matters, including the suspension of the delegation of the appointing authority powers and budgetary matters.

#### *Article 63*

##### *Voting rules of the Executive Board*

1. The Executive Board shall take decisions by simple majority of its members. Each member of the Executive Board shall have one vote. The Chairperson shall have a casting vote in case of a tie.

2. The representatives of the Commission shall have a right to vote whenever matters pertaining to Article 62(2), points (a) to (l) and (p) are discussed and decided upon. For the purposes of taking the decisions referred to in Article 62(2), points (f) and (g), the representatives of the Commission shall have one vote each. The decisions referred to in Article 62(2), points (b) to (e), (h) to (l) and (p), may only be taken if the representatives of the Commission casts a positive vote. For the purposes of taking the decisions referred to in Article 62(2), point (a), the consent of the representatives of the Commission shall only be required on the elements of the decision not related to the annual and multi-annual working programme of the EU Centre.

The Executive Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

### **Part 3: Executive Director**

#### *Article 64*

##### *Responsibilities of the Executive Director*

1. The Executive Director shall manage the EU Centre. The Executive Director shall be accountable to the Management Board.
2. The Executive Director shall report to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.
3. The Executive Director shall be the legal representative of the EU Centre.
4. The Executive Director shall be responsible for the implementation of the tasks assigned to the EU Centre by this Regulation. In particular, the Executive Director shall be responsible for:
  - (a) the day-to-day administration of the EU Centre;
  - (b) preparing decisions to be adopted by the Management Board;
  - (c) implementing decisions adopted by the Management Board;
  - (d) preparing the Single Programming Document and submitting it to the Executive Board after consulting the Commission;
  - (e) implementing the Single Programming Document and reporting to the Executive Board on its implementation;

- (f) preparing the Consolidated Annual Activity Report (CAAR) on the EU Centre's activities and presenting it to the Executive Board for assessment and adoption;
- (g) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-Fraud Office (OLAF) and by the European Public Prosecutor's Office (EPPO) and reporting on progress twice a year to the Commission and regularly to the Management Board and the Executive Board;
- (h) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF and EPPO by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial penalties;
- (i) preparing an anti-fraud strategy, an efficiency gains and synergies strategy, a strategy for cooperation with third countries and/or international organisations and a strategy for the organisational management and internal control systems for the EU Centre and presenting them to the Executive Board for approval;
- (j) preparing draft financial rules applicable to the EU Centre;
- (k) preparing the EU Centre's draft statement of estimates of revenue and expenditure and implementing its budget;
- (l) preparing and implementing an IT security strategy, ensuring appropriate risk management for all IT infrastructure, systems and services, which are developed or procured by the EU Centre as well as sufficient IT security funding.
- (m) implementing the annual work programme of the EU Centre under the control of the Executive Board;
- (n) drawing up a draft statement of estimates of the EU Centre's revenue and expenditure as part of the EU Centre's Single Programming Document and implementing the budget of the EU Centre pursuant to Article 67;
- (o) preparing a draft report describing all activities of the EU Centre with a section on financial and administrative matters;
- (p) fostering recruitment of appropriately skilled and experienced EU Centre staff, while ensuring gender balance.

5. Where exceptional circumstances so require, the Executive Director may decide to locate one or more staff in another Member State for the purpose of carrying out the EU Centre's tasks in an a more efficient, effective and coherent manner. Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State concerned. The decision shall be based on an appropriate cost-benefit analysis that demonstrates in particular the added value of such decision and specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the EU Centre. A headquarters agreement with the Member State(s) concerned may be concluded.
6. **Without prejudice to the powers of the Commission, of the Management Board and of the Executive Board, the Executive Director shall be independent in the performance of the duties and shall neither seek nor take instructions from any government nor from any other body.**

*Article 65*

*Executive Director*

1. The Executive Director shall be engaged as a temporary agent of the EU Centre under Article 2(a) of the Conditions of Employment of Other Servants.
2. The Executive Director shall be appointed by the Executive Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.
3. For the purpose of concluding the contract with the Executive Director, the EU Centre shall be represented by the Chairperson of the Executive Board.
4. The term of office of the Executive Director shall be five years. Six months before the end of the Executive Director's term of office, the Commission shall complete an assessment that takes into account an evaluation of the Executive Director's performance and the EU Centre's future tasks and challenges.
5. The Executive Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than five years.
6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

7. The Executive Director may be dismissed only upon a decision of the Executive Board ~~acting on a proposal from the Commission~~.
8. The Executive Board shall take decisions on appointment, extension of the term of office or dismissal of the Executive Director by a majority of two-thirds of its members with voting rights.

### **Subsection 5: Technology Committee**

#### *Article 66*

##### *Establishment and tasks of the Technology Committee*

1. The Technology Committee shall consist of technical experts appointed by the Management Board in view of their excellence and their independence, following the publication of a call for expressions of interest in the Official Journal of the European Union.
2. Procedures concerning the appointment of the members of the Technology Committee and its operation shall be specified in the rules of procedure of the Management Board and shall be made public.
3. The members of the Committee shall be independent **in carrying out their tasks as members of the Committee** and shall act in the public interest. The list of members of the Committee shall be made public and shall be updated by the EU Centre on its website.
4. When a member no longer meets the criteria of independence, he or she shall inform the Management Board. Alternatively, the Management Board may declare, on a proposal of at least one third of its members or of the Commission, a lack of independence and revoke the person concerned. The Management Board shall appoint a new member for the remaining term of office in accordance with the procedure for ordinary members.
5. The mandates of members of the Technology Committee shall be four years. Those mandates shall be renewable once.
6. The Technology Committee shall
  - (a) contribute to the EU Centre's opinions referred to in Article 7(3), first subparagraph, point (d);
  - (b) contribute to the EU Centre's assistance to the Coordinating Authorities, the Management Board, the Executive Board and the Executive Director, in respect of matters related to the use of technology;
  - (c) provide internally, upon request, expertise on matters related to the use of technology for the purposes of prevention and detection of child sexual abuse online.

*Article 66a*

*Appointment and tasks of the Victims ~~and Survivors~~ Board*

1. The Victims ~~and Survivors~~ Board shall be comprised of adult victims ~~and survivors~~ of child sexual abuse and recognised experts in providing assistance to victims who, following a call for expressions of interest published in *the Official Journal of the European Union*, will be appointed by the Management Board on the basis of their personal experience, expertise and independence.
2. The procedures governing the appointment of the members of the Victims ~~and Survivors~~ Board, its functioning and the conditions governing the transmission of information to the Victims ~~and Survivors~~ Board shall be laid down in the Management Board's Rules of Procedure, and shall be published.
3. The members of the Victims ~~and Survivors~~ Board shall be independent in carrying out their tasks as members of the Board and shall act in the interest of persons affected by online child sexual abuse. The EU Centre shall publish on its website and keep up to date the list of the members of the Victims ~~and Survivors~~ Board.
4. Members who cease to be independent shall inform the Management Board accordingly. Otherwise, the Management Board, at the proposal of at least one third of its members or of the Commission, may determine that they lack sufficient independence and revoke their appointment. The Management Board shall appoint new members to replace them for the remainder of their predecessors' term of office, following the same procedure as the one governing ordinary members.
5. The term of office of members of the Victims ~~and Survivors~~ Board shall be four years. It may be renewed once.
6. The Executive Director and the Management Board may consult the Victims ~~and Survivors~~ Board in connection with all matters concerning persons affected by online child sexual abuse.
7. The Victims ~~and Survivors~~ Board has the following tasks:
  - (a) make the concerns of victims ~~survivors~~ visible;
  - (b) advise the Management Board in matters referred to in Article 57 (1)(fa), sentence 2;
  - (c) advise the Executive Director and the Management Board as foreseen in paragraph 6;

- (d) **incorporate their experience and expertise as regards preventing and combating online child sexual abuse, assisting and supporting victims survivors**
- (e) **contribute own proposals for the work of the competent authorities;**
- (f) **contribute to the European networking of victims and survivors of child sexual abuse.**

## **Section 6**

### **Establishment and Structure of the Budget**

#### **Subsection 1**

#### **Single Programming Document**

##### *Article 67*

##### *Budget establishment and implementation*

1. Each year the Executive Director shall draw up a draft statement of estimates of the EU Centre's revenue and expenditure for the following financial year, **corresponding to the calendar year**, including an establishment plan, and shall send it to the Executive Board.
2. The Executive Board shall, on the basis of the draft statement of estimates, adopt a provisional draft estimate of the EU Centre's revenue and expenditure for the following financial year and shall send it to the Commission by 31 January each year.
3. The Executive Board shall send the final draft estimate of the EU Centre's revenue and expenditure, which shall include a draft establishment plan, to the European Parliament, the Council and the Commission by 31 March each year.
4. The Commission shall send the statement of estimates to the European Parliament and the Council, together with the draft general budget of the Union.
5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates that it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the European Parliament and the Council in accordance with Articles 313 and 314 of the Treaty on the Functioning of the European Union.
6. The European Parliament and the Council shall authorise the appropriations for the contribution from the Union to the EU Centre.
7. The European Parliament and the Council shall adopt the EU Centre's establishment plan.



8. The EU Centre's budget shall be adopted by the Executive Board. It shall become final following the final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.
9. The Executive Director shall implement the EU Centre's budget.
10. Each year the Executive Director shall send to the European Parliament and the Council all information relevant to the findings of any evaluation procedures.

#### *Article 68*

#### *Financial rules*

The financial rules applicable to the EU Centre shall be adopted by the Executive Board after consultation with the Commission. They shall not depart from Delegated Regulation (EU) 2019/715<sup>47</sup> unless such a departure is specifically required for the operation of the EU Centre and the Commission has given its prior consent.

### **Subsection 2**

#### **Presentation, implementation and control of the budget**

#### *Article 69*

#### *Budget*

1. Estimates of all revenue and expenditure for the EU Centre shall be prepared each financial year, which shall correspond to the calendar year, and shall be shown in the EU Centre's budget, which shall be balanced in terms of revenue and of expenditure.
2. Without prejudice to other resources, the EU Centre's revenue shall comprise a contribution from the Union entered in the general budget of the Union.
3. The EU Centre may benefit from Union funding in the form of delegation agreements or ad hoc grants in accordance with its financial rules referred to in Article 68 and with the provisions of the relevant instruments supporting the policies of the Union.
4. The EU Centre's expenditure shall include staff remuneration, administrative and infrastructure expenses, and operating costs.
5. Budgetary commitments for actions relating to large-scale projects extending over more than one financial year may be broken down into several annual instalments.

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<sup>47</sup> OJ L 122, 10.5.2019, p. 1.

## Article 70

### *Presentation of accounts and discharge*

1. The EU Centre's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's accounting officer and to the Court of Auditors by 1 March of the following financial year (year N + 1).
2. The EU Centre shall send a report on the budgetary and financial management for year N to the European Parliament, the Council and the Court of Auditors by 31 March of year N + 1.
3. The Commission's accounting officer shall send the EU Centre's provisional accounts for year N, consolidated with the Commission's accounts, to the Court of Auditors by 31 March of year N + 1.
4. The Management Board shall deliver an opinion on the EU Centre's final accounts for year N.
5. The EU Centre's accounting officer shall, by 1 July of year N + 1, send the final accounts for year N to the European Parliament, the Council, the Commission, the Court of Auditors and national parliaments, together with the Management Board's opinion.
6. The final accounts for year N shall be published in the Official Journal of the European Union by 15 November of year N + 1.
7. The Executive Director shall send to the Court of Auditors, by 30 September of year N + 1, a reply to the observations made in its annual report. He or she shall also send the reply to the Management Board.
8. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for year N.
9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, grant a discharge to the Executive Director in respect of the implementation of the budget for year N.

## Section 7

### Staff

#### Article 71

##### *General provisions*

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect thereto shall apply to the EU Centre for all matters not covered by this Regulation.
2. The Executive Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.
3. The EU Centre staff, in particular those working in areas related to detection, reporting and removal of online child sexual abuse, shall have access to appropriate counselling and support services.

#### Article 72

##### *Seconded national experts and other staff*

1. The EU Centre may make use of seconded national experts or other staff not employed by it.
2. The Executive Board shall adopt rules related to staff from Member States, including the contact officers referred to in Article 52, to be seconded to the EU Centre and update them as necessary. Those rules shall include, in particular, the financial arrangements related to those secondments, including insurance and training. Those rules shall take into account the fact that the staff is seconded and to be deployed as staff of the EU Centre. They shall include provisions on the conditions of deployment. Where relevant, the Executive Board shall aim to ensure consistency with the rules applicable to reimbursement of the mission expenses of the statutory staff.

#### Article 73

##### *Privileges and immunities*

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the Treaty on the Functioning of the European Union shall apply to the EU Centre and its staff.

Privileges and immunities of contact officers and members of their families shall be subject to an agreement between the Member State where the seat of the EU Centre is located and the other Member States. That agreement shall provide for such privileges and immunities as are necessary for the proper performance of the tasks of contact officers.

## Article 74

### *Obligation of professional secrecy*

1. Members of the Management Board and the Executive Board, and all members of the staff of the EU Centre, including officials seconded by Member States on a temporary basis, and all other persons carrying out tasks for the EU Centre on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 of the Treaty on the Functioning of the European Union even after their duties have ceased.
2. The Executive Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the EU Centre, including officials and other persons authorised by the Executive Board or appointed by the coordinating authorities for that purpose, are subject to requirements of professional secrecy equivalent to those in paragraph 1.
3. The EU Centre shall establish practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.
4. The EU Centre shall apply Commission Decision (EU, Euratom) 2015/444<sup>48</sup>.

## Article 75

### *Security rules on the protection of classified and sensitive non-classified information*

1. The EU Centre shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in Commission Decisions (EU, Euratom) 2015/443<sup>49</sup> and (EU, Euratom) 2015/444. The security rules of the EU Centre shall cover, inter alia, provisions for the exchange, processing and storage of such information. The Executive Board shall adopt the EU Centre's security rules following approval by the Commission.
2. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad-hoc release of EUCI to those authorities, shall be subject to the Commission's prior approval.

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<sup>48</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

<sup>49</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

## Section 8

### General provisions

#### Article 76

##### *Language arrangements*

The provisions laid down in Regulation No 1<sup>50</sup> shall apply to the EU Centre. The translation services required for the functioning of the EU Centre shall be provided by the Translation Centre for the bodies of the European Union.

#### Article 77

##### *Transparency and communication*

1. Regulation (EC) No 1049/2001<sup>51</sup> shall apply to documents held by the EU Centre. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying that Regulation.
2. The processing of personal data by the EU Centre shall be subject to Regulation (EU) 2018/1725. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of that Regulation by the EU Centre, including those concerning the appointment of a Data Protection Officer of the EU Centre. Those measures shall be established after consultation of the European Data Protection Supervisor.
3. The EU Centre may engage in communication activities on its own initiative within its field of competence. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

#### Article 78

##### *Anti-fraud measures*

1. In order to combat fraud, corruption and other unlawful activities, Regulation (EU, Euratom) No 883/2013<sup>52</sup> shall apply.

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<sup>50</sup> Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385/58).

<sup>51</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, Official Journal L 145 , 31/05/2001 P. 0043 – 0048.

<sup>52</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999. (OJ L 248, 18.9.2013, p. 1).

2. The EU Centre shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by OLAF within six months from *[date of start of operations as set out in Article 82]* and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.
3. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the EU Centre.
4. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the EU Centre, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96<sup>53</sup>.
5. Without prejudice to paragraphs 1, 2, 3, and 4, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the EU Centre shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

#### *Article 79*

#### *Liability*

1. The EU Centre's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the EU Centre.
3. In the case of non-contractual liability, the EU Centre shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of its staff towards the Centre shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

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<sup>53</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. (OJ L 292, 15.11.1996, p. 2).

## *Article 80*

### *Administrative inquiries*

The activities of the EU Centre shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union.

## *Article 81*

### *Headquarters Agreement and operating conditions*

1. The necessary arrangements concerning the accommodation to be provided for the EU Centre in the Member State where the seat of the EU Centre is located and the facilities to be made available by that Member State, together with the specific rules applicable in that Member State to the Executive Director, members of the Executive Board, EU Centre staff and members of their families shall be laid down in a Headquarters Agreement between the EU Centre and the Member State where the seat of the EU Centre is located, concluded after obtaining the approval of the Executive Board and no later than [2 years after the entry into force of this Regulation].
2. The Member State where the seat of the EU Centre is located shall provide the best possible conditions to ensure the smooth and efficient functioning of the EU Centre, including multilingual, European-oriented schooling and appropriate transport connections.

## *Article 82*

### *Start of the EU Centre's activities*

1. The Commission shall be responsible for the establishment and initial operation of the EU Centre until the Executive Director has taken up his or her duties following his or her appointment by the Executive Board in accordance with Article 65(2). For that purpose:
  - (a) the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;
  - (b) by derogation from Article 62(2)(g) and until the adoption of a decision as referred to in Article 62(4), the interim Executive Director shall exercise the appointing authority power;
  - (c) the Commission may offer assistance to the EU Centre, in particular by seconding Commission officials to carry out the activities of the EU Centre under the responsibility of the interim Executive Director or the Executive Director;
  - (d) the interim Executive Director may authorise all payments covered by appropriations entered in the EU Centre's budget after approval by the Executive Board and may conclude contracts, including staff contracts, following the adoption of the EU Centre's establishment plan.

## CHAPTER V

### DATA COLLECTION AND TRANSPARENCY REPORTING

#### *Article 83*

##### *Data collection*

1. **Providers of relevant information society services that were subject to orders under Articles 7, 14, 14a, 16 and 18a** ~~Providers of hosting services, providers of interpersonal communications services, providers of internet access services~~ shall collect data on the following topics and make that information available to the EU Centre upon request:
  - (a) where the provider has been subject to a detection order issued in accordance with Article 7:
    - the measures taken to comply with the order, including the technologies used for that purpose and the safeguards provided;
    - the error rates of the technologies deployed to detect online child sexual abuse and measures taken to prevent or remedy any errors;
    - in relation to complaints and cases submitted by users in connection to the measures taken to comply with the order, the number of complaints submitted directly to the provider, the number of cases brought before a judicial authority, the basis for those complaints and cases, the decisions taken in respect of those complaints and in those cases, the average time needed for taking those decisions and the number of instances where those decisions were subsequently reversed;
  - (b) the number of removal orders **and cross-border removal orders** issued to the provider in accordance with Articles 14 and **14a** ~~the average time needed for removing or disabling access to the item or items of child sexual abuse material in question;~~
  - (c) the total number of items of child sexual abuse material that the provider removed or to which it disabled access, broken down by whether the items were removed or access thereto was disabled pursuant to a removal order, **cross-border removal order** or to a notice submitted by a Competent Authority, the EU Centre or a third party or at the provider's own initiative;
  - (d) the number of blocking orders issued to the provider in accordance with Article 16;
  - (da) **the number of delisting orders issued to the provider in accordance with Article 18a;**



- (e) the number of instances in which the provider invoked Article 8(3), Article 14(5) or (6), ~~or Article 17(4a) or (5) or Article 18b(4) or (5)~~, together with the reasons grounds therefor;
2. **Relying to the extent possible on information collected in an automated manner by means of the secure information system or systems referred to in Article 39(2a), [as well as on any similar system that might be used for the exchange of information at national level,]** the Coordinating Authorities shall collect data on the following topics and make that information available to the EU Centre upon request<sup>54</sup>:
- (a) the follow-up given to reports of potential online child sexual abuse that the EU Centre forwarded in accordance with Article 48(3),** specifying for each report:
- whether the report led to the launch of a criminal investigation or **contributed to an ongoing investigation**, ~~led to taking any other action led to no action;~~
  - ~~where the report led to the launch of a criminal investigation or contributed to an ongoing investigation, the state of play or outcome of the investigation, including whether the case was closed at pre-trial stage, whether the case led to the imposition of penalties, whether victims were identified and rescued and if so their numbers differentiating by gender and age, and whether any suspects were arrested and any perpetrators were convicted and if so their numbers;~~ <sup>55</sup>
  - ~~where the report led to any other action, the type of action, the state of play or outcome of that action and the reasons for taking it;~~
  - **where no action was taken, the reasons for not taking any action;**
- (b) the most important and recurrent risks of online child sexual abuse, as reported by providers of hosting services and providers of interpersonal communications services in accordance with Article ~~5-3~~ or identified through other information available ~~to the Coordinating Authority;~~
- (c) a list of the providers of hosting services and providers of interpersonal communications services to which the Coordinating Authority addressed a detection order in accordance with Article 7;

<sup>54</sup> PCY comment: While concluding that many delegations have objections to the level of detail in this provision and the inclusion of investigative information, the LEWP could reflect on developing the data collection from Coordinating Authorities on the basis of a delegated act, as in Article 84(6), and in combination with the IT system as provided for in Article 39 that will enable the swift collection of statistics.

<sup>55</sup> PCY comment: COM suggests reinstating this text, in coherence with the existing obligations under Article 8 of the Interim Regulation: “**whether victims were identified and rescued and if so their numbers differentiating by gender and age, and whether any suspects were arrested and any perpetrators were convicted and if so their numbers**”.

- (d) the number of detection orders issued in accordance with Article 7, broken down by provider and by type of online child sexual abuse, and the number of instances in which the provider invoked Article 8(3);
  - (e) a list of providers of hosting services to which ~~the Coordinating Authority issued a removal order~~ **or cross-border removal order were issued** in accordance with Articles 14 **and 14a**;
  - (f) the number of removal orders issued in accordance with Article 14, broken down by provider, ~~the time needed to remove or disable access to the item or items of child sexual abuse material concerned,~~ and the number of instances in which the provider invoked Article 14(5) and (6);
  - (g) the number of blocking orders issued in accordance with Article 16, broken down by provider, and the number of instances in which the provider invoked Article 17(4a) or (5);
  - ~~(h) a list of relevant information society services to which the Coordinating Authority addressed a decision taken pursuant to Articles 27, 28 or 29, the type of decision taken, and the reasons for taking it;~~
  - ~~(i) the instances in which the opinion of the EU Centre pursuant to Article 7(4)(d) substantially deviated from the opinion of the Coordinating Authority, specifying the points at which it deviated and the main reasons for the deviation;~~
  - (ga) the number of complaints received in accordance with Article 34 broken down by what the alleged infringement of this Regulation was concerned with and who submitted the complaint.**
3. The EU Centre shall collect data and generate statistics on the detection, reporting, removal of or disabling of access to online child sexual abuse under this Regulation. The data shall be in particular on the following topics:<sup>56</sup>
- (a) the number of indicators in the databases of indicators referred to in Article 44 and the development of that number as compared to previous years;
  - (b) the number of submissions of child sexual abuse material and solicitation of children referred to in Article 36(1), broken down by Member State that designated the submitting Coordinating Authorities, and, in the case of child sexual abuse material, the number of indicators generated on the basis thereof and the number of uniform resource locators included in the list of uniform resource locators in accordance with Article 44(3);

<sup>56</sup> PCY comment: It seems to the PCY that several items in paragraph 3 can only be properly assessed and discussed once increased clarity on the outcome of their respective basis is reached.

- (c) the total number of reports submitted to the EU Centre in accordance with Article 12, broken down by provider of hosting services and provider of interpersonal communications services that submitted the report and by Member State the competent authority of which the EU Centre forwarded the reports to in accordance with Article 48(3);
  - (d) ~~the online child sexual abuse to which the reports relate, including the number of~~ items of potential known and new child sexual abuse material and instances of potential solicitation of children **included in the reports** ~~the Member State the competent authority of which the EU Centre forwarded the reports to~~ in accordance with Article 48(3), and type of relevant information society service that the reporting provider offers;
  - (e) the number of reports that the EU Centre considered manifestly unfounded, as referred to in Article 48(2);
  - (f) the number of reports relating to potential new child sexual abuse material and solicitation of children that were assessed as not constituting child sexual abuse material of which the EU Centre was informed pursuant to Article 36(3), broken down by Member State;
  - (g) the results of the searches in accordance with Article 49(1), including the number of images, videos and URLs by Member State where the material is hosted;
  - (h) where the same item of potential child sexual abuse material was reported more than once to the EU Centre in accordance with Article 12 or detected more than once through the searches in accordance with Article 49(1), the number of times that that item was reported or detected in that manner.
  - (i) the number of notices and number of providers of hosting services notified by the EU Centre pursuant to Article 49(2);
  - (j) number of victims of online child sexual abuse assisted by the EU Centre pursuant to Article 21(2), and the number of these victims that requested to receive such assistance in a manner accessible to them due to disabilities.
4. **Providers of relevant information society services that were subject to orders under Articles 7, 14, 14a, 16 and 18a** ~~The providers of hosting services, providers of interpersonal communications services and providers of internet access services, the Coordinating Authorities [or other competent authorities]~~ and the EU Centre shall ensure that the data referred to in paragraphs 1, 2 and 3, respectively, is stored no longer than is necessary for the transparency reporting referred to in Article 84. The data ~~stored~~ **referred to in paragraphs 1 to 3** shall not contain any personal data.

5. They shall ensure that the data is stored in a secure manner and that the storage is subject to appropriate technical and organisational safeguards. Those safeguards shall ensure, in particular, that the data can be accessed and processed only for the purpose for which it is stored, that a high level of security is achieved and that the information is deleted when no longer necessary for that purpose. They shall regularly review those safeguards and adjust them where necessary.

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to supplement this Regulation with the necessary detailed rules concerning the process of data collection and categorisation of the data to be collected pursuant to paragraphs 1 to 4 for the purposes of follow up of the reports and the application of the Regulation.**

*Article 84*

*Transparency reporting*

1. Each provider of relevant information society services **that were subject to orders under Articles 7, 14, 14a, 16 and 18a during the relevant year** shall draw up an annual report on its activities under this Regulation. That report shall compile the information referred to in Article 83(1). The providers shall, by 31 January of every year subsequent to the year to which the report relates, make the report available to the public and communicate it to the Coordinating Authority of establishment, the Commission and the EU Centre.
2. Each Coordinating Authority shall draw up an annual report on its activities under this Regulation. That report shall compile the information referred to in Article 83(2). It shall, by 31 March of every year subsequent to the year to which the report relates, make the report available to the public and communicate it to the Commission and the EU Centre.
3. Where a Member State has designated several competent authorities pursuant to Article 25, it shall ensure that the Coordinating Authority draws up a single report covering the activities of all competent authorities under this Regulation and that the Coordinating Authority receives all relevant information and support needed to that effect from the other competent authorities concerned.
4. The EU Centre, ~~working in close cooperation with the Coordinating Authorities,~~ shall draw up an annual report on its activities under this Regulation. That report shall ~~also~~ compile and analyse the information contained in the reports referred to in paragraphs 2 and **Article 83(3)**. The EU Centre shall, by 30 June of every year subsequent to the year to which the report relates, make the report available to the public and communicate it to the Commission.
5. The annual transparency reports referred to in paragraphs 1, 2 and 3 shall not include any information that may prejudice ongoing activities for the assistance to victims or the prevention, detection, investigation or prosecution of child sexual abuse offences. They shall ~~also~~ not contain any personal data.
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to supplement this Regulation with the necessary templates and detailed rules concerning the form, precise content and other details of the reports and the reporting process pursuant to paragraphs 1, 2 and 3.

Obtenu par CONTEXTE

## CHAPTER VI

### FINAL PROVISIONS

#### *Article 85*

#### *Evaluation*

1. By [*five years after the entry into force of this Regulation*], and every five years thereafter, the Commission shall evaluate this Regulation and submit a report on its application to the European Parliament and the Council.
2. By [*five years after the entry into force of this Regulation*], and every five years thereafter, the Commission shall ensure that an evaluation in accordance with Commission guidelines of the EU Centre's performance in relation to its objectives, mandate, tasks and governance and location is carried out. The evaluation shall, in particular, address the possible need to modify the tasks of the EU Centre, and the financial implications of any such modification.
3. On the occasion of every second evaluation referred to in paragraph 2, the results achieved by the EU Centre shall be assessed **by the Commission**, having regard to its objectives and tasks, including an assessment of whether the continuation of the EU Centre is still justified with regard to those objectives and tasks.
4. The Commission shall report to the European Parliament and the Council the findings of the evaluation referred to in paragraph 3. The findings of the evaluation shall be made public.
5. For the purpose of carrying out the evaluations referred to in paragraphs 1, 2 and 3, the Coordinating Authorities and Member States and the EU Centre shall provide information to the Commission at its request.
6. In carrying out the evaluations referred to in paragraphs 1, 2 and 3, the Commission shall take into account the relevant evidence at its disposal.
7. Where appropriate, the reports referred to in paragraphs 1 and 4 shall be accompanied by legislative proposals.

## Article 86

### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3, 8, 13, 14, 17, 47 and 84 shall be conferred on the Commission for an indeterminate period of time from [*date of adoption of the Regulation*] <sup>57</sup>.
3. The delegation of power referred to in Articles 3, 8, 13, 14, 17, 47 and 84 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day after the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 3, 8, 13, 14, 17, 47 and 84 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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<sup>57</sup> PCY comment: The PCY has taken note of the comment from some delegations that the delegation in relation to Article 47 is concerned with subject-matters that may not be appropriate for such delegation due to its principal nature. The PCY suggests that this particular issue is discussed in connection with Article 47 and, where needed, in connection with the other Articles referred to here.

*Article 87*

*Committee procedure*

1. For the purposes of the adoption of the implementing acts referred to in Article 39(4), the Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Article 88<sup>58</sup>*

*Repeal*

Regulation (EU) 2021/1232 is repealed from [date of application of this Regulation].

*Article 89*

*Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from ~~18~~ 6-months after its entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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<sup>58</sup> PCY comment: Many delegations are in favour of exploring how the Temporary Regulation could be prolonged and/or how to allow voluntary detection on a permanent basis by including the provisions of the Temporary Regulation in this Regulation.



*Article 27 [clean version of former Art 27-30]**Investigatory and enforcement powers*

1. Where needed in order to carrying out their tasks under this Regulation, competent authorities shall have the following powers of investigation, in respect of conduct by providers of relevant information society services falling within the competence of their Member State:
  - (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;
  - (b) the power to carry out, or to request a judicial authority to order, inspections of any premises that those providers or those persons 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 in any form, irrespective of the storage medium;
  - (c) the power to ask any member of staff or representative of those providers or those persons to give explanations in respect of any information relating to a suspected infringement 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, blocking order or delisting order comply with the requirements of this Regulation.
2. Where needed for carrying out their tasks under this Regulation, competent authorities shall have the following enforcement powers, in respect of providers of relevant information society services falling within the competence of their Member State:
  - (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 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 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 this Regulation, including any of the investigative orders issued pursuant to paragraph 1 of this Article;

- (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 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.
- (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.

As regards the first subparagraph, points (c) and (d), competent authorities shall also have the enforcement powers set out in those points in respect of the other persons referred to in paragraph 1, for failure to comply with any of the orders issued to them pursuant to that paragraph. 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 period, the fines or periodic payments that may be imposed for failure to comply and the possibilities for redress.

3. Where needed for carrying out their tasks under this Regulation, competent authorities shall, in respect of providers of relevant information society services falling within the competence of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted and the infringement has not been remedied or is continuing and is 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:

- (a) to require the management body of the providers, without undue delay, to examine the situation, to adopt and submit an action plan setting out the necessary measures to terminate the infringement, to ensure that the provider takes those measures, and to report on the measures taken;
- (b) where the competent authorities, including the Coordinating 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 Member State 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.

The competent authorities, including the Coordinating Authorities, shall, prior to submitting the request referred to in this paragraph, 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.

Any measure ordered 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 restriction of access shall be 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 competent authorities 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 competent authorities referred to in the previous subparagraph shall only extend the period where, having regard to the rights and interests of all parties affected by that restriction and all relevant 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 competent authority considers that the conditions set out in the fourth subparagraph, points (a) and (b) have been met but it cannot further extend the period pursuant to the fourth subparagraph, it shall submit a new request to the competent judicial authority or other independent administrative authority, as referred to in the first subparagraph, point (b).

- 4. The measures taken by the competent authorities, including the Coordinating Authorities, in the exercise of their powers listed in paragraphs 1, 2 and 3 shall be effective, dissuasive and proportionate, having regard, in particular, to the nature, gravity, recurrence and duration of the infringement 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.
- 5. 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 powers 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. 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 affected parties.

Following the new governance model concerning Coordinating Authorities and competent authorities, tasks can now be attributed to any competent authority, unless it is specified that they should be reserved for Coordinating Authorities.

Coordinating Authorities are competent authorities acting as contact points and coordinating bodies at national and EU level.

Coordination at national level entails the centralisation of information concerning the implementation of the regulation, and the handling of complaints on its infringement. In particular, the following tasks are reserved for Coordinating Authorities:

- Receiving copies of all final removal, blocking orders and delisting orders issued by competent authorities in their Member State of establishment;
- Handling complaints for infringements of the Regulation under Article 34;
- Receiving ~~transcripts~~ **extracts** of **written** conversations and items of materials identified as constituting online CSA by competent authorities in their Member State of establishment in accordance with Article 36;
- Transmitting copies of cross-border removal orders received from other Member States to the competent authority in their Member State of establishment, if needed;
- Collecting the information referred to in Article 83(2) in relation to their Member State of establishment, with the cooperation of all national competent authorities;
- **Direct exchanges between Coordinating Authorities and service providers or between Coordinating Authorities and victims;**
- **The power of initiative of Coordinating Authorities to obtain the issuance of a detection order;**
- **The appointment of a contact officer for the EU Centre;**
- **The appointment of a representative of the Coordinating Authorities to sit on the Board of Directors;**
- **The drafting of an annual activity report.**

Coordination at EU level entails (i) channelling of information gathered in their Member State of establishment to other Coordinating Authorities and the EU Centre, (ii) cooperating with these authorities, as well as with the Commission, and (iii) dispatching the information coming from the EU Centre and other Coordinating Authorities to other competent authorities in their Member State of establishment. In particular, the following tasks are reserved for Coordinating Authorities:

- Coordinating with Commission and EU Centre for the issuance of guidelines on detection and reporting under Articles 11 and 12.
- Receiving copies of cross-border removal orders from Coordinating Authority of issuing Member State (14(a)(1)).
- Transmitting copy of final removal, blocking and delisting orders issued in their Member State to all other Competent Authorities and EU Centre
- Submitting items of materials, transcripts **extracts** of **written** conversations and exact uniform resource locators to the EU Centre in accordance with Article 36(1), as well as providing further clarifications and information to the EU Centre if needed, in accordance with Article 36(2).
- Submitting requests for cross border cooperation in accordance with Article 37(1), receiving the Commission recommendations in line with the same paragraph and communicating the outcome of the assessment of the suspected infringement in accordance with Article 37(4).
- Participating in joint investigations in accordance with Article 38.
- Exchanging information with other Coordinating Authorities under Article 38a
- Communicating with other Coordinating Authorities, the Commission, the EU Centre and other relevant Union agencies through the reliable and secure information sharing system referred to in Article 39(2).
- Making available to the EU Centre the information referred in Article 83(2).