



Council of the
European Union

Brussels, 16 February 2023
(OR. en)

6276/23

Interinstitutional File:
2022/0155(COD)

LIMITE

JAI 141
ENFOPOL 58
CRIMORG 12
IXIM 25
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CODEC 162

NOTE

From:	Presidency
To:	Law Enforcement Working Party (Police)
No. prev. doc.:	9068/22, 12354/22, 14008/22, 14143/22
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 24 February 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 document 14143/22 are marked in **bold underline** and ~~strikethrough underline~~.

The text in the Annex is focused on Articles 2 and 12 to 18c. The aim of the Presidency has been to take into account comments made by delegations, including in writing, and to make a series of adjustments in order to provide for consistency and legal clarity.

The Presidency wishes in particular to highlight that the structure for applying the Regulation is complex and comprises one or more competent authorities, the Coordinating Authority and the EU Centre. The possible role of the Digital Services Coordinator according to the Digital Services Act has also been mentioned in this context.

While a national competent authority can also be the Coordinating Authority (but does not have to), it will still be the choice of Member States how to organise themselves for the purposes of the Regulation, including by dividing the CSA related tasks between several national authorities that can be administrative, law enforcement or judicial authorities.

In its compromise proposals, the Presidency has considered the Coordinating Authority as an interface between the national authorities involved and the EU Centre. Besides fulfilling the role as coordinator, the Coordinating Authority may also be mandated to carry out certain tasks. Member States may for instance choose if it is the competent authority or the Coordinating Authority that will be designated to follow-up blocking orders.

In summary, the Presidency has sought to accommodate the text to the need for flexibility that Member States have expressed. Given the layer of involved entities, the attainment of flexibility has however in some instance also made the text slightly more complex. This is for instance the case with the wording “if necessary via the Coordinating Authority” that appears in the new compromise text.

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

(Text with EEA relevance)

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

[...]

[No new compromise texts in this Article]

Article 2

Definitions

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) ‘interpersonal communications service’ means a publicly available service as defined in Article 2, point 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;
- (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 Council¹;
- (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.**
- (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;
- (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~~ **18** years
- (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 enterprises²;
- (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);

¹ 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).

² 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).

- (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;
- (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]*;
- (y) ‘uniform resource locator’ means ...³

³ PCY comment: COM to provide a definition.

CHAPTER II

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

Section 1 Risk assessment and mitigation obligations

Article 3

Risk assessment

[...]

[No new compromise texts in this Article]

Article 4

Risk mitigation

[...]

[No new compromise texts in this Article]

Article 5

Risk reporting

[...]

[No new compromise texts in this Article]

Article 6

Obligations for software application stores

[...]

[No new compromise texts in this Article]

Section 2 **Detection obligations**

Article 7

Issuance of detection orders

[...]

[No new compromise texts in this Article]

Article 8

Additional rules regarding detection orders

[...]

[No new compromise texts in this Article]

Article 9

Redress, information, reporting and modification of detection orders

[...]

[No new compromise texts in this Article]

Article 10

Technologies and safeguards

[...]

[No new compromise texts in this Article]

Article 11

Guidelines regarding detection obligations

[...]

[No new compromise texts in this Article]

Section 3

Reporting obligations

Article 12

Reporting obligations

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

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

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

3. The provider shall establish and operate an **easy to access** ~~accessible~~, **effective**, age-appropriate and user-friendly mechanism that allows users to **notify flag** to the provider potential online child sexual abuse on the service. **Those mechanisms shall allow for the submission of notices anonymously and exclusively by electronic means.**

4. The mechanisms referred to in paragraph 3 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 to enable and to facilitate the submission of notices containing all of the following elements:

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

Article 13

Specific requirements for reporting⁴

1. Providers of hosting services and providers of interpersonal communications services shall submit the report referred to in Article 12 using the template set out in Annex III. The report shall include:
 - (a) identification details of the provider and, where applicable, its legal representative;
 - (b) the date, time stamp and electronic signature of the provider;
 - (ba) manner in which the provider became aware of the potential child sexual abuse;**
 - (c) ~~all content data, including images, videos and text;~~
 - (d) all available data ~~other than content data~~ related to the potential online child sexual abuse;
 - (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 zone, and port number;**
 - (g) information concerning the identity of any user involved in the potential online child sexual abuse;

⁴ PCY comment: Article 18 DSA provides for an obligation for hosting services to report directly to national law enforcement services when they are aware of situations concerning a threat to life or security. This Article provides for a broader obligation to report via the EU Centre including also providers of interpersonal electronic communications. Do Member States think it should be explored if and how the risk for double reporting could be avoided?

- (h) whether the provider has also reported, or will also report, the potential online child sexual abuse to a public authority or other entity competent to receive such reports of a third country and if so, which authority or entity;
 - (i) where the potential online child sexual abuse concerns the dissemination of known or new child sexual abuse material, whether the provider has removed or disabled access to the material;
 - (j) whether the provider considers that the report requires urgent action;
 - (k) a reference to this Regulation as the legal basis for reporting.
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.

Section 4 Removal obligations

Article 14

Removal orders

- ~~1. The Coordinating Authority of establishment shall have the power to request the competent judicial authority of the Member State that designated it or another independent administrative authority of that Member State to issue a removal order requiring a provider of hosting services under the jurisdiction of the Member State that designated that Coordinating Authority to remove or disable access in all Member States of one or more specific items of material that, after a diligent assessment, the Coordinating Authority or the courts or other independent administrative authorities referred to in Article 36(1) identified as constituting child sexual abuse material.~~
- 1. The competent authority⁵ shall have the power to issue a removal order requiring a provider of hosting services to remove or disable access in all Member States of one or more specific items of material that, after a diligent assessment, the Coordinating Authority or the courts or other independent administrative authorities referred to in Article 36(1) is identified as constituting child sexual abuse material.**

⁵ PCY comment: we understand that “competent authority” in the meaning of Article 14 is the same as “competent authority” in the meaning of Article 25. As Member States are free to designate judicial authorities and administrative authorities as their “competent authorities” under Article 25, nothing prevents Member States from designating judicial authorities as “competent authorities”.

2. The provider shall execute the removal order as soon as possible and in any event within 24 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).**

2a. Before issuing a removal order, the issuing authority shall inform the provider, if necessary via the Coordinating Authority, of its intention to do so specifying the main elements of the content of the intended removal order and the reasons for its intention. It shall afford the provider an opportunity to comment on that information, within a reasonable time period set by that authority.

2b. A removal order shall be issued where the following conditions are met:

(a) all investigations and assessments necessary have been carried out;

(b) the reasons for issuing the removal 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 the views of the provider submitted in accordance with paragraph 2a.

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 information for the identification of 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:

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

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

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

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, if necessary via the** ~~Coordinating Authority, 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 the **authority issuing the order, if necessary via the** ~~Coordinating Authority, 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~~ **if necessary via the Coordinating Authority**, of the measures taken to execute the removal order, indicating, in particular, whether the provider removed the child sexual abuse material or disabled access thereto in all Member States and the date and time thereof.
8. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 in order to amend Annexes IV, V and VI where necessary to improve the templates in view of relevant technological developments or practical experiences gained.

Article 14a

Procedure for cross-border removal orders

1. **Subject to Article 14, where the hosting service provider does not have its main establishment or legal representative in the Member State of the authority that issued the removal order, that authority shall, simultaneously, transmit, if necessary via 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 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 7 of this Article.**
3. **The Coordinating Authority or the competent authority of the Member State where the hosting service provider has its main establishment or where its legal representative resides or is established may, on its own initiative, within 72 hours of receiving the copy of the removal order in accordance with paragraph 1, scrutinise the removal order to determine whether it seriously or manifestly infringes this Regulation or the fundamental rights and freedoms guaranteed by the Charter.**
Where it finds an infringement, it shall, within the same period, adopt a reasoned decision to that effect.
4. **The Coordinating Authority or the competent authority shall, before adopting a decision pursuant to the second subparagraph of paragraph 3, inform the competent authority that issued the removal order, if necessary via the Coordinating Authority, of its intention to adopt the decision and of its reasons for doing so.**

5. Where the Coordinating Authority or the competent authority adopts a reasoned decision in accordance with paragraph 3 of this Article, it shall, without delay, transmit that decision to the authority that issued the removal order, the hosting service provider and the EU Centre, if necessary via the Coordinating Authority.

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 6, the hosting service provider concerned shall immediately 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 modified or repealed as a result of a redress procedure, the provider shall immediately reinstate the material or access thereto or take other necessary measures.**

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) of** to the Coordinating Authority ~~of establishment~~. The Coordinating Authority ~~of establishment~~ shall then, without undue delay, transmit ~~a copy~~ **copies** thereof to all other Coordinating Authorities **and the EU Centre** through the system established in accordance with Article 39(2).

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

3. Where a provider removes or disables access to child sexual abuse material pursuant to a removal order issued in accordance with Article 14, it shall without undue delay, inform the user who provided the material of the following:
- (a) the fact that it removed the material or disabled access thereto;
 - (b) the reasons for the removal or disabling, providing a copy of the removal order upon the user's request;
 - (c) the users' rights of judicial redress referred to in paragraph 1 and to submit complaints to the Coordinating Authority in accordance with Article 34.

4. The **issuing authority** ~~Coordinating Authority of establishment~~ may **decide request**, when ~~requesting the judicial authority or independent administrative authority issuing the removal order, and~~ after having consulted **if necessary** with relevant public authorities, that the provider is not to disclose any information regarding the removal of or disabling of access to the child sexual abuse material, where and to the extent necessary to avoid interfering with activities for the prevention, detection, investigation and prosecution of child sexual abuse **or related criminal** offences.

In such a case:

- (a) the ~~judicial authority or independent administrative authority~~ issuing the removal order shall **inform, if necessary via the Coordinating Authority, the provider of its decision specifying the applicable time period that shall be** ~~set the time period~~ not longer than necessary and not exceeding 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, **if necessary via the Coordinating Authority,** the provider of its decision, specifying the applicable time period. ~~Article 14(3) shall apply to that decision.~~

Section 5 Blocking obligations

Article 16

Blocking orders

1. The **competent authority** ~~Coordinating Authority of establishment~~ shall have the power to ~~request the competent judicial authority of the Member State that designated it or an independent administrative authority of that Member State~~ to issue a blocking order requiring a provider of internet access services under the jurisdiction of that Member State to take reasonable measures to prevent users from accessing ~~known~~ child sexual abuse material indicated by all uniform resource locators on the list of uniform resource locators included in the database of indicators, in accordance with Article 44(2), point (b) and provided by the EU Centre.
- 1a. The provider shall execute the blocking order without undue delay or, where applicable, within the reasonable time period set by the issuing authority. 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.~~

2. **Before issuing a blocking order, the issuing authority shall inform the provider, if necessary via the Coordinating Authority, of its intention to do so specifying the main elements of the content of the intended blocking order and the reasons for its intention. It shall afford the provider an opportunity to comment on that information, within a reasonable time period set by that authority.**

~~3. The Coordinating Authority of establishment shall, before requesting the issuance of the blocking order, inform the provider of its intention to request the issuance of the blocking order, specifying the main elements of the content of the intended blocking order and the reasons to request the blocking order. It shall afford the provider an opportunity to comment on that information, within a reasonable time period set by that Coordinating authority.~~

4. ~~The Coordinating Authority of establishment shall request the issuance of the blocking order, and the competent judicial authority or independent authority shall issue the A blocking order **shall be issued**; where it considers that the following conditions are met:~~

- (a) **other equally effective and less intrusive measures than blocking cannot be taken to prevent access to child sexual abuse material or it is likely that such measure will fail**; ~~there is evidence of the service having been used during the past 12 months, to an appreciable extent, for accessing or attempting to access child sexual abuse material indicated by the uniform resource locators;~~
- (b) the blocking order is necessary to prevent the dissemination of ~~the~~ child sexual abuse material ~~to users~~ in the Union, having regard ~~in particular to the quantity and nature of the material,~~ **to the need to protect the rights of the victims and the existence and implementation by the provider of a policy to address the risk of such dissemination**;
- (c) **all necessary investigations and assessments have been carried out to ensure that** the uniform resource locators ~~indicate~~ **correspond**, in a sufficiently reliable manner, **to online locations where** child sexual abuse material **can be found**;
- (d) the reasons for issuing the blocking order outweigh negative consequences for the rights and legitimate interests of all parties affected, having regard in particular to the need to ensure a fair balance between the fundamental rights of those parties, including the exercise of the users' freedom of expression and information and the provider's freedom to conduct a business.

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

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

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

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

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

Article 17

Additional rules regarding blocking orders

1. ~~The Coordinating Authority of establishment shall issue the~~ **A** ~~blocking orders referred to in Article 16 shall be issued~~ using the template set out in Annex VII. Blocking orders shall include:
 - (a) the reference to the list of uniform resource locators, provided by the EU Centre, and the safeguards to be provided for, including the limits and safeguards specified pursuant to Article 16(5) and, where applicable, the reporting requirements set pursuant to Article 18(6)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) the **child sexual abuse material and its online location** ~~specific service~~ in respect of which the **blocking** ~~detection~~ order is issued;
 - (e) the start date and the end date of the blocking order;**(ea) where applicable, the effective and proportionate limits and necessary safeguards;**

⁶ PCY comment: PCY observes that the proposal means that a blocking order can only be issued if the subject-matter of the blocking is on the list provided for by the EU Centre. Do Member States think that there should be such a requirement? Or should it be sufficient that Member States share their blocking orders with the EU Centre and other Member States once they become final?

(f) a sufficiently detailed statement of reasons explaining why the blocking order is issued;

(fa) where applicable, reporting requirements;

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

4. The blocking order shall be ~~drafted-transmitted~~ in any of the official languages declared by the provider pursuant to Article 23(3).

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

4a. If the provider cannot execute the blocking order on grounds of force majeure or de facto impossibility not attributable to it, including for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the authority issuing the order, if necessary via the Coordinating Authority 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 the ~~authority issuing the order Coordinating Authority of establishment~~, **if necessary via the Coordinating Authority**, 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, if necessary via the Coordinating 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, if necessary via the Coordinating Authority, 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, if necessary via the Coordinating Authority, the provider shall also provide, without undue delay, such reports or any other information relating to the execution of the blocking order needed for the purpose of the assessment referred to in Article 16(7).

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

Article 18

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

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

1a. If the order is modified or repealed as a result of a redress procedure, the provider shall immediately reinstate the material or access thereto or take other necessary measures.

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.⁷
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.~~

⁷ PCY comment: PCY observes that this complaint mechanism applies only to blocking orders. Do Member States think that a horizontal complaint mechanism should be explored, taking into account also Article 20 DSA?

Section 5a
Delisting obligations

Article 18a

Delisting orders

1. **The competent authority shall have the power to issue an order requiring a provider of online search engines under the jurisdiction of that Member State to take reasonable measures to delist a Uniform Resource Locator corresponding to online locations where child sexual abuse material can be found from appearing in search results.**
2. **The provider shall execute the delisting order without undue delay. The provider shall take the necessary measures to ensure that it is capable of reinstating the Uniform Resource Locator to appear in search results in accordance with Article 18c(2).**
3. **Before issuing a delisting order, the issuing authority shall inform the provider, if necessary via the Coordinating Authority, of its intention to do so specifying the main elements of the content of the intended delisting order and the reasons for its intention. It shall afford the provider an opportunity to comment on that information, within a reasonable time period set by that authority.**
4. **A delisting order shall be issued where the following conditions are met:**
 - (a) **the delisting is necessary to prevent the dissemination of the child sexual abuse material in the Union, having regard in particular to the need to protect the rights of the victims;**
 - (b) **all necessary investigations and assessments, including of search results, have been carried out to ensure that the Uniform Resource Locator to be delisted correspond, in a sufficiently reliable manner, to online locations where child sexual abuse material can be found.**
5. **The issuing authority shall specify in the delisting order the period during which it applies, indicating the start date and the end date.**

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

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

Article 18b

Additional rules regarding delisting orders

1. A delisting order shall be issued using the template set out in annex zz. Delisting orders shall include:
 - (a) identification details of the authority issuing the delisting order and authentication of the order by that authority;
 - (b) the name of the provider and, where applicable, its legal representative;
 - (c) the Uniform Resource Locator in respect of which the delisting order is issued;
 - (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;
 - (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, if necessary via the Coordinating Authority, 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 and to the EU Centre, through the system established in accordance with Article 39(2).

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

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

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

The authority issuing the order may require the provider to report to it regularly, if necessary via the Coordinating Authority, 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 providers of delisted Uniform Resource Locators corresponding to blocked online locations 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 modified or repealed as a result of a redress procedure, the provider shall immediately reinstate the delisted Uniform Resource Locator to appearing in search results.**
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. The Coordinating Authority shall then, without undue delay, transmit a copies thereof to all other Coordinating Authorities and the EU Centre through the system established in accordance with Article 39(2).**

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

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