



**2018/0107(COD)**

6.12.2019

# **AMENDMENTS**

## **1 - 26**

**Draft report**  
**Birgit Sippel**  
(PE642.979v02-00)

Harmonised rules on the appointment of legal representatives for the purpose  
of gathering evidence in criminal proceedings

Proposal for a directive  
(COM(2018)0226 – C8-0154/2018 – 2018/0107(COD))

AM\_Com\_LegReport

**Amendment 1**  
**Sergey Lagodinsky**

**Proposal for a directive**

—

*Proposal for a rejection*

***The European Parliament rejects the  
Commission proposal.***

Or. en

**Amendment 2**  
**Cornelia Ernst**

**Proposal for a directive**

—

*Proposal for a rejection*

***The European Parliament rejects the  
Commission proposal.***

Or. en

**Amendment 3**  
**Claude Moraes**

**Proposal for a directive**

—

*Proposal for a rejection*

***The European Parliament rejects the  
Commission proposal.***

Or. en

**Amendment 4**  
**Nuno Melo**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) To avoid such fragmentation and to ensure that undertakings active in the internal market are subject to the same or similar obligations, the Union has adopted a number of legal acts in related fields such as data protection<sup>17</sup>. ***To increase the level of protection for the data subjects, the rules of the General Data Protection Regulation<sup>18</sup> provide*** for the designation of a legal representative in the Union by controllers or processors not established in the Union but offering goods or services to individuals in the Union or monitoring their behaviour if their behaviour takes place within the Union, unless the processing is occasional, does not include processing, on a large scale, of special categories of personal data or the processing of personal data relating to criminal convictions and offences, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing or if the controller is a public authority or body.

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<sup>17</sup> ***Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31); Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1); Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the***

*Amendment*

(6) To avoid such fragmentation and to ensure that undertakings active in the internal market are subject to the same or similar obligations, the Union has adopted a number of legal acts in related fields such as data protection . ***In particular,*** Regulation (EU) 2016/679 ('GDPR')<sup>18</sup> ***provides*** for the designation of a legal representative in the Union by controllers or processors not established in the Union but offering goods or services to individuals in the Union or monitoring their behaviour if their behaviour takes place within the Union, unless the processing is occasional, does not include processing, on a large scale, of special categories of personal data or the processing of personal data relating to criminal convictions and offences, and is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing or if the controller is a public authority or body.

***processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).***

<sup>18</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

<sup>18</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

Or. en

## **Amendment 5**

### **Nuno Melo**

## **Proposal for a directive**

### **Recital 7**

#### *Text proposed by the Commission*

(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of decisions issued by competent authorities in the Member States for the purposes of gathering evidence in criminal proceedings, the existing obstacles to the free provision of services should be removed, as well as ***the future imposition of*** divergent national approaches in that regard should be prevented. Level playing field for service providers should be established. Moreover, more effective criminal law enforcement in the common area of freedom, security and justice should be facilitated.

#### *Amendment*

(7) By setting out harmonised rules on the legal representation of certain service providers in the Union for receipt of, compliance with and enforcement of decisions issued by competent authorities in the Member States for the purposes of gathering evidence in criminal proceedings, the existing obstacles to the free provision of services should be removed, as well as divergent national approaches in that regard should be prevented. Level playing field for service providers should be established. Moreover, more effective criminal law enforcement in the common area of freedom, security and justice should be facilitated ***and accelerated.***

Or. en

**Amendment 6**  
**Nuno Melo**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) Member States *shall* ensure that the obligation to designate a legal representative *is immediate, that is* from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of transposition.

*Amendment*

(9) ***When transposing this Directive,*** Member States *should* ensure that the obligation to designate a legal representative ***takes place without undue delay*** from the date of transposition set out in Article 7 for service providers that offer services in the Union at that date, or from the moment service providers start offering services in the Union for those service providers that will start offering services after the date of transposition ***thereafter***.

Or. en

**Amendment 7**  
**Nuno Melo**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

(12) The determination whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in the Union to use its services. ***However, the mere accessibility of an online interface (for instance the accessibility of the service provider's or an intermediary's website or of an email address and of other contact details) taken in isolation should not be a sufficient condition for the application of this Directive.***

*Amendment*

(12) The determination whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in the Union to use its services ***and has a substantial connection to one or more Member States.***

Or. en

**Amendment 8**  
**Nuno Melo**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) ***A substantial connection to the Union should also be relevant to determine the ambit of application of this Directive. Such*** a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union. In the absence of such an establishment, the criterion of a substantial connection should be assessed on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States ***can*** be determined on the basis of all relevant circumstances, ***including factors such as*** the use of a language or a currency generally used in that Member State, or the possibility of ordering goods or services. The targeting of activities towards a Member State could also be derived from the availability of an application ('app') in the relevant national app store, ***from providing*** local advertising or advertising in ***the*** language used in that Member State, or ***from the handling of customer relations such as by providing*** customer service in ***the*** language generally used in that Member State. A substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17(1)(c) of Regulation 1215/2012 ***on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. On the other hand, provision of the service in view of mere compliance with the prohibition to discriminate laid down in Regulation (EU) 2018/302***<sup>19</sup>

*Amendment*

(13) A substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union. In the absence of such an establishment, the criterion of a substantial connection should be assessed on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States ***should*** be determined on the basis of all relevant circumstances. ***The circumstances include*** the use of a language or a currency generally used in that Member State, or the possibility of ordering goods or services. The targeting of activities towards a Member State could also be derived from the availability of an application ('app') in the relevant national app store, ***the provision of*** local advertising or advertising in ***a*** language used in that Member State, or ***the provision of*** customer service in ***a*** language generally used in that Member State. A substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17(1)(c) of Regulation 1215/2012<sup>18a</sup>. ***However, the mere accessibility of an online interface such as the website of the service provider or an intermediary, an email address and other contact details taken in isolation should not be a sufficient condition for the application of this Directive. Moreover, the provision of a service in view of mere compliance with the prohibition to discriminate laid down in Regulation (EU) 2018/302***<sup>19</sup> cannot be, on that ground alone, be considered as directing or

cannot be, on that ground alone, be considered as directing or targeting activities towards a given territory within the Union. The same considerations should apply to determine whether a service provider offers services in a Member State.

targeting activities towards a given territory within the Union. The same considerations should apply to determine whether a service provider offers services in a Member State.

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<sup>19</sup> Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).

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<sup>18a</sup> ***Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (OJ L 351, 20.12.2012, p.1-32).***

<sup>19</sup> Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 601, 2.3.2018, p. 1).

Or. en

## **Amendment 9**

### **Nuno Melo**

#### **Proposal for a directive**

#### **Recital 14**

##### *Text proposed by the Commission*

(14) Service providers obliged to designate a legal representative should be able to choose to that effect an existing establishment in a Member State, be it a corporate body or a branch, agency, office or a main seat or headquarters, and also more than one legal representative. Nevertheless, a corporate group should not be forced to designate multiple representatives, one for each undertaking

##### *Amendment*

(14) Service providers obliged to designate a legal representative should be able to choose to that effect an existing establishment in a Member State, be it a corporate body or a branch, agency, office or a main seat or headquarters, and also more than one legal representative. Nevertheless, a corporate group should not be forced to designate multiple representatives, one for each undertaking



part of that group. Different instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union apply in the relationships between Member States when gathering evidence in criminal proceedings. As a consequence of this ‘variable geometry’ that exists in the common area of criminal law, there is a need to ensure that the Directive does not facilitate the creation of further disparities or obstacles to the provision of services in the internal market by allowing service providers offering services on their territory to designate legal representatives within Member States that do not take part in relevant legal instruments, which would fall short of addressing the problem. Therefore, at least one representative should be designated in a Member State that participates in the relevant Union legal instruments to avoid the risk of weakening the effectiveness of the designation provided for in this Directive and to make use of the synergies of having a legal representative for the receipt of, compliance with and enforcement of decisions and orders issued in the context of gathering evidence in criminal proceedings, including under the [Regulation] or the 2000 Mutual Legal Assistance Convention. In addition, designating a legal representative, which could also be utilised to ensure compliance with national legal obligations, makes use of the synergies of having a clear point of access to address the service providers for the purpose of gathering evidence in criminal matters.

part of that group. Different instruments adopted within the scope of Title V, Chapter 4, of the Treaty on the Functioning of the European Union apply in the relationships between Member States when gathering evidence in criminal proceedings. As a consequence of this ‘variable geometry’ that exists in the common area of criminal law, there is a need to ensure that the Directive does not facilitate the creation of further disparities or obstacles to the provision of services in the internal market by allowing service providers offering services on their territory to designate legal representatives within Member States that do not take part in relevant legal instruments, which would fall short of addressing the problem. Therefore, at least one representative should be designated in a Member State that participates in the relevant Union legal instruments to avoid the risk of weakening the effectiveness of the designation provided for in this Directive and to make use of the synergies of having a legal representative for the receipt of, compliance with and enforcement of decisions and orders issued in the context of gathering evidence in criminal proceedings, including under the [Regulation], **Directive 2014/41/EU<sup>1a</sup>** or the 2000 Mutual Legal Assistance Convention. In addition, designating a legal representative, which could also be utilised to ensure compliance with national legal obligations, makes use of the synergies of having a clear point of access to address the service providers for the purpose of gathering evidence in criminal matters.

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<sup>1a</sup> **Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p.1-36)**

Or. en

**Amendment 10**  
**Nuno Melo**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

(16) The service providers most relevant for gathering evidence in criminal proceedings are providers of electronic communications services and specific providers of information society services that facilitate interaction between users. Thus, both groups should be covered by this Directive. Providers of electronic communication services are defined in *the proposal for a Directive establishing the* European Electronic Communications Code. They include inter-personal communications such as voice-over-IP, instant messaging and e-mail services. The categories of information society services included here are those for which the storage of data is a defining component of the service provided to the user, and refer in particular to social networks to the extent they do not qualify as electronic communications services, online marketplaces facilitating transactions between their users (such as consumers or businesses) and other hosting services, including where the service is provided via cloud computing. Information society services for which the storage of data is not a defining component, and for which it is only of an ancillary nature, such as legal, architectural, engineering and accounting services provided online at distance, should be excluded from the scope of this Directive, even where they may fall within the definition of information society services as per Directive (EU) 2015/1535.

*Amendment*

(16) The service providers most relevant for gathering evidence in criminal proceedings are providers of electronic communications services and specific providers of information society services that facilitate interaction between users. Thus, both groups should be covered by this Directive. Providers of electronic communication services are defined in Directive **2018/1972<sup>1a</sup>** ('European Electronic Communications Code'). They include inter-personal communications such as voice-over-IP, instant messaging and e-mail services. The categories of information society services included here are those for which the storage of data is a defining component of the service provided to the user, and refer in particular to social networks to the extent they do not qualify as electronic communications services, online marketplaces facilitating transactions between their users (such as consumers or businesses) and other hosting services, including where the service is provided via cloud computing. Information society services for which the storage of data is not a defining component, and for which it is only of an ancillary nature, such as legal, architectural, engineering and accounting services provided online at distance, should be excluded from the scope of this Directive, even where they may fall within the definition of information society services as per Directive (EU) 2015/1535.

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<sup>1a</sup> **Directive (EU) 2018/1972 of the European Parliament and the Council of**

**Amendment 11  
Nuno Melo**

**Proposal for a directive  
Recital 19**

*Text proposed by the Commission*

(19) Service providers should notify the Member State ***in which*** the legal representative resides or is established of the identity and contact details of their legal representative, as well as related changes and updates of information. The notification should also provide information about the languages in which the legal representative can be addressed, which should include at least one of the official languages of the Member State where the legal representative resides or is established, but may include other official languages of the Union, such as the language of its headquarters. When the service provider designates more than one legal representative, it may also notify considerations to determine which one should be addressed. These considerations are not binding for Member States' authorities, but should be followed except in duly justified cases. All this information, which is of particular relevance for Member States' authorities, should be made publicly available by the service provider, for example on its website, in a manner comparable to the requirements for making available general information pursuant to Article 5 Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market<sup>20</sup> (e-Commerce Directive). For those service

*Amendment*

(19) Service providers should notify the Member State ***on whose territory*** the legal representative resides or is established of the identity and contact details of their legal representative, as well as related changes and updates of information ***without undue delay***. The notification should also provide information about the languages in which the legal representative can be addressed, which should include at least one of the official languages of the ***respective*** Member State where the legal representative resides or is established, but may include other official languages of the Union, such as the language of its headquarters. When the service provider designates more than one legal representative, it may also notify considerations to determine which one should be addressed. These considerations are not binding for Member States' ***competent authorities for the prevention, detection, investigation and prosecution of crimes***, but should be followed except in duly justified cases. All this information, which is of particular relevance for Member States' authorities, should be made publicly available by the service provider, for example on its website, in a manner comparable to the requirements for making available general information pursuant to Article 5 ***of*** Directive 2000/31/EC on certain legal aspects of

providers subject to the e-Commerce Directive, **Article 3(3) complements but does** not replace these requirements. Furthermore, Member States should also publish the relevant information **for** their country on a dedicated site **of** the e-Justice portal to facilitate coordination between Member States **and use of the legal representative by** authorities from **another Member State**.

information society services, in particular electronic commerce, in the Internal Market<sup>20</sup> ('e-Commerce Directive'). For those service providers subject to the e-Commerce Directive **the requirements provided by this Directive but do** not replace these requirements. Furthermore, Member States should also publish the relevant information **regarding the legal representatives residing or established on** their country on a dedicated site **to be set up on** the e-Justice portal to facilitate coordination between Member States **to allow competent** authorities from **other Member States to quickly identify and address the legal representatives**.

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<sup>20</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1).

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<sup>20</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1).

Or. en

## Amendment 12

### Nuno Melo

#### Proposal for a directive

#### Recital 20

##### *Text proposed by the Commission*

(20) The infringement of the obligations to designate a legal representative and to notify and make publicly available the information related thereto should be subject to effective, proportionate and dissuasive sanctions. Under no circumstances should the sanctions determine a ban, permanent or temporary, of service provision. Member States should coordinate their enforcement action where a service provider offers services in several Member States. To ensure a coherent and

##### *Amendment*

(20) The infringement of the obligations to designate a legal representative and to notify and make publicly available the information related thereto should be subject to effective, proportionate and dissuasive sanctions. Under no circumstances should the sanctions determine a ban, permanent or temporary, of service provision. Member States should coordinate their enforcement action where a service provider offers services in several Member States **with a view to ensure an**

proportionate approach, a coordination mechanism is provided. The Commission **could** facilitate such coordination if necessary, but **needs to** be informed of cases of infringement. This Directive does not govern the contractual arrangements for transfer or shifting of financial consequences between service providers and legal representatives of sanctions imposed upon them.

**equivalent level of sanctions.** To ensure a coherent and proportionate approach, a coordination mechanism is provided. The Commission **should** facilitate such coordination if necessary, but **should in any case** be informed of **all** cases of infringement. This Directive does not govern the contractual arrangements for transfer or shifting of financial consequences between service providers and legal representatives of sanctions imposed upon them.

Or. en

### **Amendment 13** **Nuno Melo**

#### **Proposal for a directive** **Recital 22**

##### *Text proposed by the Commission*

(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should be put in place. For that purpose, Member States should designate a central authority that can provide central authorities in other Member States with information and assistance in the application of the Directive, in particular where enforcement actions under the Directive are considered. This coordination mechanism should ensure that relevant Member States are informed of the intent of a Member State to undertake an enforcement action. In addition, Member States should ensure that central authorities can provide each other with assistance in those circumstances, and cooperate with each other where relevant. Cooperation amongst central authorities in the case of an enforcement action may entail the coordination of an enforcement action between competent authorities in different Member States. For the

##### *Amendment*

(22) In order to ensure the application of the Directive in a consistent manner, additional mechanisms for the coordination between Member States should be put in place. For that purpose, Member States should designate a central authority that can provide central authorities in other Member States with information and assistance in the application of the Directive, in particular where enforcement actions under the Directive are considered. This coordination mechanism should ensure that relevant Member States are informed of the intent of a Member State to undertake an enforcement action, ***including as regards service providers established outside the Union which have failed to designate a legal representative.*** In addition, Member States should ensure that central authorities can provide each other with assistance in those circumstances, and cooperate with each other where relevant. Cooperation amongst central authorities in the case of an

coordination of an enforcement action, central authorities shall also involve the Commission where relevant. The existence of the coordination mechanism does not prejudice the right of an individual Member State to impose sanctions on service providers that fail to comply with their obligations under the Directive. The designation and publication of information about central authorities will facilitate the notification by service providers of the designation *and contact details* of its legal representative *to the Member State where its legal representative resides or is established of the designation and contact details*.

enforcement action may entail the coordination of an enforcement action between competent authorities in different Member States. For the coordination of an enforcement action, central authorities shall also involve the Commission where relevant. The existence of the coordination mechanism does not prejudice the right of an individual Member State to impose sanctions on service providers that fail to comply with their obligations under the Directive, *while double sanctions should be avoided*. The designation and publication of information about central authorities will facilitate the notification by service providers of the *respective Member State regarding the* designation of its legal representative *and related information*.

Or. en

#### Amendment 14

Nuno Melo

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 1

*Text proposed by the Commission*

(1) ‘legal representative’ means a legal *or* natural person, designated in writing by a service provider for the purpose *of* *Articles 1(1), 3(1), 3(2) and 3(3);*

*Amendment*

(1) ‘legal representative’ means a legal *person established or a* natural person, designated in writing by a service provider *offering services in the Union* for the purpose *provided in Article 3 (1) and 3 (2) of this Directive*.

Or. en

#### Amendment 15

Lucia Ďuriš Nicholsonová, Jadwiga Wiśniewska, Joachim Stanisław Brudziński

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 2 – introductory part

*Text proposed by the Commission*

(2) ‘service provider’ means any natural or legal person that provides one ***or more*** of the following categories of services:

*Amendment*

(2) ‘service provider’ means any natural or legal person that provides ***at least*** one of the following categories of services:

Or. en

**Amendment 16**  
**Nuno Melo**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 3 – introductory part**

*Text proposed by the Commission*

(3) ‘offering services in ***a*** Member State’ means:

*Amendment*

(3) ‘offering services in ***the Union***’ means enabling legal or natural persons in one or more Member States to use the services referred to in point (2), such as

Or. en

**Amendment 17**  
**Nuno Melo**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 3 – point a**

*Text proposed by the Commission*

(a) ***enabling legal or natural persons in a Member State to use the services referred to in point (2); and***

*Amendment*

(a) ***establishment of the service provider in the Union;***

Or. en

**Amendment 18**  
**Nuno Melo**



**Proposal for a directive**

**Article 2 – paragraph 1 – point 3 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(a a) a significant number of users in one or more Member State(s);***

Or. en

**Amendment 19**

**Lucia Ďuriš Nicholsonová, Jadwiga Wiśniewska**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 3 – point b**

*Text proposed by the Commission*

*Amendment*

(b) having a substantial connection to the Member State referred to in point (a);

(b) having a substantial connection to the Member State referred to in point (a); ***such a substantial connection to the Member State(s) is considered to exist where the service provider has an establishment in the Union; in the absence of such establishment, substantial connection is identified on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States which can be determined on the basis of all relevant circumstances such as, among others, the use of a language or currency used in that Member State or the availability of an 'app' in the relevant national app store; a substantial connection is also to be assumed where a service provider directs its activities towards one or more Member States as set out in Article 17 (1)(c) of Regulation 1215/2012***

Or. en

**Amendment 20**

**Nuno Melo**



**Proposal for a directive**

**Article 2 – paragraph 1 – point 3 – point b**

*Text proposed by the Commission*

(b) *having a substantial connection to the Member State referred to in point (a);*

*Amendment*

(b) *targeting of activities towards one or more Member State(s);*

Or. en

**Amendment 21**

**Lucia Ďuriš Nicholsonová, Jadwiga Wiśniewska, Joachim Stanisław Brudziński**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the *business of providing* services is carried out or *a stable infrastructure from where the business is managed;*

*Amendment*

(4) ‘establishment’ means either the actual pursuit of an economic activity for an indefinite period through a stable infrastructure from where the *provision of* services is carried out or *the place of the business' central administration;*

Or. en

**Amendment 22**

**Nuno Melo**

**Proposal for a directive**

**Article 3 – paragraph 2**

*Text proposed by the Commission*

2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of

*Amendment*

2. Where a service provider is not established in the Union, Member States shall ensure that such service provider offering services on their territory designates at least one legal representative in the Union for the receipt of, compliance with and enforcement of decisions and orders issued by competent authorities of

Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall **reside or** be established in one of the Member States where the service provider offers the services.

Member States for the purpose of gathering evidence in criminal proceedings. The legal representative shall be established in one of the Member States where the service provider offers the services.

Or. en

**Amendment 23**  
**Nuno Melo**

**Proposal for a directive**  
**Article 3 – paragraph 4**

*Text proposed by the Commission*

4. Service providers shall be free to designate additional legal representatives, **resident or established** in other Member States, including those where the service providers offer their services. Service providers which are part of a group shall be allowed to collectively designate one legal representative.

*Amendment*

4. Service providers shall be free to designate additional legal representatives in other Member States, including those where the service providers offer their services. Service providers which are part of a group shall be allowed to collectively designate one legal representative.

Or. en

**Amendment 24**  
**Nuno Melo**

**Proposal for a directive**  
**Article 4 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1), **(2) and (3)**, each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its legal representative resides or is established of the designation and contact details of its

*Amendment*

1. Member States shall ensure that, upon designation of its legal representative in accordance with Article 3(1) **to (4)**, each service provider established or offering services in their territory notifies in writing the central authority of the Member State where its legal representative resides or is established of the designation and contact details of its legal representative as well as

legal representative as well as any changes thereof.

any changes thereof.

Or. en

## Amendment 25

Nuno Melo

### Proposal for a directive

#### Article 4 – paragraph 2

##### *Text proposed by the Commission*

2. The notification shall specify the official language(s) of the Union, as referred to in Regulation 1/58, in which the legal representative can be addressed. This shall include, ***at least***, one of the official languages of the Member State where the legal representative resides or is established.

##### *Amendment*

2. The notification shall specify the official language(s) of the Union, as referred to in Regulation 1/58, in which the legal representative can be addressed. This shall include one ***or more*** of the official languages, ***in accordance with national law*** of the Member State, where the legal representative resides or is established.

Or. en

## Amendment 26

Nuno Melo

### Proposal for a directive

#### Article 6 – paragraph 3

##### *Text proposed by the Commission*

3. Member States shall ensure that central authorities ***shall*** provide each other with relevant information and mutual assistance relevant to application of this Directive in a consistent and proportionate manner. The ***provisioning*** of information and mutual assistance shall cover, in particular, enforcement actions.

##### *Amendment*

3. Member States shall ensure that ***their*** central authorities ***coordinate with each other and, where relevant, with the Commission, and*** provide each other with relevant information and mutual assistance relevant to ***the*** application of this Directive in a consistent and proportionate manner. The ***coordination and provision*** of information and mutual assistance shall cover, in particular, enforcement actions.

Or. en

