Council of the European Union
General Secretariat

Interinstitutional files:
2020/0361 (COD)

Brussels, 11 June 2021

WK 7191/2021 REV 3

LIMITE

COMPET	**CT**
MI	**PI**
JAI	**AUDIO**
TELECOM	**CONSOM**
	CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

NOTE

From:	Presidency
To:	Working Party on Competitiveness and Growth (Internal Market - Attachés) Working Party on Competitiveness and Growth (Internal Market)
Subject:	Digital Services Act: Consolidated comments on Chapters 4 + 5 and respective recitals

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
GENERAL COMMENTS		
2020/0361 (COD)		**SK** *(Comments)*: **<u>General comments</u>** *Please note our general scrutiny reservations for the above mentioned. Thank you* **IT** *(Comments)* General comment: many aspects regulated by the DSA are cross-sectorial. Therefore, in order to increase transparency and accountability, Chapter IV should: ● **explicit the legal basis for cooperation among the relevant authorities, each acting within its respective area of competence;** ● **require a clearer institutionalized and structured cooperation between the competent oversight authorities; and** **identify the circumstances in which cooperation should take place.**
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC		**FI** *(Comments)*: Finland wishes to emphasize that Digital Services Act proposal needs to be processed in the Finnish parliament. Therefore, we do not have an official position until the proposal has been discussed in our national parliament.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		FR *(Comments)*: The drafting suggestions and comments submitted by the French authorities at this stage do not prejudge the amendments they may submit to the Council at a later stage.
(Text with EEA relevance)		
Whereas:		
(72) The task of ensuring adequate oversight and enforcement of the obligations laid down in this Regulation should in principle be attributed to the Member States. To this end, they should appoint at least one authority with the task to apply and enforce this Regulation. Member States should however be able to entrust more than one competent authority, with specific supervisory or enforcement tasks and competences concerning the application of this Regulation, for example for specific sectors, such as electronic communications' regulators, media regulators or consumer protection authorities, reflecting their domestic constitutional, organisational and administrative structure.	**EL** *(Drafting)*: 72) The task of ensuring adequate oversight and enforcement of the obligations laid down in this Regulation should in principle be attributed to the Member States. To this end, ~~they should appoint at least one authority with the task to apply and enforce this Regulation.~~ Member States should ~~however be able to~~ entrust ~~more than one~~ the competent authority~~y~~ies, with specific supervisory or enforcement tasks and competences concerning the application of this Regulation, for example for specific sectors, such as electronic communications' regulators, media regulators or consumer protection authorities, reflecting their domestic constitutional, organisational and administrative structure.	**BE** *(Comments)*: Given the horizontal nature of DSA and the repartition of competences within Belgium, it is of key importance that the DSA establishes efficient mechanisms both at EU level, between EU mechanisms and Member States authorities as well as encourages collaboration at national level between the Digital Service Coordinator and other national authorities including those competent in sector specific matters. **EL** *(Comments)*: NCRTV is an independent constitutionally enshrined authority. Hence, being under the coordination and supervision of the DSC raises issues for the independence of the Authority, especially in cases where there is an overlap of competences with the DSC. NCRTV shares the opinion of the European

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		Regulatos Group for Audiovisual Media (ERGA), of which is a member, that the principles underpinning media regulation are largely transferable to the online environment. Given the crucial role of Media Authorities in promoting and upholding fundamental EU values (such as freedom of expression, pluralism, cultural diversity etc), online content regulation should be subject to independent supervision of the competent (media) authority. Furthermore, as relevant authorities have fundamentally different competences, fields of expertise and operating logics, the DSC liaising with other relevant authorities when a certain issue is raised is likely to be more problematic than assigning these competences to the relevant NRAs. In any case, should it be decided to keep the DSC structure, NCRTV proposes to only have coordination competences and all other competences to be designated to the competent NRAs.
(73) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, the authority appointed with the task of supervising the application and, where necessary, enforcing this Regulation should be identified as a Digital Services Coordinator in each Member State.	**EL** *(Drafting)*: (73) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, the authority appointed with the task of ~~supervising~~ co-ordinating the application ~~and, where~~	**DE** *(Comments)*: We wonder what specific competences (powers) the Digital Services Coordinator (DSC) should have over the other competent authorities of one MS to ensure “effective involvement of all relevant authorities in the supervision”. In this

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Where more than one competent authority is appointed to apply and enforce this Regulation, only one authority in that Member State should be identified as a Digital Services Coordinator. The Digital Services Coordinator should act as the single contact point with regard to all matters related to the application of this Regulation for the Commission, the Board, the Digital Services Coordinators of other Member States, as well as for other competent authorities of the Member State in question. In particular, where several competent authorities are entrusted with tasks under this Regulation in a given Member State, the Digital Services Coordinator should coordinate and cooperate with those authorities in accordance with the national law setting their respective tasks, and should ensure effective involvement of all relevant authorities in the supervision and enforcement at Union level.	~~necessary, enforcing this Regulation~~ should be identified as a Digital Services Coordinator in each Member State. The Digital Services Co-ordinator can be one of the competent under the DSA sectorial authorities. ~~Where more than one competent authority is appointed to apply and enforce this Regulation, only one authority in that Member State should be identified as a Digital Services Coordinator.~~ The Digital Services Coordinator should act as the single contact point with regard to all matters related to the application of this Regulation for the Commission, the Board, the Digital Services Coordinators of other Member States, as well as for the ~~other~~ competent authorities of the Member State in question. In particular, ~~where several competent authorities are entrusted with tasks under this Regulation in a given Member State,~~ the Digital Services Coordinator should coordinate and cooperate with ~~those~~ all competent authorities in accordance with the national law ~~setting their respective task~~ and should facilitate ~~ensure~~ the effective involvement of all relevant authorities in the supervision and enforcement at Union level.	regard, we wonder about the correct understanding of recital 73 (last sentence). However, the coordination of the DSC at national level and his cooperation with other national competent authorities pursuant to Art. 38(2) should not interfere with the allocation of functions among competent authorities within each national system.
(74) The Digital Services Coordinator, as well as other competent authorities designated under this Regulation, play a crucial role in ensuring	**ES** *(Drafting)*: (74) The Digital Services Coordinator, as well as other competent authorities designated under	**DE** *(Comments)*: Due to constitutional requirements deriving from the principle of democratic legitimation as

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives. Accordingly, it is necessary to ensure that those authorities act in complete independence from private and public bodies, without the obligation or possibility to seek or receive instructions, including from the government, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. On the other hand, the independence of these authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to national control or monitoring mechanisms regarding their financial expenditure or to judicial review, or that they should not have the possibility to consult other national authorities, including law enforcement authorities or crisis management authorities, where appropriate.	this Regulation, play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives. Accordingly, it is necessary to ensure that those authorities act in complete independence from private ~~and public~~ bodies, without the obligation or possibility to seek or receive instructions~~, including from the government~~, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. ~~On the other hand, the independence of these authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to national control or monitoring mechanisms regarding their financial expenditure or to judicial review, or that they should not have the possibility to consult other national authorities, including law enforcement authorities or crisis management authorities, where appropriate.~~ **EL** *(Drafting)*: (74) The Digital Services Coordinator, as well as ~~other~~ the competent authorities designated under this Regulation, play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the	enshrined in Art. 20 of the DEU constitution (*Grundgesetz*), in principle, any authority in DEU needs to be integrated into the structures and chains of control of the executive and, thus, needs to be subject to technical and legal supervision (in the end) by the competent ministry which in turn is (being part of the Government) directly responsible to the German Parliament (*Bundestag*). There are only a few constitutionally limited exceptions, such as data protection authorities and media authorities. Therefore, recitals 74 and 75 should explicitly express that "national control or monitoring mechanisms" include continuing technical and legal oversight of the competent authorities; these mechanisms should not be limited to "their financial expenditure or to judicial review", as the last sentence of recital 74 states. **ES** *(Comments)*: **ES**: The requirement of independence should apply only in relation to private parties. Otherwise, it would interfere with internal administrative structures of Member States.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	achievement of its objectives. Accordingly, it is necessary to ensure that those authorities act in complete independence from private and public bodies, without the obligation or possibility to seek or receive instructions, including from the government, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. On the other hand, the independence of these authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to national control or monitoring mechanisms regarding their financial expenditure or to judicial review, or that they should not have the possibility to consult other national authorities, including law enforcement authorities or crisis management authorities, where appropriate.	
(75) Member States can designate an existing national authority with the function of the Digital Services Coordinator, or with specific tasks to apply and enforce this Regulation, provided that any such appointed authority complies with the requirements laid down in this Regulation, such as in relation to its independence. Moreover, Member States are in principle not precluded	**EL** *(Drafting)*: (75) Member States can designate an existing national authority with the function of the Digital Services Coordinator, or with specific tasks to ~~apply and enforce~~ to coordinate the competent for the application and enforcement of this Regulation authorites, provided that any such appointed authority complies with the	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
from merging functions within an existing authority, in accordance with Union law. The measures to that effect may include, inter alia, the preclusion to dismiss the President or a board member of a collegiate body of an existing authority before the expiry of their terms of office, on the sole ground that an institutional reform has taken place involving the merger of different functions within one authority, in the absence of any rules guaranteeing that such dismissals do not jeopardise the independence and impartiality of such members.	requirements laid down in this Regulation, such as in relation to its independence. Moreover, Member States are in principle not precluded from merging functions within an existing authority, in accordance with Union law. The measures to that effect may include, inter alia, the preclusion to dismiss the President or a board member of a collegiate body of an existing authority before the expiry of their terms of office, on the sole ground that an institutional reform has taken place involving the merger of different functions within one authority, in the absence of any rules guaranteeing that such dismissals do not jeopardise the independence and impartiality of such members.	
(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are	**PL***(Drafting)*: (76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or	**DE** *(Comments)*: In our view, the country of origin principle implies the risk that the authorities of a single country of origin are overwhelmed with effectively monitoring providers of intermediary services for the entire internal market, i.e. for all other MS, and for the protection of all EU citizens. Thus, possibilities for other MS or the COM to step in, as in the case of a provider without a legal representative, shall be considered. Criteria and conditions for this would have to be examined in more detail.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of *ne bis in idem* is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.	registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of *ne bis in idem* is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction. In addition in order to ensure effective protection of fundamental rights of EU citizens that take into account diverse national laws and difference in socio-cultural context between countries, a Member State shall exercise jurisdiction where it concerns very large online platforms which offer services to a significant number of recipients in a given Member State. Member States jurisdiction is particularly important in case of very large online platforms which are social media because	**EL** *(Comments)*: Recital 76 refers to article 40(2) which provides that "*A provider of intermediary services which does not have an establishment in the Union but which offers services in the Union shall, for the purposes of Chapters III and IV, be deemed to be under the jurisdiction of the Member State where its legal representative resides or is established*". On the other hand, Article 28a(2) of the AVMSD provides for secondary criteria for determination of the jurisdiction for VSPs. In line with those, a VSP of a third country would be deemed to be established in a Member State if a parent or subsidiary undertaking or an undertaking member of the same group is established in that Member State. Therefore, in certain situations (depending on the issue at stake), to implement the rules provided for by the AVMSD together with the additional rules provided for by the DSA, a double jurisdiction assessment will have to be conducted. **PL***(Comments)*: See comments in art. 40.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	they play a central role in facilitating the public debate.	
(77) Member States should provide the Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation.	**EL** *(Drafting)*: (77) Member States should provide the ~~Digital Services Coordinator and any other~~ the competent authorities~~y~~ designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Such authorities ~~Digital Services Coordinators~~ should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the sector specific competent authority ~~Digital Services Coordinator~~ of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation.	**HR** *(Comments)*: The DSA proposal does not contain a specific provision on funding of functioning of Digital Service Coordinators (DSCs), which leads to the conclusion that it is left to the budget of Member States. Therefore, we would appreciate the clarification from the EC on how they in more details, if so, envisage funding of DSCs? Additionally what are their views on the possibility of examining and potentially introducing funding provisions by intermediary services, hosting services, online platforms and very large online platforms? Potentially following and adjusting accordingly the successful solution found in the electronic communications sector. **DE** *(Comments)*: What is meant by the "procedures relating to cross-border cooperation" referenced in the last sentence of recital 77? It is our understanding that the DSA conclusively regulates cross-border cooperation among DSCs in Art. 45 and 46. Would other legal frameworks, such as the CPC Regulation, also be deemed relevant in the cross-border enforcement of the DSA? Should this be

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		the case, this would require amendments to the relevant acts, such as the CPC Regulation.
(78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation.	**EL** *(Drafting)*: (78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their ~~Digital Services Coordinators, and other~~ competent authorities ~~where relevant,~~ under this Regulation.	
(79) In the course of the exercise of those powers, the competent authorities should comply with the applicable national rules regarding procedures and matters such as the need for a prior judicial authorisation to enter certain premises and legal professional privilege. Those provisions should in particular ensure respect for the fundamental rights to an effective remedy and to a fair trial, including the rights of defence, and, the right to respect for private life. In this regard, the guarantees provided for in relation to the proceedings of the Commission pursuant to this Regulation could serve as an appropriate point of reference. A prior, fair and impartial procedure should be guaranteed before taking		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
any final decision, including the right to be heard of the persons concerned, and the right to have access to the file, while respecting confidentiality and professional and business secrecy, as well as the obligation to give meaningful reasons for the decisions. This should not preclude the taking of measures, however, in duly substantiated cases of urgency and subject to appropriate conditions and procedural arrangements. The exercise of powers should also be proportionate to, inter alia the nature and the overall actual or potential harm caused by the infringement or suspected infringement. The competent authorities should in principle take all relevant facts and circumstances of the case into account, including information gathered by competent authorities in other Member States.		
(80) Member States should ensure that violations of the obligations laid down in this Regulation can be sanctioned in a manner that is effective, proportionate and dissuasive, taking into account the nature, gravity, recurrence and duration of the violation, in view of the public interest pursued, the scope and kind of activities carried out, as well as the economic capacity of the infringer. In particular, penalties should take into account whether the provider of intermediary services concerned systematically		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
or recurrently fails to comply with its obligations stemming from this Regulation, as well as, where relevant, whether the provider is active in several Member States.		
(81) In order to ensure effective enforcement of this Regulation, individuals or representative organisations should be able to lodge any complaint related to compliance with this Regulation with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation's rules on jurisdiction. Complaints should provide a faithful overview of concerns related to a particular intermediary service provider's compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation.		**DE** *(Comments)*: From our point of view, individuals should not only be able to lodge a complaint but also be informed wether the compenten authority takes action or not (and why not).

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(82) Member States should ensure that Digital Services Coordinators can take measures that are effective in addressing and proportionate to certain particularly serious and persistent infringements. Especially where those measures can affect the rights and interests of third parties, as may be the case in particular where the access to online interfaces is restricted, it is appropriate to require that the measures be ordered by a competent judicial authority at the Digital Service Coordinators' request and are subject to additional safeguards. In particular, third parties potentially affected should be afforded the opportunity to be heard and such orders should only be issued when powers to take such measures as provided by other acts of Union law or by national law, for instance to protect collective interests of consumers, to ensure the prompt removal of web pages containing or disseminating child pornography, or to disable access to services are being used by a third party to infringe an intellectual property right, are not reasonably available.	**AT** *(Drafting)*: (82) Member States should ensure that Digital Services Coordinators can take measures that are effective in addressing and proportionate to certain particularly serious and persistent infringements. Especially where those measures can affect the rights and interests of third parties, as may be the case in particular where the access to online interfaces is restricted, it is appropriate to require that the measures ~~be ordered by a competent judicial authority at the Digital Service Coordinators' request and~~ are subject to additional safeguards. In particular, third parties potentially affected should be afforded the opportunity to be heard and such orders should only be issued when powers to take such measures as provided by other acts of Union law or by national law, for instance to protect collective interests of consumers, to ensure the prompt removal of web pages containing or disseminating child pornography, or to disable access to services are being used by a third party to infringe an intellectual property right, are not reasonably available. **EL** *(Drafting)*: (82) Member States should ensure that ~~Digital Services Coordinators~~ the competent athorities can take measures that are effective in addressing	**AT** *(Comments)*: It should be left to the member states which authority orders the restriction of access, as it is in Art. 9 paragraph 4 CPC-Regulation. See also the proposed changes to Art. 41 paragraph 3.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	and proportionate to certain particularly serious and persistent infringements. Especially where those measures can affect the rights and interests of third parties, as may be the case in particular where the access to online interfaces is restricted, it is appropriate to require that the measures be ordered by a competent judicial authority at the ~~Digital Service Coordinators'~~ competent authority's request and are subject to additional safeguards. In particular, third parties potentially affected should be afforded the opportunity to be heard and such orders should only be issued when powers to take such measures as provided by other acts of Union law or by national law, for instance to protect collective interests of consumers, to ensure the prompt removal of web pages containing or disseminating child pornography, or to disable access to services are being used by a third party to infringe an intellectual property right, are not reasonably available.	
(83) Such an order to restrict access should not go beyond what is necessary to achieve its objective. For that purpose, it should be temporary and be addressed in principle to a provider of intermediary services, such as the relevant hosting service provider, internet service provider or domain registry or registrar, which is		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
in a reasonable position to achieve that objective without unduly restricting access to lawful information.		
(84) The Digital Services Coordinator should regularly publish a report on the activities carried out under this Regulation. Given that the Digital Services Coordinator is also made aware of orders to take action against illegal content or to provide information regulated by this Regulation through the common information sharing system, the Digital Services Coordinator should include in its annual report the number and categories of these orders addressed to providers of intermediary services issued by judicial and administrative authorities in its Member State.		**DE** *(Comments)*: We wonder, why the recital assumes that the DSC is made aware of orders to take action against illegal content or to provide information. From our point of view, there is no corresponding obligation of the competent national authorities to inform the DSC when they issue such orders.
(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of the information made available by the concerned	**EL** *(Drafting)*: (85) Where a competent authority requests via the Digital Services Coordinators another competent authority ~~Digital Services Coordinator~~ to take action, the requesting authority ~~Digital Services Coordinator~~, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to	**DE** *(Comments)*: In our view, the COM shall be able to intervene not only if the suspected infringer is a VLOP but in all cases where a DSCs fails to take measures pursuant to a request by the COM.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
authorities, should accordingly be able to request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform	adopt any measures. The Commission, on the basis of the information made available by the concerned authorities, should accordingly be able to request the competent authority ~~Digital Services Coordinator~~ to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the competent authority ~~Digital Services Coordinator~~ of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform	
(86) In order to facilitate cross-border supervision and investigations involving several Member States, the Digital Services Coordinators should be able to participate, on a permanent or temporary basis, in joint oversight and investigation activities concerning matters covered by this Regulation. Those activities may include other competent authorities and may	**EL** *(Drafting)*: 86) In order to facilitate cross-border supervision and investigations involving several Member States, the competent authorites ~~Digital Services Coordinators~~ should be able to participate, on a permanent or temporary basis, in joint oversight and investigation activities concerning matters covered by this Regulation.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
cover a variety of issues, ranging from coordinated data gathering exercises to requests for information or inspections of premises, within the limits and scope of powers available to each participating authority. The Board may be requested to provide advice in relation to those activities, for example by proposing roadmaps and timelines for activities or proposing ad-hoc task-forces with participation of the authorities involved.	Those activities may include other competent authorities and may cover a variety of issues, ranging from coordinated data gathering exercises to requests for information or inspections of premises, within the limits and scope of powers available to each participating authority. The Board may be requested to provide advice in relation to those activities, for example by proposing roadmaps and timelines for activities or proposing ad-hoc task-forces with participation of the authorities involved.	
(87) In view of the particular challenges that may emerge in relation to assessing and ensuring a very large online platform's compliance, for instance relating to the scale or complexity of a suspected infringement or the need for particular expertise or capabilities at Union level, Digital Services Coordinators should have the possibility to request, on a voluntary basis, the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation.	**ES** *(Drafting)*: (87) In view of the particular challenges that may emerge in relation to assessing and ensuring a very large online platform's compliance, for instance relating to the scale or complexity of a suspected infringement or the need for particular expertise or capabilities at Union level, Digital Services Coordinators, the Board acting on its own initiative or three Digital Services Coordinators of destination should have the possibility to request, on a voluntary basis, the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation. **EL** *(Drafting)*: (87) In view of the particular challenges that	**ES** *(Comments)*: Not only the DSC of establishment but the Board acting on its own initiative or three DSC of destination should be able to trigger the request for COM intervention, in case a VLOP is suspected to infringe the DSA.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	may emerge in relation to assessing and ensuring a very large online platform's compliance, for instance relating to the scale or complexity of a suspected infringement or the need for particular expertise or capabilities at Union level, the relevant, depending on the case. competent authorities ~~Digital Services Coordinators~~ should have the possibility to request, on a voluntary basis, the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation	
(88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, which should support the Commission and help coordinate the actions of Digital Services Coordinators. That European Board for Digital Services should consist of the Digital Services Coordinators, without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to one representative per Member State.	**SE** *(Drafting)*: (88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, which should support the Commission and help coordinate the actions of Digital Services Coordinators. That European Board for Digital Services should consist of the Digital Services Coordinators, without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to one representative	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	per Member State. The composition of the board should be gender balanced. **EL** *(Drafting)*: (88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, which should support the Commission and help coordinate the actions of Digital Services Coordinators and of the competent authorites. That European Board for Digital Services should consist of the Digital Services Coordinators and, depending on the case, of ~~without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from~~ other competent authorities entrusted with specific tasks under this Regulation~~, where that is required~~ pursuant to their national allocation of tasks and competences. ~~In case of multiple participants from one Member State,~~ The voting right ~~should remain~~ shall be limited to one representative per Member State.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(89) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to cooperation among competent authorities, including by advising the Commission and the Digital Services Coordinators about appropriate investigation and enforcement measures, in particular vis à vis very large online platforms. The Board should also contribute to the drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union.	**AT** *(Drafting)*: (89) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to cooperation among competent authorities, including by advising the Commission and the Digital Services Coordinators about appropriate investigation and enforcement measures, in particular vis à vis very large online platforms. The Board should also contribute to the drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union. The development of Union law is not subject to the tasks of the Board. **EL** *(Drafting)*: (89) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to cooperation among competent authorities, including by advising the Commission and the sectoral authorities ~~and the Digital Services Coordinators~~ about appropriate investigation and enforcement measures, in particular vis à vis very large online platforms. The Board should also contribute to the drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(90) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to Digital Services Coordinators or other competent national authorities. While not legally binding, the decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation.	**EL** *(Drafting)*: (90) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to the sectoral authorities via the Digital Services Coordinators or other competent national authorities. While not legally binding, the decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation	**BE** *(Comments)*: We understand from the meeting discussions and the slides given by the Commission that the list of tasks of the Board is not exhaustive. Is this list left open through the words "***in particular***" in article 49.1 ? ("***met name***" in the Dutch version). Those words are not reflected in the French version of the text. Does it mean that the Board has the possibility to issue opinions at its **own initiative** and with regard to **any topics**, in addition to cases mentioned in the articles of this Regulation, dealing with the competences of the Board ? Could the COM explain what is meant exactly by the words "***in accordance with this Regulation***" (art. 49.1 c) **DE** *(Comments)*: In our view, legally binding resolutions of the Board should be considered.
(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an	**SE** *(Drafting)*: The Board should bring together the representatives of the Digital Services Coordinators and possible other competent	**DE** *(Comments)*: Do the other Union bodies, offices, agencies and advisory groups include the consumer protection cooperation (CPC) network? If so, the drafting

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.	authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including gender equality ~~between women and men~~, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks. In order to maintain the multi-stakeholder nature of the Internet, a human rights based approach and ensure all perspectives are taken into account, the Board should consult with civil society and the private sector when making its assessment. **DE** *(Drafting)*: […] In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and	suggestion could clarify that the CPC network is encompassed. **IT** *(Comments)* in recital 91 an explicit reference to the cooperation with "competent authority in the area of competition law" should be included; **PL***(Comments)*: We suggest to add reference to cooperation also with national competition authorities given that in art. 35 and 36 of DSA there is a reference to competition law

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	non-discrimination, data protection , electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection **and cooperation to that end**, as necessary for the performance of its tasks. **EL** *(Drafting)*: (91) The Board should bring together the representatives of the Digital Services Coordinators and, depending on the issues at stake, ~~possible~~ other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks **PL***(Drafting)*: (91) The Board should bring together the	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, competition, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.	
(92) The Commission, through the Chair, should participate in the Board without voting rights. Through the Chair, the Commission should ensure that the agenda of the meetings is set in accordance with the requests of the members of the Board as laid down in the rules of procedure and in compliance with the duties of the Board laid down in this Regulation.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(93) In view of the need to ensure support for the Board's activities, the Board should be able to rely on the expertise and human resources of the Commission and of the competent national authorities. The specific operational arrangements for the internal functioning of the Board should be further specified in the rules of procedure of the Board.		
(94) Given the importance of very large online platforms, in view of their reach and impact, their failure to comply with the specific obligations applicable to them may affect a substantial number of recipients of the services across different Member States and may cause large societal harms, while such failures may also be particularly complex to identify and address.		**EL** *(Comments)*: NCRTV supports ERGA's opinion that a risk based approach would be more relevant from a content regulation perspective. Hence, it proposes for a subset of the enhanced obligations set up by Section 4 of Chapter III to apply **to all players** above the threshold of 45 million average monthly active recipients but also to these players that present a significant level of impact and risks. Hence, the audience criterion should be supplemented with other indicators (type of content involved, proportion of population reached in one M-S, age of users et alia).

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.	**EL** *(Drafting)*: (95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the competent authority ~~Digital Services Coordinator~~ of establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That competent authority ~~Digital Services Coordinator~~ should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The competent authority ~~Digital Services Coordinator~~ should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	Board.	
(96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform.	**EL** *(Drafting)*: (96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform. 96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the competent authority ~~Digital Services Coordinator~~ of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the competent authority/ies ~~Digital Services Coordinator~~ of establishment did not take any measures despite the Commission's request, or in situations where the competent authority/ies ~~Digital Services Coordinator~~ of establishment itself/themselves requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform.	
(97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services	**EL** *(Drafting)*: (97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission	**DE** *(Comments)*: Following recital 97, a scope for decision-making is left to the COM. We wonder why the COM is not obliged to intervene, as we wonder what criteria is to be used to decide whether to

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of *ne bis in idem*. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.	initiated the proceedings, the competent authority ~~Digital Services Coordinators~~ of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of *ne bis in idem*. However, in the interest of effectiveness, those authorities ~~Digital Services Coordinators~~ should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those authorities ~~Digital Services Coordinators~~, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the competent authorities ~~Digital Services Coordinators~~ concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's	intervene or not. From our point of view, an obligation to intervene and a deadline would be desirable.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	powers and responsibility to carry out additional investigations as necessary.	
(98) In view of both the particular challenges that may arise in seeking to ensure compliance by very large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle of proportionality and the rights and interests of the affected parties.		
(99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence,	**EL** *(Drafting)*: (99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the very large online	**EE** *(Comments)*: Please see our comment to article 65.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers	platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask the competent authorities ~~Digital Services Coordinators and other Member States' authorities~~ for assistance, for instance by providing information or in the exercise of those powers **EE** *(Drafting)*: (99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State **in accordance with the legislation of the Member State concerned**, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(100) Compliance with the relevant obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules, subject to appropriate limitation periods.		**DE** *(Comments)*: We wonder what the term "breach of procedural rules" refers to. In addition, we do not see the difference to "non-compliance with the obligations". Does this encompass only breach and non-compliance with procedural rules laid down in the DSA, or should it also include breaches of procedural rules in national implementing acts?
(101) The very large online platforms concerned and other persons subject to the exercise of the Commission's powers whose interests may be affected by a decision should be given the opportunity of submitting their observations beforehand, and the decisions taken should be widely publicised. While ensuring the rights of defence of the parties concerned, in particular, the right of access to the file, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of its decision is disclosed to an extent that allows the addressee of the decision to understand the facts and		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
considerations that lead up to the decision.		
(102) In the interest of effectiveness and efficiency, in addition to the general evaluation of the Regulation, to be performed within five years of entry into force, after the initial start-up phase and on the basis of the first three years of application of this Regulation, the Commission should also perform an evaluation of the activities of the Board and on its structure.		
(103) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[1].		
(104) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts		

[1] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
should be adopted in respect of criteria for identification of very large online platforms and of technical specifications for access requests. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.		
(105) This Regulation respects the fundamental rights recognised by the Charter and the fundamental rights constituting general principles of Union law. Accordingly, this Regulation should be interpreted and applied in accordance with those fundamental rights, including the freedom of expression and information, as well as the freedom and pluralism of the media. When exercising the powers set out in this Regulation, all public authorities involved should achieve, in situations where the relevant fundamental rights conflict, a fair balance between the rights		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
concerned, in accordance with the principle of proportionality.		
(106) Since the objective of this Regulation, namely the proper functioning of the internal market and to ensure a safe, predictable and trusted online environment in which the fundamental rights enshrined in the Charter are duly protected, cannot be sufficiently achieved by the Member States because they cannot achieve the necessary harmonisation and cooperation by acting alone, but can rather, by reason of its territorial and personal scope, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,		
	EE *(Drafting)*: **(xx) In addition to the rights of recipients of intermediary services to turn to a representative in accordance with national civil law, and their right to directly turn to internal complaint-handling mechanisms and out-of-court dispute settlement, recipients of**	**EE** *(Comments)*: As we have understood, there is no correpsonding recital to article 68. We thus propose to add this in order to aid the interpretation of it. Please look also our proposal for amending article 68.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	the services should also have the right to mandate a legal person or a public body to exercise their rights.	
HAVE ADOPTED THIS REGULATION:		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Chapter IV **Implementation, cooperation, sanctions and enforcement**		**SK** *(Comments)*: *SR supports the proposal for a more intensive cross-border cooperation of Member States' authorities concerning the monitoring and the control of compliance of the regulation, all in line with the idea of harmonization of the the EU single (digital) market. We welcome the provisions regarding the inclusion of national authorities (digital service coordinators), network of these coordinators on an EU level (European Digital Services Committee) as well as including direct supervision at a common EU level (EC over very large online platforms). However, given the complexity of real and timely enforcement neccesity, it needs to be further discussed, whether more of the competences shouldn´t be transferred to a common European level (based on the principle of independence)*
		SK *(Comments)*: *In general, SR supports the implementation and enforcement sructure of bodies concerned/proposed, as proposed in the regulation and the requirements for the performance of their activities to be an important part of the proposal. Nevertheless, the implementation of the proposed structure could potentially create complicated infrastructure between the competent authorities in the*

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		individual Member States, which would significantly reduce the efficiency of the whole system. Therefore, a real and timely enforcement of rules may require even greater strengthening of the supervision at a European level.
Section 1 **Competent authorities and National Digital Services Coordinators**		
	FR *(Drafting)*: **Subsection 1** **Competent authorities and Digital Services Coordinators**	
Article 38 *Competent authorities and Digital Services Coordinators*		**DE** *(Comments)*: With its proposals in Chapter IV, the COM has presented a completely new approach that reaches far into MS' adminstrative structure. **CZ** *(Comments)*: In general, **CZ** agrees with the designation of a competent authority. It is necessary to take into consideration other legislative proposals in the area of digital market, which require an establishment of contact or supervisory authorities as well, in order to make use of synergy effects also with existing internal market tools. This element is so far missing in the proposal which **CZ** perceives as a missed

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		opportunity. See therefore **CZ** suggestion on Article 67. **PL***(Comments)*: It is necessary to ensure cooperation not only between Digital Service Coordinators, but also with other national authorities involved in the supervision of intermediary service providers. The increasing number of regulations and procedures concerning digital services causes their providers to be subject to supervision of various national authorities. Therefore, in order to act more effectively and efficiently, it seems that activities of regulators should be coordinated. In particular, the relationship between DSC, regulators and law enforcement agencies should be clarified. At the same time, a transparent regulation of the relationship between these entities may help to make it easier for recipients of services to exercise their rights with regard to reporting irregularities in actions of digital service providers.
1. Member States shall designate one or more competent authorities as responsible for the application and enforcement of this Regulation (‘competent authorities’).		**BE** *(Comments)*: Given the horizontal nature of DSA and the repartition of competences within Belgium, it is of key importance that the DSA establishes

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		efficient mechanisms both at EU level, between EU mechanisms and Member States authorities as well as encourages collaboration at national level between the Digital Service Coordinator and other national authorities including those competent in sector specific matters. **SK** *(Comments)*: *We consider the description/definition of the range of bodies from which it is possible to designate a DSC to be insufficiently comprehensible. Art. 38 (1) states that MS can designate one or more competent authorities responsible for the implementation and enforcement of the Regulation. Art. 38 (2) further indicates that a MS has to designate one of the competent authorities as the national DSC, who will work closely with the coordinators of other MS and the EC. It is not suffieciently clear from these provisions what level of involvement is expected within the implementation and enforcement process, and therefore whether it is necessary for the coordinator himself to be directly involved in the exercise of supervision or (according to conditions as per art. 38 (1,2) and art. 39 (2)), could this coordination function be assumed by such (coordination) authority as Ministry (two separate functions). We emphasize here, that public authorities must be able to respond to regulatory and supervisory*

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		challenges to entities that integrate a number of different functions and ecosystems in real time, using new technologies such as artificial intelligence.
2. Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.	**FR** *(Drafting)*: 2. Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. In such cases, these competent authorities shall have the same powers to carry out the tasks or supervise the sectors assigned to them as those attributed to the Digital Services Coordinator for the application and enforcement of Chapter III and IV of this Regulation, and in particular the powers listed in Articles 41, 45 and 46, and shall be subject to the obligations mentioned in those Articles. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.	**BE** *(Comments)*: Article 38.2 provides for an obligation for the Member States to ensure that the respective tasks of the different national competent authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when they are performing their tasks. We consider essential to ensure that this consistency and repartition of tasks are also clearly defined in this text with regard to EU competent authorities. In this regard, we would like to ask Commission more clarity on the relationship between the Digital Services Coordinators Board and other EU competent boards such as European Data Protection Board and in audio-visual matters. Furthermore, Could you clarify the difference between the terms "***application***" and "***enforcement***"? Does the "application" include the issuing of orders?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	EL *(Drafting)*: Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to the coordination of the application and enforcement of this Regulation by the competent Authorities in that Member State. ~~unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities.~~ The Digital Services Coordinator shall in any event be responsible for ensuring ~~coordination at national level in respect of those matters and for contributing to~~ the effective and consistent application and enforcement of this Regulation throughout the Union by the competent NRAs.	Could you confirm that any "relevant" authorities at national level, other than the "competent authorities" can issue orders pursuant to articles 8 and 9 ? **RO** *(Comments)*: The proposed multi-level surveillance system creates an additional level of cooperation at national and cross-sectoral level, which could be effectively unnecessary in most cases and may lead to additional operational costs. In addition, it could be counterproductive to resolving issues quickly and efficiently, as opposed to existing cross-border cooperation agreements between sectoral national authorities (eg Memorandum of Understanding between national regulatory authorities that are members of ERGA). Which are the circumstances for designating the competent authorities? At national or European level? **DE** *(Comments)*: We wonder whether competent authorities (we would rather prefer "national authorities or bodies", as used in the AVMSD) should also be able to use the powers in Art. 41 outside the scope of the coordinated area? We wonder what specific powers the DSC should have vis-à-vis these other competent

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		authorities in a MS in order to contribute, in the view of the COM, to an "effective and consistent application and enforcement of this Regulation" as defined in para. 2. Such powers (especially rights to issue instructions) could possibly counteract the existing administrative and supervisory structures in DEU (especially with regard to federal and state competences). Thus, it is crucial that the DSC coordinates and cooperates with those other authorities "in accordance with the national law" (cf. recital 73). **FR** *(Comments)*: the DSA allows for Member States to assign certain missions or certain specific sectors to authorities other than the DSC : **these authorities should then be granted the same prerogatives as the DSC**, notably in terms of access to data and binding powers. **EL** *(Comments)*: NCRTV is an independent constitutionally enshrined authority. Hence, being under the coordination and supervision of the DSC raises issues for the independence of the Authority, especially in cases where there is an overlap of competences with the DSC. NCRTV shares the opinion of the European Regulatos Group for Audiovisual Media

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		(ERGA), of which is a member, that the principles underpinning media regulation are largely transferable to the online environment. Given the crucial role of Media Authorities in promoting and upholding fundamental EU values (such as freedom of expression, pluralism, cultural diversity etc), online content regulation should be subject to independent supervision of the competent (media) authority. Furthermore, as relevant authorities have fundamentally different competences, fields of expertise and operating logics, the DSC liaising with other relevant authorities when a certain issue is raised is likely to be more problematic than assigning these competences to the relevant NRAs. In any case, should it be decided to keep the DSC structure, NCRTV proposes to only have coordination competences and all other competences to be designated to the competent NRAs.
For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for regular exchanges of views with other authorities where relevant for the performance of the tasks of those other authorities and of the Digital Services	**EL** *(Drafting)*: For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, ~~without prejudice to the possibility for Member States~~ to provide for regular exchanges of views with other authorities where	**DE** *(Comments)*: We wonder whether the "information sharing system" of Art. 67 shall be used for this kind of cooperation between the DSCs, other national competent authorities, the Board and the COM. If so, we wonder how the other competent authorities (or bodies) shall be involved,

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Coordinator.	relevant for the performance of the tasks of those other authorities and of the Digital Services Coordinator.	although they are not integrated into this system, in particular whether the DSC has to involve the other authorities outside the system. We also wonder whether the relevant communications will be translated into other EU languages. **DK** *(Comments)*: The precise meaning of this article is unclear to us. As we read this sentence the provision sets out, that the Digital Services Coordinators shall cooperate with relevant authorities. However, the last part of the paragraph refers to or adds to the provision. This should be clarified.
Where a Member State designates more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when performing their tasks. The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the Commission and the Board.	**EL** *(Drafting)*: ~~Where a Member State designates more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when performing their tasks~~ The Member State concerned shall communicate the name of the ~~other~~ competent authorities as well as their respective tasks to the Commission and the Board.	**DE** *(Comments)*: We wonder why MS must communicate the name of all competent authorities as well as their respective tasks to the COM and the Board. In our view, it seems sufficient just to name the DSC.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
3. Member States shall designate the Digital Services Coordinators within two months from the date of entry into force of this Regulation.	**AT** *(Drafting)*: 3. Member States shall designate the Digital Services Coordinators within **one year** from the date of entry into force of this Regulation. **DE** *(Drafting)*: Member States shall designate the Digital Services Coordinator within **eighteen** months […]. **CZ** *(Drafting)*: Member States shall designate the Digital Services Coordinators within ~~two~~ **six** months from the date of entry into force of this Regulation. **NL** *(Drafting)*: 3. Member States shall designate the Digital Services Coordinators within **twelve** months from the date of entry into force of this Regulation. **LU** *(Drafting)*: Member States shall designate the Digital Services Coordinators within ~~two~~ **eighteen** months from the date of entry into force of this Regulation.	**BE** *(Comments)*: The designation of a Digital Services Coordinator in Belgium within 2 months after the entry into force of this Regulation seems to be particularly limited and would be difficult to comply with, taken into account the complex state structure of Belgium and the involvement of many ministries in the application of this horizontal instrument **AT** *(Comments)*: Two months is too short, since enabling legislation in the Member States might be necessary (like it is in Austria). **DE** *(Comments)*: We have considerable concerns about the time limits set for the designation of the DSCs ("within two months from the date of entry into force of this Regulation") according to Art. 38(3) as well as to the general provision of Art. 74(2). For reasons of legal clarity, the provisions of the Regulation often need to be adapted in national law, even if the Regulation itself does not need to be implemented. Legislative measures are also required in DEU for the designation of the DSC, establishing corresponding responsibilitites and the procedure, in particular for coordination with

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		the competent authorities (competencies of the Länder may also be affected here). Also the companies concerned need sufficient time. **At least 18 months** are required as deadline in both provisions (Art.74(2) and Art. 38(3)). **CZ** *(Comments)*: The period of two months for designation of Digial Services Coordinator is too short given that the Member States also have to delegate powers of investigation and enfocement powers according to the article 43 which will most likely require legislative action. **EL** *(Comments)*: **The obligation to designate the DSC within 2 months from the date of intro force of the Regulation is considered as extremely short. A substantially longer period should be applied, taking also into consideration that Art.39 sets very high operational standards for DSC (including its complete independence for any other public Authority), which will require significant organizational and institutional changes (including eg the potential set-up of a new entity).** **NL** *(Comments)*: We believe that this period to designate a DSC is too short; it does not allow for proper

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		parliamentary scrutiny. **NL** requires more time to designate the DSC, due to national constitutional procedures. We reserve the right to make changes to the deadline at a later stage. See also our comments under Article 74.2. **LU** *(Comments)*: Setting up the Digital Services Coordinator in national law will require going through national legal procedures with set timeframes. In order to take these into account, two months is unrealistic and therefore we propose eighteen months. Passing a law establishing the DSC in under a year is simply not doable.
Member States shall make publicly available, and communicate to the Commission and the Board, the name of their competent authority designated as Digital Services Coordinator and information on how it can be contacted.	**EL** *(Drafting)*: Member States shall make publicly available, and communicate to the Commission and the Board, the name of the ~~their competent authority designated as~~ Digital Services Coordinator and information on how it can be contacted.	**NL** *(Comments)*: Will the Commission also publish the list of DSCs on its website?
4. The requirements applicable to Digital Services Coordinators set out in Articles 39, 40 and 41 shall also apply to any other competent authorities that the Member States designate pursuant to paragraph 1.	**AT** *(Drafting)*: delete **EL** *(Drafting)*: 4. The requirements ~~applicable to Digital Services Coordinators~~ set out in Articles 39, 40	**AT** *(Comments)*: It raises constitutional questions if every competent authority that might be responsible for parts of the DSA needs to be free from every instruction of other authorities. In Austria, it is a

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	and 41 shall ~~also~~ apply to any ~~other~~ competent authority~~ies~~ that the Member States designate pursuant to paragraph 1.	constitutional rule that administration has to act under the supervision of the ministers; exemptions have to be jusitified. **DE** *(Comments)*: This seems problematic, as Art. 39 para. 2 highlights the duty to "act with complete independence". Besides, Art. 40 makes no reference to the DSC. We wonder to what extent the "requirements" mentioned there should also apply to "any other competent authorities" in accordance with Art. 38(4), and what the requirements are. This should be clarified. From our point of view, this stipulation can at most refer to the notification of all other MS according to para. 3, sentence 2.
Article 39 *Requirements for Digital Services Coordinators*		
1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have adequate technical, financial and human resources to carry out their tasks.	**EL** *(Drafting)*: 1. Member States shall ensure that their Digital Services Coordinators and all other competent authorities perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators and sector	**BE** *(Comments)*: We would like to have more explanations on the expectations regarding the requirement of complete independence of the Digital Services Coordinators : - Could we further specify the criterion of complete independence?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	specific competent authorities have adequate technical, financial and human resources to carry out their tasks	- How this independency will be applicable when designated authorities already competent for other similar duties in our national system? - How the Commission sees the relationship between the requirement of independency in paragraph 2 and the ones of impartiality in paragraph 1? **DE** *(Comments)*: We wonder how it will be ensured that the DSC meets the same or similar required conditions in every MS to ensure uniform application of the DSA. We also ask ourselves what preconditions are required for this at all.
2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party.	**ES** *(Drafting)*: 2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall ~~act with complete independence~~. ~~They shall~~ remain free from any ~~external~~ influence, whether direct or indirect, ~~and~~ ~~shall neither seek nor take instructions~~ from ~~any other public authority or~~ any private party **EL** *(Drafting)*:	**DE** *(Comments)*: Given that the vast majority of intermediary services provide technical services or operate trading platforms, we wonder wether it is really necessary for the DSC to be completely independent. This is all the more questionable compared to the COM, which assumes its own enforcement powers in the DSA and is not subject to the requirement of complete independence. Also wee wonder what "complete independence" means here (especially since this requirement

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators and other competent authorities shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party. **LU** *(Drafting)*: When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with ~~complete~~ independence. They shall remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party.	counts for all other competent authorities, following Art. 38(4)). It seems confusing that the DSC shall have the power to "coordinate" all other competent autorities. However, for the regulation of media content (broadcasting, press) the independence and non-governmental character of the regulatory authorities (bodies of voluntary self-regulation) must be maintained. As well, with regard to the design of sensitive cooperation procedures, it must be kept in mind that such procedures have to respect the complete independence of data protection authorities as guaranteed by Art. 52 GDPR. We also wonder, in case a DSC is not willing to take action against a specific platform, whether para. 2 sentence 2 would impede other public authorities from trying to convince the DSC that action is required. **ES** *(Comments)*: The requirement of independence should apply only in relation to private parties. Otherwise, it would interfere with internal administrative structures of Member States. **SK** *(Comments)*: *We emphasize that the exercise of supervision should be apolitical (at the common European*

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		level as well as at the national level). In this context, we perceive a certain level of discrepancy between the strict requirements for the independence of digital service coordinators and the entrustment of (strong) powers to the EC. We are open (and up to further discussion) to support the creation of a new (independent) body at the EU level. **CZ** *(Comments)*: Since DSCs are supposed to be independent, why isn't the EU-level structure independent as well? There is little distinction between the practical independence of such an office on the MS and on the EU level. See also our comment on Article 51(1a). **LU** *(Comments)*: Pursuant do paragraph 1, Digital Services Coordinators are asked to perform their tasks in an impartial manner. We therefore consider that the independence requirement is sufficient also in paragraph 1, and not introduce several levels of independence, such as "complete".
3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with	**EL** *(Drafting)*: ~~3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided~~	**IE** *(Comments)*: There is a tension between the independence of the DSC, other national regulators (competent authorities) and the coordination role among

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law.	~~for in this Regulation and the cooperation with other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law.~~	those authorities that the DSC is envisaged to have. While the Commission have pointed to Article 39(3) to alleviate concerns that the DSC's independence might hinder it from accepting the work of other regulators as fulfilling aspects of the DSA, this doesn't address the practical issue of having the DSC as a central coordinator with no express powers to require other competent authorities to do anything, even minor things like the provision of information. Article 38(2) implies that Member States would provide for this cooperation mechanism in their national laws but that would necessarily lead to fragmentation among Member States as to the basic approach. Also if a competent authority may be a political institution or even a politician and in light of that Article 39(3) could actually undermine the independence of the DSC. **RO** *(Comments)*: It is not clear what that system means. We consider it useful to provide additional details in this regard, in order to ensure an unequivocal understanding of the text. **DE** *(Comments)*: In reason of constitutional requirements deriving from the principle of democratic legitimation as enshrined in Art. 20 of the DEU constitution (*Grundgesetz*), in principle, any authority in

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		DEU needs to be integrated into the structures and chains of control of the executive and, thus, needs to be subject to technical and legal supervision (in the end) by the competent ministry which in turn is (being part of the Government) directly responsible to the German Parliament (*Bundestag*). There are only a few constitutionally limited exceptions, such as data protection authorities. Is the provision in para. 3 sentence 2 ("Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law.") intended to cover also such types of supervision as required by national constitutional law? Recital 74 seems not to be sufficiently clear in this regard as it only refers to the possibility of "national control or monitoring mechanisms regarding financial expenditure or judicial review" and might need some clarification in this respect. **EL** *(Comments)*: Article 101A of the Constitution provides: "3. Matters concerning the relation between the independent authorities and the Parliament, and the manner, in which parliamentary control is exercised, are specified by the Standing Orders of the Parliament"

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 40 *Jurisdiction*		**DE** *(Comments)*: According to Art. 40, the country of origin principle is retained in principle. However, we wonder what happens when the authorities of a single country of origin are overwhelmed with effectively monitoring providers of intermediary services for the entire internal market, i.e. for every single other MS and for the protection of all citizens of the EU. • Maybe the COM should have its own investigative and enforce-ment powers, at least in this case. • The authority to request an investigation and enforcement by the COM has so far only been given for violations by VLOPs in accordance with Art. 46(2). Maybe this authority should be extended to violations by all pro-viders. • In our view, it should also be considered to authorise other MS or the COM to step in, as in the case of a provider without a legal representative (para. 3). We would also be grateful for a more detailed explanation of what exactly is meant by "jurisdiction" in Art. 40. We wonder whether it is just a question of delimiting the legal competences of the coordinators of the MS or also of the courts.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		CZ *(Comments)*: **CZ** generally supports Article 40, which is in compliance with the country of origin principle. **IT** *(Comments)* Article 40: in order to ensure a level playing field and to avoid forum shopping, extra UE providers shall be subject to DSA through their legal representatives and provided with substantial financial resources.
1. The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of Chapters III and IV of this Regulation.	**IE** *(Drafting)*: The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of Chapters III and IV of this Regulation, together with Articles 8 and 9 of Chapter 2 of this Regulation in so far as that jurisdiction relates to infringements of the obligations placed therein upon intermediary services to inform the authority issuing the order of the effect given to the orders **SE** *(Drafting)*: **FR** *(Drafting)*: 1. The Member State in which the main	**DE** *(Comments)*: The ECD and the AVMSD contain extensive regulations for determining the MS of the main establishment of the provider of intermediary services. We wonder how the "main establishment" should be determined in the context of the DSA. We also wonder, what is meant by the reference to "the purposes of Chapter III and IV". In our view, there needs to remain some room for additional national regulatory measures to complement the obligations of Chapter III, in particular Section 2 and 3. Because when it comes to protecting freedom of expression and democracy, we must not follow the logic of the lowest common denominator; there must be

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of Chapter~~s~~ III, Sections 1, 2, 3 and 4, and Chapter IV of this Regulation. **CZ** *(Drafting)*: The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of Chapters III and IV of this Regulation, **together with Articles 8 and 9 of Chapter 2 of this Regulation in so far as that jurisdiction relates to infringements of the obligations placed therein upon intermediary services to inform the authority issuing the order of the effect given to the orders.** **LU** *(Drafting)*: The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of Chapters III and IV of this Regulation **together with Articles 8 and 9 of Chapter 2 of this Regulation in so far as that jurisdiction relates to infringements of the obligations placed therein upon intermediary services to inform the authority issuing the order of the effect given to the orders.**	room for well-considered national safeguards. **CZ** *(Comments)*: We support the IE proposal of addition into article 40 regarding the jurisdiction for the purposes of Articles 8 and 9. **EL** *(Comments)*: **Par. 1 should explicitly include the jurisdiction of the MS of origin for the purpose of Chapter II and in particular the compliance with the obligation of providers of intermediary services to inform the relevant national judicial or administrative authority issuing the order, according to those specified in Chapter II, Article 8 (par. 1) and Article 9 (par. 1).** **LU** *(Comments)*: Articles 8 and 9 also cover provisions that will need to be enforceable under the DSA. For instance, the obligation to provide feedback by intermediary service providers to national authorities emitting orders to remove illegal content may need to entail an enforcement by the Digital Services Coordinator of the main establishment of that provider.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	FR *(Drafting)*: 1a. The Member State in which the consumers have their habitual residence shall have jurisdiction for the purposes of Section 3A of Chapter III of this Regulation. 1b. The Member State in which the authority issuing the order is situated shall have jurisdiction for the purposes of Articles 8 and 9 of this Regulation.	**FR** *(Comments)*: Each digital service should fall under the jurisdiction of a single regulator, according to the internal market principle (one-stop-shop principle). **As an exception however**, the obligations provided for in **articles 8 and 9** should be supervised by **the State that has issued the order**, and not the country of establishment : the involvement of the latter brings no clear added value and needlessly complexifies the supervision scheme. Similarly the **additional obligations for marketplace services relating to consumer protection** that the French authorities propose to introduce in a new section 3A, which would complement the other DSA obligations already applicable to various services including market places, should be supervised by the **regulator of the State of residence of the consumer**.
2. A provider of intermediary services which does not have an establishment in the Union but which offers services in the Union shall, for the purposes of Chapters III and IV, be deemed to be under the jurisdiction of the Member State where its legal representative	**FR** *(Drafting)*: 2. A provider of intermediary services which does not have an establishment in the Union but which offers services in the Union shall, for the purposes of Chapter~~s~~ III, Sections 1, 2, 3 and 4, and Chapter IV, be deemed to be	**EL** *(Comments)*: According to this paragraph if a provider of intermediary services is not established in the Union, the provider is deemed "*to be under the jurisdiction of the Member State where its legal representative resides or is established*". On the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
resides or is established.	under the jurisdiction of the Member State where its legal representative resides or is established.	other hand, Article 28a(2) of the AVMSD provides for secondary criteria for determination of the jurisdiction for VSPs. In line with those, a VSP of a third country would be deemed to be established in a Member State if a parent or subsidiary undertaking or an undertaking member of the same group is established in that Member State. Therefore, in certain situations, to implement the rules provided for by the AVMSD together with the additional rules provided for by the DSA, a double jurisdiction assessment will have to be conducted. It is suggested to align secondary criteria of establishment in both legal instruments.
3. Where a provider of intermediary services fails to appoint a legal representative in accordance with Article 11, all Member States shall have jurisdiction for the purposes of Chapters III and IV. Where a Member State decides to exercise jurisdiction under this paragraph, it shall inform all other Member States and ensure that the principle of *ne bis in idem* is respected.	**EL** *(Drafting)*: Where a provider of intermediary services fails to appoint a legal representative in accordance with Article 11, all Member States shall have jurisdiction for the purposes of Chapters III and IV. Where a Member State decides to exercise jurisdiction under this paragraph, it shall inform all other Member-States and such proceedings for the same facts, shall not be open in no other Member State. If such proceedings have already been open in more Member-States, priority will be given to the earliest among them and all subseqent proceedings shall be suspended.	**BE** *(Comments)*: With regard to Article 40.3, when several competent authorities exercise their competences with regard to the same provider, how they should ensure the coordination in order to avoid any breach of the *ne bis in idem* principle? The Commission explained during the meetings that there should be a good cooperation between the different MS. Concretely, does it mean that in practice, the other MS have to refrain from investigating or launching any procedure as soon as they are informed OR each MS are allowed to work in parallel and should stop only once a MS

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		has taken a decision/sanction? How should the MS inform other MS of its decision to exercise jurisdiction? Through DSC and information sharing system of article 67? **RO** *(Comments)*: For a better understanding, what deadline is available for providers to appoint their representatives. It is also not clear what happens if the representative changes residence or has more than one residence. **DE** *(Comments)*: It still seems unclear to us how the regulation can be enforced against providers from third countries without a registred office or a legal representative in the EU. The admissibility of enforcement measures under international law against third-country companies in these cases still appears uncertain in detail. Particularly in cyperspace, the distinction between territoriality and extraterritoriality in the area of "enforcement jurisdiction" and thus the question of whether enforcement measures are generally only permissible with the consent of the state where the targeted IT-infrastructure or data is located can be difficult. We therefore consider it urgently necessary to examine in detail how the DSA provisions are to

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		be enforced in practice against providers from third countries. In the absence of international conventions on the enforcement of decisions, to which both the EU/its MS and the third State concerned are parties, enforcement will be subject to the national law of the third State concerned. We also wonder how the MS which exercises jurisdiction towards a third-country provider without a legal representative, can ensure that the principle “ne bis in idem” is adhered to. From our point of view, the MS concerned can only inform all other MS immediately and shall not be obliged to take any further measures to ensure this principle is adhered to. This should be clarified in para. 3. However, to make the wording in para. 3 easier to understand, the Latin phrase “ne bis in idem” should be formulated using the correct designation in the respective official language of the MS. **SK** *(Comments)*: *Art. seeks to address situations where a provider does not appoint a legal representative in the EU, and where the regulation confers jurisdiction on all Member States with reference to the principle - ne bis in idem principle.* *In this context, we emphasize the introduction of*

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		mandatory implementation of joint investigations, if the legal basis should mean a violation of EU law - This will ensure a coordinated approach, or. transfer of these cases to the common European level (regardless of the type and size of the intermediary service provider). **EL** *(Comments)*: **In case a provider of intermediary services fails to appoint a legal representative in accordance with Article 11 in breach of its obligation every MS shall have jurisdiction. However, it is totally unclear how and under which process a MS may impose any sanction or take any measure against a provider that has neither establishment nor has appointed a legal representatitive pursuant to Article 11. In our view, the MS will not be able to exercise in practice any power against such provider.** **If a member state decides to exercise jurisdiction under this paragraph, informing also all other Member States, it is unclear which is the scope of the obligation to "ensure that the principle of ne bis in idem is respected". If this means that such MS shall ensure that other MS have to respect the ne bis in idem principle, it is obvious that this is unable to be applied in practice. On the other**

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		hand, if the provision means that such member state shall ensure that it respects the ne bis in idem principle, then again further clarification might be necessary on how this can be achieved in practice. **In order to tackle with the above practical problems, NCRTV suggested that it would be better to provide that, should a MS exercise jurisdiction under this paragraph, no other MS should be able to start proceeding based on the same facts and if such proceedings have been opened in several M-S, the earliest one will prevail and all other will be suspended.** ========== A member state cannot ensure that another M-S will respect the "Ne bis in idem" principle. It is best to provide that, should a MS exercise jurisdiction under this paragraph, no other MS should be able to start proceeding based on the same facts and if such proceedings have been open in several M-S the earliest one will prevail and all other will be suspended. **NL** *(Comments)*: How will this information be shared with all Member States? Via the information sharing system mentioned in art. 67?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	PL*(Drafting)*: **NEW para 4:** Member State shall exercise jurisdiction for the purposes of Chapters III and IV of this Regulation where it concerns very large online platforms, as defined in art. 25, which offer services to a significant number of active recipients of the service in a given member state, which can be calculated on the basis of art. 23(2).	**PL***(Comments)*: We are concerned about rules related to jurisdiction over VLOPs. The country of origin principle brings undeniable profits in terms of ensuring growth opportunities for smaller providers of intermediary services within the EU and therefore it should be kept in the DSA. Nevertheless, in the case of very large online platforms (VLOPs) there should be a possibility to derogate from this principle in order to ensure effective user protection. This is especially true taking into account what is stated in DSA regulation '*very large online platforms, which due to their reach have acquired a central, systemic role in facilitating the public debate and economic transactions'*. In cases that involve a large group of recipients within a country, it is therefore crucial for the national regulator to ensure that the rules resulting from the DSA are respected. This also stems from the needd to protect freedom of speech and information which is especially important in case of social media VLOPs. Therefore, we opt to confer upon national authorities of the Member States the power to supervise the services provided to users by very large online platforms (especially having in mind social networking platforms), including the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		power to impose fines for failure to comply with obligations with respect to services provided on their territory. Any sanctions must be proportionate to the relevance of the platform in that Member State. There is a risk that users who cannot afford foreign proceedings or are not willing to take part in a timely, international litigation, will give up their rights resulting from the Regulation. Art. 40 in its current form turns some national authorities into de facto pan-European bodies without sufficient resources (work overload) and without expertise on socio-cultural context of each Member State (oversight on content moderation requires expertise in national law, local language, cultural norms and contexts). This exercise of jurisdiction should be limited to VLOPs (art. 25) that offer their services to a significant number of users in a given member state (this can be calculated on the basis of art. 23(2)). Significant number of users may be further clarified by reference to a certain percentage of the population of a country using a given platform. This should also be supplemented by a proper mechanism for cooperation in order to ensure uniform application of DSA rules.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
4. Paragraphs 1, 2 and 3 are without prejudice to the second subparagraph of Article 50(4) and the second subparagraph of Article 51(2) and the tasks and powers of the Commission under Section 3.	**FR** *(Drafting)*: 4. Paragraphs 1, 1a, 1b, 2 and 3 are without prejudice to the second subparagraph of Article 50(4) and the second subparagraph of Article 51(2) and the tasks and powers of the Commission under Section 3.	
Article 41 *Powers of Digital Services Coordinators*	**EL** *(Drafting)*: Article 41 Powers of competent authorities Digital Services Coordinators	**DE** *(Comments)*: Art. 41 contains a minimum catalogue of necessary investigative and enforcement powers of the DSCs, which, according to Art. 38(4), also applies to all other competent authorities, i.e. in particular also to those that enforce infringements of technical law (e.g. market surveillance authorities). We wonder why it is considered to be necessary to give special enforcement powers to the competent authorities. We also wonder whether, especially with regard to the orders according to Art. 41(3) lit. b, new legal bases for intervention and associated prodedural law need to be created in national law for the competent authorities, or whether this already follows from the DSA itself in each case. We also wonder whether para. 1 and 2 include an obligation of the providers and persons concerned to cooperate with the DSC. If so, it

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		could ultimately mean an obligation to self-incriminate. Should a reporting obligation for illegal products of the platforms to the DSC be introduced, as requested by DEU in the context of Art. 14 (cf. table on Chapter III), corresponding powers of the DSC would still have to be included in Art. 41. **CZ** *(Comments)*: **CZ** agrees with the harmonisation of basic powers of DSC. However, we are of the opinion that the powers of the DSC towards the Commission and the Board are defined rather narrowly, whereas towards the platforms rather broadly. See our suggestions below.
		BE *(Comments)*: This Article does not apply to Chapter II and therefore to Articles 8 and 9. Is there any possibility provided for in this instrument in order to ensure that any infringements to Articles 8 and 9 may be subject to remedies and fines in accordance with this instrument?
1. Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following powers of investigation, in respect of conduct by providers of intermediary services under the jurisdiction of their Member State:	**CZ** *(Drafting)*: Where needed for carrying out their tasks, Digital Services Coordinators shall have ~~**at least**~~ the following powers of investigation, in respect of conduct by providers of intermediary services	**CZ** *(Comments)*: **CZ** appreciates the partial harmonization effect of the DSA and wishes to adhere to maximum harmonization possible in this area. This is also to prevent too diverging administrative practices

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	under the jurisdiction of their Member State: **EL** *(Drafting)*: Where needed for carrying out their tasks, ~~Digital Services Coordinators~~ the competent authorities shall have at least the following powers of investigation, in respect of conduct by providers of intermediary services under the jurisdiction of their Member State: **LU** *(Drafting)*: Where needed for carrying out their tasks **under this Regulation**, Digital Services Coordinators shall have ~~at least~~ the following powers of investigation, in respect of conduct by providers of intermediary services under the jurisdiction of their Member State	among the MS. **EL** *(Comments)*: Taking into account what has already been said under Article 38, NCRTV is of the opinion that the powers of the DSC should be devolved to the sectoral national authorities, with the exception of the one provided in art. 25(4) relating which would be accomplished by the European Commission. Should the proposed structure is kept, DSC should only have co-ordination competences, that is to facilitate the comuniation between sector specific authorities where necessary. DSC could also act as Commission's contact point in each M-S. **LU** *(Comments)*: The powers of the Digital Services Coordinator for the purposes of enforcing the DSA need to be the same in each Member State, in order to avoid any discrepancy in the enforcement of the DSA. This is consistent with the goal of creating harmonised rules, including when it comes to enforcement, and the objective to contribute to a functioning Single Mareket. Therefore the list of powers needs to be exhaustive.
(a) the power to require those providers, as well as any other persons acting for purposes		**DE** *(Comments)*: We wonder what "persons acting for purposes

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including, organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period;		related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation" are specifically meant here. We ask ourselves whether we are talking about employees of these providers or, for example, sellers who use the platform for their services. Besides the already existing link to Art. 28 and 50(3), we would like to see a clarification here as to who can be the addressee of the investigative powers.
(b) the power to carry out on-site inspections of any premises that those providers or those persons use for purposes related to their trade, business, craft or profession, or to request other public authorities to do so, in order to examine, seize, take or obtain copies of information relating to a suspected infringement in any form, irrespective of the storage medium;	**HU** *(Drafting)*: (b) the power to carry out on-site inspections of any premises ***within their Member State*** that those providers or those persons use for purposes related to their trade, business, craft or profession, or to request other public authorities to do so, in order to examine, seize, take or obtain copies of information relating to a suspected infringement in any form, irrespective of the storage medium;	**HU** *(Comments)*: The power of carrying out on-site inspections, should be limited to the territory of the Member State of the Digital Services Coordinator, even if the DSC has jurisdiction over an intermediary service provider that provides services to different member states. **RO** *(Comments)*: The exercise of this power may be conditional on obtaining a prior authorization or is it an absolute prerogative of the DSC based on the regulation?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(c) the power to ask any member of staff or representative of those providers or those persons to give explanations in respect of any information relating to a suspected infringement and to record the answers.		
2. Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following enforcement powers, in respect of providers of intermediary services under the jurisdiction of their Member State:	**EL** *(Drafting)*: 2. Where needed for carrying out their tasks, ~~Digital Services Coordinators~~ the competent authorities shall have at least the following enforcement powers, in respect of providers of intermediary services under the jurisdiction of their Member State: **LU** *(Drafting)*: Where needed for carrying out their tasks, Digital Services Coordinators shall have ~~at least~~ the following enforcement powers, in respect of providers of intermediary services under the jurisdiction of their Member State:	**DE** *(Comments)*: For reasons of legal clarity, it should be examined whether in the context of Art. 41(2), it should be added that the competences must be granted "in accordance with national law" – as it is often the case in other regulations. **LU** *(Comments)*: See above.
		DE *(Comments)*: A separate paragraph would have to be inserted stating that the DSC is authorised to receive information from the platforms about illegal products. In the same way, the DSC would have to be obligated to forward this information to the relevant national authorities within a predetermined period, so that the competent

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		authorities can confiscate the illegal products as quickly as possible and remove them from the market.
(a) the power to accept the commitments offered by those providers in relation to their compliance with this Regulation and to make those commitments binding;		
(b) the power to order the cessation of infringements and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end;		**BE** *(Comments)*: What does the reference to 'remedies' in Article 41.2.b) mean and what kind of measures does it cover? **EL** *(Comments)*: **For reasons of uniformity between MS, we consider that it shoulb be clarified and further elaborated which are the remedies mentioned herein.**
(c) the power to impose fines in accordance with Article 42 for failure to comply with this Regulation, including with any of the orders issued pursuant to paragraph 1;		**BE** *(Comments)*: Is there any proceeding or hierarchy between the measures to be imposed in accordance with Article 41.2., points b) and c)? Should the DSC notify the infringement prior to impose any measure/fine? Could we have more clarification on the last

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		sentence of Article 41.2 ? Would a procedure as provided for in this sentence be also applicable prior imposing remedies or fines in accordance with Article 41.2.b) and c)? Article 41.2 c): "***including with any of the orders issued pursuant to paragraph 1***". Could you clarify what is meant by this sentence exactly ? Does it mean that the information targeted in §1 have to be required through orders pursuant article 9? Is there a link with article 9? However, we note that article 9 only refers to orders to provide information on one or more **recipient of the service**) this seems too narrow to request "information on a suspected infringement" for example. **DK** *(Comments)*: The precise meaning of this article is still unclear to us. If this article is intended to be read in conjunction with article 42 meaning that the Digital Service Coordinator shall be able to impose administrative fines on intermediary services, it will pose constitutional problems in DK. The constitutional concerns are due to the fact that it appears from section 3 of the Constitution that the legislative power is with the king (government) and the Parliament jointly, that the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		executive power is with the king (government) and that the judiciary is with the courts. On that background the legislature cannot, in general, entrust the processing of criminal fines to administrative authorities. It is also a basic principle in the Danish judicial system that fines can only be imposed with the assistance of the courts and in the forms of criminal justice that ensure the accused effective protection.
(d) the power to impose a periodic penalty payment in accordance with Article 42 to ensure that an infringement is terminated in compliance with an order issued pursuant to point (b) of this paragraph or for failure to comply with any of the orders issued pursuant to paragraph 1;		
(e) the power to adopt interim measures to avoid the risk of serious harm.		**BE** *(Comments)*: Could the Commission gives some examples of interim measures to avoid the risk of serious harm as provided for in Article 41.2.e)? What is meant by "serious harm" and who should assess this "seriousness"? **EL** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		For reasons of uniformity between MS, we consider that it shoulb be clarified and further elaborated which are the interim measures mentioned herein. **NL** *(Comments)*: Can the Commission clarify what can be understood as 'interim measures'? Could the power to make a website temporarily unavailable qualify as such a measure, for instance?
As regards points (c) and (d) of the first subparagraph, Digital Services Coordinators shall also have the enforcement powers set out in those points in respect of the other persons referred to in paragraph 1 for failure to comply with any of the orders issued to them pursuant to that paragraph. They shall only exercise those enforcement powers after having provided those others persons in good time with all relevant information relating to such orders, including the applicable time period, the fines or periodic payments that may be imposed for failure to comply and redress possibilities.	**EL** *(Drafting)*: As regards points (c) and (d) of the first subparagraph, ~~Digital Services Coordinators~~ the competent authorities shall also have the enforcement powers set out in those points in respect of the other persons referred to in paragraph 1 for failure to comply with any of the orders issued to them pursuant to that paragraph. They shall only exercise those enforcement powers after having provided those others persons in good time with all relevant information relating to such orders, including the applicable time period, the fines or periodic payments that may be imposed for failure to comply and redress possibilities	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
3. Where needed for carrying out their tasks, Digital Services Coordinators shall also have, in respect of providers of intermediary services under the jurisdiction of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:	**AT** *(Drafting)*: 3. Where no other effective means are available to bring about the cessation or the prohibition of an infringement and in order to avoid the risk of serious harm to the life and safety of persons, Digital Services Coordinators shall also have the power to take the following measures: **EL** *(Drafting)*: Where needed for carrying out their tasks, ~~Digital Services Coordinators~~ the competent authorities shall also have, in respect of providers of intermediary services under the jurisdiction of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:	**BE** *(Comments)*: Article 41.3 provides for a fixed period of restriction of four weeks. There is therefore no 'marge de manoeuvre' for the judicial authorities to apply these measure on a case-by-case basis? How the specific situation of each provider and of the infringement is taken into account? Furthermore, the DSC shall only extend the period of 4 weeks where it considers the temporary restriction does not unduly restrict access to lawful information by recipients of the service. Shouldn't this be assessed by a judicial authority? Finally, we would like to know why the management body is only involved in the "last resort" procedure. Couldn't it be involved sooner? **AT** *(Comments)*: This provision is unnecessary complicated and cumbersome in comparison with for example Art. 9 paragraph 4 letter g of the CPC-Regulation, while serving the same means. It is not jusified that in cases of serious criminal offences involving a threat to the life or safety of persons (!) there are more cumbersome proceedings which take a very long time than in cases of infringements of consumer law.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(a) require the management body of the providers, within a reasonable time period, to examine the situation, adopt and submit an action plan setting out the necessary measures to terminate the infringement, ensure that the provider takes those measures, and report on the measures taken;	**AT** *(Drafting)*: (a) the power to remove content or to restrict access to an online interface or to order the explicit display of a warning to recepients when they access an online interface;	**DE** *(Comments)*: We wonder what the legal quality of the "action plan" mentioned here is. The question arises whether it is a self-commitment by the providers of intermediary services. **DK** *(Comments)*: "*A reasonable time period*" is a very unclear timeframe and it should be defined more clearly in order to provide efficiency and legal certainty.
(b) where the Digital Services Coordinator considers that the provider has not sufficiently complied with the requirements of the first indent, that the infringement persists and causes serious harm, and that the infringement entails a serious criminal offence involving a threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.	**HU** *(Drafting)*: (b) where the Digital Services Coordinator considers that the provider has not sufficiently complied with the requirements of the first indent, that the infringement persists and causes serious harm, and that the infringement entails a serious criminal offence involving a threat to the life or safety of persons, request the competent judicial ***authorities of the targeted Member States*** to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place***, or the access to the***	**HU** *(Comments)*: Intermediary service providers may target different Member States, therefore injunctions should not be limited to the Member State of jurisdiction. As a last resort, electronic communications providers – as mere conduit intermediary service providers - should be ordered to restrict access to illegal content or services. Furthermore, What possible technical solutions could be considered for the temporary restriction of access)? **DE** *(Comments)*: We wonder to what extent and in which

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	service by electronic communications providers. **AT** *(Drafting)*: (b) the power to order a hosting service provider to remove, disable or restrict access to an online interface; or **EL** *(Drafting)*: (b) where the ~~Digital Services Coordinator~~ the competent authority considers that the provider has not sufficiently complied with the requirements of the first indent, that the infringement persists and causes serious harm, and that the infringement entails a serious criminal offence involving a threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place	constellations a "temporary restriction of access of recipients of the service concerned by the infringement" is technically possible at all. **PL***(Comments)*: We have doubts as to how the restriction of access to services under Article 41 is to be carried out. This is particularly the case if the service provider is not established in the EU and does not intend to cooperate. In such a case, the temporary restriction of access to the infringed service could take place through the action of telecommunication undertakings, which in turn would require the power to impose an obligation on them to restrict access to the service. Article 41(3)(b) indicates that such restriction may be ordered, at the request of the Digital Services Coordinator, by a judicial authority of a Member State. However, Polish law, for example, does not provide a mechanism whereby a court would impose obligations to prevent access to websites using certain domain names on all telecommunications undertakings, not only those operating in Poland, but also in other Member States. Restricting the possibility of providing indirect services, in particular by entities established outside the EU, is crucial for the effectiveness of the entire regulation. Therefore, Poland would like to indicate that the mechanism specified in the DSA requires clarification and

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		adjustment to the legal realities of Member States.
The Digital Services Coordinator shall, except where it acts upon the Commission's request referred to in Article 65, prior to submitting the request referred to in point (b) of the first subparagraph, invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority. Any measure ordered shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by recipients of the service concerned.	**AT** *(Drafting)*: (c) where appropriate, the power to order domain registries or registrars to delete a fully qualified domain name and to allow the Digital Services Coordinator concerned to register it; **EL** *(Drafting)*: The ~~Digital Services Coordinator~~ competent authority shall, except where it acts upon the Commission's request referred to in Article 65, prior to submitting the request referred to in point (b) of the first subparagraph, invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority. Any measure ordered shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by recipients of the service concerned.	**HU** *(Comments)*: How can the efficiency and speed of this instrument be ensured if even the written observations of the interested parties have to be made pursuant to the second subparagraph of paragraph 3? **DE** *(Comments)*: We wonder, what the terms "any other third party" and "a legitimate interest" refer to. Which parties are considered/conceivable?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
The restriction shall be for a period of four weeks, subject to the possibility for the competent judicial authority, in its order, to allow the Digital Services Coordinator to extend that period for further periods of the same lengths, subject to a maximum number of extensions set by that judicial authority. The Digital Services Coordinator shall only extend the period where it considers, having regard to the rights and interests of all parties affected by the restriction and all relevant circumstances, including any information that the provider, the addressee or addressees and any other third party that demonstrated a legitimate interest may provide to it, that both of the following conditions have been met:	**AT** *(Drafting)*: including by requesting a third party or other public authority to implement such measures. Such measures shall be subject to judicial redress. **EL** *(Drafting)*: The restriction shall be for a period of four weeks, subject to the possibility for the competent judicial authority, in its order, to allow the ~~Digital Services Coordinator~~ the authority that issued the order to extend that period for further periods of the same lengths, subject to a maximum number of extensions set by that judicial authority. The competent authority ~~Digital Services Coordinator~~ shall only extend the period where it considers, having regard to the rights and interests of all parties affected by the restriction and all relevant circumstances, including any information that the provider, the addressee or addressees and any other third party that demonstrated a legitimate interest may provide to it, that both of the following conditions have been met:	
(a) the provider has failed to take the necessary measures to terminate the	**AT** *(Drafting)*:	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
infringement;	(delete)	
(b) the temporary restriction does not unduly restrict access to lawful information by recipients of the service, having regard to the number of recipients affected and whether any adequate and readily accessible alternatives exist.	**AT** *(Drafting)*: (delete)	
Where the Digital Services Coordinator considers that those two conditions have been met but it cannot further extend the period pursuant to the third subparagraph, it shall submit a new request to the competent judicial authority, as referred to in point (b) of the first subparagraph.	**AT** *(Drafting)*: (delete) **EL** *(Drafting)*: Where the competent authority ~~the Digital Services Coordinator~~ considers that those two conditions have been met but it cannot further extend the period pursuant to the third subparagraph, it shall submit a new request to the competent judicial authority, as referred to in point (b) of the first subparagraph.	
4. The powers listed in paragraphs 1, 2 and 3 are without prejudice to Section 3.		
5. The measures taken by the Digital Services Coordinators in the exercise of their powers listed in paragraphs 1, 2 and 3 shall be	**EL** *(Drafting)*: 5. The measures taken by the competent	**BE** *(Comments)*: Is there any reason for the differences between

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
effective, dissuasive and proportionate, having regard, in particular, to the nature, gravity, recurrence and duration of the infringement or suspected infringement to which those measures relate, as well as the economic, technical and operational capacity of the provider of the intermediary services concerned where relevant.	authorities ~~Digital Services Coordinators~~ in the exercise of their powers listed in paragraphs 1, 2 and 3 shall be effective, dissuasive and proportionate, having regard, in particular, to the nature, gravity, recurrence and duration of the infringement or suspected infringement to which those measures relate, as well as the economic, technical and operational capacity of the provider of the intermediary services concerned where relevant	the criterion provided for in Articles 41.5, 42.2 and 59, namely the measures and fines imposed by the DSC, national judicial authorities and the Commission? Wouldn't consistency between these articles be preferable?
6. Member States shall ensure that any exercise of the powers pursuant to paragraphs 1, 2 and 3 is subject to adequate safeguards laid down in the applicable national law in conformity with the Charter and with the general principles of Union law. In particular, those measures shall only be taken in accordance with the right to respect for private life and the rights of defence, including the rights to be heard and of access to the file, and subject to the right to an effective judicial remedy of all affected parties.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 42 *Penalties*		**HU** *(Comments)*: In order to set the system of penalties (administrative fines) in a reasonable way, beside the percentages specified in the Article, we suggest setting a reasonable quantitative objective limit (an amount) for each percentage, similarly as it is set out in Art. 83 paras (4) and (5) of the GDPR, not adhering, however to the exact amounts specified there. **DE** *(Comments)*: We wonder whether, under Art. 42, any breach of obligations under the DSA (including, for example, due dilligence obligations) is subject to sanctions (penalties). Also we wonder whether all of the obligations of chapter III are specific enough to allow for sanctioning. For example, in our view, the notice and action mechanism is very unspecific as the DSA lacks a definition of illegal content or obligations to delete content.
1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation by providers of intermediary services under their jurisdiction and shall take all the necessary measures to ensure that they are implemented in accordance with Article 41.		**DE** *(Comments)*: We wonder what concrete measures MS should take (in addition to enacting rules on penalties) under para. 1 to apply sanctions in accordance with Art. 41.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		EL *(Comments)*: **As mentioned above, in case no legal representative is appointed by a provider of of intermediary services, each MS shall have jurisdiction pursuant to Art. 40 par.3. However, it is totally unclear under which conditions a penalty may be imposed on an entity that has neither establishment nor legal representative in the MS concerned**. **DK** *(Comments)*: It is important for Denmark, that the Member States have the authority to decide what bodies can impose fines. As the largest digital platforms are cross-border in nature, Denmark emphasizes that the Commission should play an active role in investigating the offenses of the largest digital platforms, as it can be challenging for national enforcement authorities to ensure effective enforcement of consumer protection rules for especially the largest online platforms.
2. Penalties shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.	**NL** *(Drafting)*: Clarification of how to notify what, where, and when.	**BE** *(Comments)*: As already mentioned in Article 41, is there any reason for the differences between the criterion provided for in Articles 41.5, 42.2 and 59, namely the measures and fines imposed by the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		DSC, national judicial authorities and the Commission? Wouldn't consistency between these articles be preferable? In addition, what will be the relationship between the national and EU penalties ? Does a minimal approximation of these penalties at EU level has been envisaged by the Commission and what was the result of these reflexions? **NL** *(Comments)*: How will MS notify COM? Which system is to be used? As of when are MS expected to notify, given that the date of application is currently foreseen only 3 months after entry into force of the Regulation?
3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the annual income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the annual income or turnover of the	**AT** *(Drafting)*: 3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the <u>total turnover in the preceding financial year</u> of the provider of intermediary services concerned <u>or, if the provider is not running a business, 6% of the total income in the preceding year</u>. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or	**BE** *(Comments)*: As the Commission clarified during the meeting that there should be no difference between the two concepts, there should be a consistency between the terms in article 42 §3 "*annual income or turnover*" and the terms "*total turnover*" in article 59. **AT** *(Comments)*: The calculation of the maximum penalties should be as clear as in Article 59. Furthermore, it

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
provider concerned.	rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the total income or turnover in the preceding financial year of the provider concerned.	should be made clear in which situations the threshold of turnover and in which situations the threshold of income is applicable. **DE** *(Comments)*: Looking at the wording "maximum amount of penalties" in para. 3, we wonder • why the setting of a maximum amount is necessary; and • whether a clarification should be added that para. 3 only applies to legal persons. In any case, for reasons of proportionality, the maximum amount of 6 % – as foreseen in the first alternative of the proposal – shall be limited to the most serious infringements. This should be clarified in the text. Also we ask for clarification regarding the term "shall not exceed". We wonder wether MS have to provide for penalties with a maximum amount of 6% of the annual income or turnover or whether they are free to only provide for penalties with a maximum amount less than 6% of the annual income or turnover. Also we are wondering why the DSA and the TCO Regulation provide for different maximum amounts of penalities (TCO: turnover-related sanctions of max. 4%). To what extent are parallels to be drawn based on the provisions of

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		the two regulations? If the two regulations contain (partially) parallel obligations, this should also be taken into account when setting sanctions.
4. Member States shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5 % of the average daily turnover of the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.	**AT** *(Drafting)*: 4. Member States shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5 % of the average daily turnover or income of the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.	
Article 43 *Right to lodge a complaint*		
Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Where the complaint falls under the responsibility of	**EL** *(Drafting)*: **Recipients of the service, individuals or representative organisations, shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established** ==	**DE** *(Comments)*: We welcome the individual right of users as set out in Art. 43 to lodge complaints against providers with the DSC of their MS. However, in order to ensure the effectiveness of this right, it has to be clarified: • how users of intermediary services will be informed that they can lodge a complaint with the DSC;

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.	Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall transmit the complaint to the competent authority for assessment ~~the complaint~~ and, where appropriate, transmit it to the Digital Services Coordinator of establishment. ~~Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority~~. **PL***(Drafting)*: Para 1 Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Assessment of the complaint can be supplemented by the opinion of Digital Services Coordinator of the Member State, where the	• how users get the DSC's contact details; • how users find out whether their complaint will be followed by measures against the provider (from our point of view, users shall have a right to obtain information on this from the coordinator and the coordinator shall have to explain to the users why the DSC is not forwarding the complaint or not taking action against the provider); Moreover, we wonder • whether users shall be able to take action if their complaint is not addressed by the DSC of the MS in which they reside either because it is not forwarded to the responsible coordinator of establishment or because no action is taken against the provider; and if so, whether there should be harmonised procedural principles (e.g. with regard to the right to lodge a complaint) to ensure effective and low-threshold legal protection. **EL** *(Comments)*: **We suggest to slightly amend the wording of this Article so as to clarify the right to lodge a complaint may be exercised either by individual or by representative organisations, as mentioned in rec. 81** **DK** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	recipient resides or is established, on how the matter should be resolved taking into account national law and socio-cultural context of a given member state. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.	To our understanding the right to lodge a complaint does not entail the right to lodge individual complaints. We find that it should be clarified what kinds of complaints can be lodged – are they limited to infringements of requirements in chapter III and IV for instance. **NL** *(Comments)*: Can MS decide how to implement this article or should the complaint system be the same in all MS? Is it necessary that this system is with the DSC or could it also be with other competent authorities? **PL***(Comments)*: DSC of the Member State where the recipient resides or is established should have actual influence on the process of handling user complaints regarding service providers established in another EU Member State. Currently its role is passive in case of service provider outside of its jurisdiction. In addition: • article 43 may set a time limit for receiving information on how complaint has been handled, it should be clear that art. 43 does not limit the right of recipients of the service to seek judicial

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		redress in their home country.
	PL*(Drafting)*: Drafting NEW Para 2 Pursuant to paragraph 1 the Digital Services Coordinator of establishment in cases concerning complaint transmitted by the Digital Services Coordinator of the Member State where the recipient resides or is established, should assess the matter in a timely manner and should inform the Digital Services Coordinator of the Member State where the recipient resides or is established, on how the complaint has been handled.	
Article 44 *Activity reports*		
		EL *(Comments)*: **General Comment** **This Article does not specify the method of publication of regular reports drawn up by the Digital Services Coordinators.**
1. Digital Services Coordinators shall draw up an annual report on their activities under this Regulation. They shall make the annual reports available to the public, and shall communicate them to the Commission and to the Board.	**EL** *(Drafting)*: Based on the reports of the national competent authorities the Digital Services Coordinators shall draw up an annual report on ~~their~~ the activities in their Member- States under this Regulation. They shall make the annual reports available to the public, and shall communicate	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	them to the Commission and to the Board.	
2. The annual report shall include at least the following information:		**NL** *(Comments)*: Does the new system mentioned in article 67 support drafting these activity reports? It would be very helpful if this system could, for example, provide the numbers and effects asked for in (2).
(a) the number and subject matter of orders to act against illegal content and orders to provide information issued in accordance with Articles 8 and 9 by any national judicial or administrative authority of the Member State of the Digital Services Coordinator concerned;	**LU** *(Drafting)*: the number and subject matter of orders to act against illegal content and orders to provide information issued in accordance with Articles 8 and 9 by any national judicial or administrative authority of the Member State of the Digital Services Coordinator concerned, **where such information is lawful in accordance with Union or national law**;	**DE** *(Comments)*: We wonder how the DSC becomes aware of the orders of the competent authorities under Art. 8 and Art. 9. We also wonder whether that means that a "communication" in the meaning of the "information sharing system" pursuant to Art. 67 is to be sent in every single case of such an order. Insofar as personal data are also transmitted in this way, explicit authorisation would be required for their processing, namely for their transmission and for their receipt. In any case, Art. 67 does not contain such provisions. We therefore wonder • whether such provisions would have to be created by accompanying legislation; or whether the reporting should be anonymised (in that case, from our view, the DSA must include

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		an expressive provision that says so). **LU** *(Comments)*: Some national laws prohibit the communication about any orders issued as they could jeopardise ongoing investigations.
(b) the effects given to those orders, as communicated to the Digital Services Coordinator pursuant to Articles 8 and 9.		
3. Where a Member State has designated several competent authorities pursuant to Article 38, it shall ensure that the Digital Services Coordinator draws up a single report covering the activities of all competent authorities and that the Digital Services Coordinator receives all relevant information and support needed to that effect from the other competent authorities concerned.	**EL** *(Drafting)*: 3. ~~Where a Member State has designated several competent authorities pursuant to Article 38,~~ ~~it~~ Member-States shall ensure that the Digital Services Coordinator ~~draws up a single report covering the activities of all competent authorities and that the Digital Services Coordinator~~ receives all relevant information and support needed to that effect from the ~~other~~ competent authorities concerned.	
	FR *(Drafting)*: **Subsection 2** **Cross-border cooperation and assistance (excluding very large online platforms)** **FR** *(Drafting)*:	**FR** *(Comments)*: Operational efficiency and adequate consideration of specific national characteristics require involving more actively the regulators of the countries of destination in the supervision of online services.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	Article 44b The provisions of this Subsection shall not apply to the supervision of very large online platforms.	
Article 45 *Cross-border cooperation among Digital Services Coordinators*	**FR** *(Drafting)*: *Article 45* ~~*Cross-border cooperation among Digital Services Coordinators*~~ *Data access*	**HU** *(Comments)*: With regard to the rules in Articles 45 and 46, it would be important to clarify how cooperation and joint investigations will, in practice, affect and remedy the issue of under which Member States' law should illegal content be investigated and should action be taken in the event of an infringement. **DE** *(Comments)*: We welcome the cooperation of national supervisory authorities and national DSCs. The cooperation improves the possibilities of a coherent and uni-form control by several national authorities or DSCs in their respective areas of responsibility. However, in order to ensure effective cooperation, the rules need some clarification and the lenghty procedures need to be shortened. **FR** *(Comments)*: The French authorities will draft similar proposals to involve regulators of countries of destination more actively in the supervision of very large online plateforms.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		NL *(Comments)*: Can the Commission clarify the choice for the cooperation-enforcement system as described in this article? We see no obligations for MS to comply with the information or enforcement requests from other MS. What happens if, in the end, the DSC of the country of fails to act? Will it then be possible for other DSCs to act? Maybe jointly? If not, why? **PL***(Comments)*: There is a need for greater involvement of the country of where the recipient of services resides or is established when supervising obligations based on DSA. We see art. 45 and art. 46 as the move in this direction. However, we are concerned that cooperation mechanism in art. 45 gives limited powers to act for DSC from the country of destination when there is infringement (or suspicion of infringement) of the DSA concerning users in their jurisdiction. In many cases in order to properly understand and handle the cases of content moderation practices, deep understanding of specificities of national law and socio-cultural context is needed. Therefore, DSA should give possibility for active and more direct involvement of the Digital

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		Services Coordinator of destination.
1. Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.	**EL** *(Drafting)*: 1. Where an authority ~~Digital Services Coordinator~~ has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the competent authority ~~the Digital Services Coordinator~~ of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation. Such requests are forwarded via the Digital Services Coordinator of the requesting authority to the Digital Services Coordinator of the receiving authority **FR** *(Drafting)*: 1. Any Digital Services Coordinator shall have access to the confidential version of the reports published by the intermediary service providers referred to in Article 13 and, where applicable, in Article [21b], Article 23 and Article 33, as well as to the annual reports drawn up by the other competent authorities pursuant to Article 44. 2. The Digital Services Coordinator of the Member State where an intermediary service provider is established shall make available to	**BE** *(Comments)*: As already mentioned with regard to Article 38 §2, we would like to receive more clarification on the relationship between this board and other EU bodies competent in related fields. **FR** *(Comments)*: While preserving the one-stop-shop principle, which implies to identify a single competent authority, the DSA should grant regulators of countries of destination access to relevant data, in particular data relating to a platform's activity on its territory **LU** *(Comments)*: In order to respect the requirement of independence of each Digital Services Coordinator, we propose to slightly reformulate this paragraph. Indeed, Digital Services Coordinators shall act in an impartial manner, without taking instructions from any other DSC.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	any other Digital Services Coordinator, upon request, the data collected for the purpose of supervision of that provider and which relate to the territory of the requesting Digital Services Coordinator. 3. Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it may require the provider to provide within a reasonable period of time any information relating to the relevant conduct.. **LU** *(Drafting)*: Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation **in its jurisdiction**, it shall **submit a** request **to** the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.	
Where the Board has reasons to suspect that a provider of intermediary services infringed this Regulation in a manner involving at least three Member States, it may recommend the Digital		**DE** *(Comments)*: We wonder whether the request by the DSC of another MS according to para. 1 sub-para. 1 and

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.		the recommendation by the Board according to para. 1 sub-para. 2 in conjunction with Art. 49(1) lit. c do have a different legal quality. If so, we wonder what the consequences for the DSC of establishment are. We also ask ourselves whether the Board has discretion ("can recommend") in this regard, while the request of the requesting DSC ("requests") is a binding decision (i.e. without discretion) which the DSC is obliged to follow. Additionally, we wonder what happens if the DSC does not comply with this obligation to request such an assessment.
	FR *(Drafting)*: *Article 45a* *Reallocation of cases by mutual agreement* 1. Where a Digital Services Coordinator has reasons to suspect that an intermediary service provider has infringed this Regulation, and the effects of that infringement significantly affect recipients of the service in that Member State only, it may inform the Digital Services Coordinator of establishment of its intention to initiate proceedings. 2. Within three weeks following receipt of the request, the Digital Services Coordinator of establishment shall indicate whether he intends to	**FR** *(Comments)*: The DSC of destination should be given the ability to request the DSC of establishment to open a case, which should be reallocated to the authority that issued a request, in case of unjustified inaction by the DSC of establishment. **FR** *(Comments)*: Idem **PL***(Comments)*: See general comment in art. 45.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	assess the matter himself. In case it did not express such intent within this time frame, the Digital Services Coordinator that sent the request is automatically entitled to take any investigatory or enforcement measures in respect of the relevant conduct by the intermediary service provider.**FR** *(Drafting)*: *Article 45b* *Request for intervention from the authority of the State of establishment* 1. Where a Digital Services Coordinator ~~the Board~~ has reasons to suspect that a provider of intermediary services infringed this Regulation ~~in a manner involving at least three Member States~~, it may recommend the Digital Services Coordinator of establishment to assess the matter, if necessary by implementing investigatory measures, to establish a possible infringement and to adopt the necessary enforcement measures or penalties to ensure compliance with this Regulation. **PL***(Drafting)*: New para 1a A request or recommendation pursuant to paragraph 1 should not preclude the possibility of Digital Services Coordinator of the Member State where the recipient of the service resides or	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	is established, to be able to carry out its own investigation concerning suspected infringement of this regulation by a provider of an intermediary service.	
2. A request or recommendation pursuant to paragraph 1 shall at least indicate:	**FR** *(Drafting)*: 2. A request ~~or recommendation~~ pursuant to paragraph 1 shall at least indicate: **LU** *(Drafting)*: A **submission for** request or recommendation pursuant to paragraph 1 shall at least indicate:	
(a) the point of contact of the provider of the intermediary services concerned as provided for in Article 10;	**FR** *(Drafting)*: ~~(a) the point of contact of the provider of the intermediary services concerned as provided for in Article 10;~~	
(b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request, or the Board, suspects that the provider infringed this Regulation;	**EL** *(Drafting)*: a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the competent authority ~~Digital Services Coordinator~~ that sent the request, or the Board, suspects that the provider infringed this Regulation; **FR** *(Drafting)*: (b) a description of the relevant facts, the	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request~~, or the Board,~~ suspects that the provider infringed this Regulation;	
(c) any other information that the Digital Services Coordinator that sent the request, or the Board, considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.	**EL** *(Drafting)*: any other information that the competent authority ~~Digital Services Coordinator~~ that sent the request, or the Board, considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures. **FR** *(Drafting)*: (c) any other information that the Digital Services Coordinator that sent the request~~, or the Board,~~ considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.	
	PL*(Drafting)*: NEW Para 2a A recommendation pursuant to paragraph 1 and 2 may additionally indicate:	**PL***(Comments)*: See general comment in art. 45.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	• opinion on matters that involve taking into account national law and socio-cultural context; a draft decision based on investigation pursuant to paragraph 1a	
3. The Digital Services Coordinator of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.	**EL** *(Drafting)*: The competent authority ~~Digital Services Coordinator~~ of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the authority ~~Digital Services Coordinator~~ that sent the request, or the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided. **FR** *(Drafting)*: 3. The Digital Services Coordinator of establishment shall take into utmost account the request ~~or recommendation~~ pursuant to paragraph 1~~. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it~~ and may request ~~such~~ additional	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	information to the Digital Services Coordinator that sent the request. ~~The time period laid down in paragraph 4 shall be suspended until that additional information is provided.~~ **LU** *(Drafting)*: The Digital Services Coordinator of establishment shall take into utmost account the **submission for** request or recommendation pursuant to paragraph**s** 1 **and 2**. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.	
4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or	**CZ** *(Drafting)*: The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any	**IE** *(Comments)*: The period allowed for a DSC of establishment to assess an infringement of the DSA as alleged by other Member States and determine if investigatory or enforcement action is required is extremely short. It is also entirely unclear on what ground the Commission would determine that any assessment or any investigatory or enforcement measures taken or envisaged by the DSC of establishment are incompatible with the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
envisaged in relation thereto to ensure compliance with this Regulation.	investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation. **The Digital Services Coordinator shall provide a statement of main reasons of this assessment.** **EL** *(Drafting)*: 4. The competent authority ~~Digital Services Coordinator~~ of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate, via ~~to~~ the Digital Services Coordinator, to the authority that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation. **FR** *(Drafting)*: 4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than ~~two~~ one month~~s~~ following receipt of the request ~~or recommendation~~, communicate to the Digital Services Coordinator that sent the request~~, or the Board,~~ the action it intends to take on the request, and in particular ~~its assessment of the suspected~~	DSA under that Article. **DE** *(Comments)*: According to para. 4, the coordinator of establishment has two months to assess the request / recommendation from another MS or the Board. According to para. 6, the COM has three months to assess the matter after the matter has been referred to it. From our point of view, these deadlines are too long. We think that the effective enforcement of the DSA – seen in the context of the three-months timeline for the COM according to para. 6 – is delayed considerably. **CZ** *(Comments)*: This suggestion is supposed to provide a minimalist request for presenting statement of reasons to avoid a purely formalist reply. "Main reasons" is meant to avoid unnecessary administrative burden. **LU** *(Comments)*: In order to allow for sufficient analysis of the suspected infringement, including possible on-site inspections, more time should be allowed to the DSC to reply with the measures taken. We propose to align with the timeframe given to the Commission in paragraph 6, which is three months.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	~~infringement, or that of any other competent authority pursuant to national law where relevant,~~ ~~and an explanation of~~ any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation, or, where appropriate, the reasons why it considers that there are no reasons for investigating the case. Where the Digital Services Coordinator that sent the request is asked for additional information, that period shall be extended by a maximum of one month. **LU** *(Drafting)*: The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than ~~two~~ **three** months following receipt of the **submission for** request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.	The formulation "or that of any other competent authority pursuant to national law where relevant" is unclear to us. Which authorities are meant? Could another authority provide an assessment instead of the DSC?
5. Where the Digital Services Coordinator that sent the request, or, where appropriate, the	**EL** *(Drafting)*: Where the authority ~~Digital Services Coordinator~~	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Board, did not receive a reply within the time period laid down in paragraph 4 or where it does not agree with the assessment of the Digital Services Coordinator of establishment, it may refer the matter to the Commission, providing all relevant information. That information shall include at least the request or recommendation sent to the Digital Services Coordinator of establishment, any additional information provided pursuant to paragraph 3 and the communication referred to in paragraph 4.	that sent the request, or, where appropriate, the Board, did not receive a reply within the time period laid down in paragraph 4 or where it does not agree with the assessment of the competent authority ~~Digital Services Coordinator~~ of establishment, it may refer the matter to the Commission, providing all relevant information. That information shall include at least the request or recommendation sent to the competent authority ~~Digital Services Coordinator~~ of establishment, any additional information provided pursuant to paragraph 3 and the communication referred to in paragraph 4. **LU** *(Drafting)*: Where the Digital Services Coordinator that sent the request, or, where appropriate, the Board, did not receive a reply within the time period laid down in paragraph 4 or where it does not agree with the assessment of the Digital Services Coordinator of establishment, it may refer the matter to the Commission, providing all relevant information. That information shall include at least the **submission for** request or recommendation sent to the Digital Services Coordinator of establishment, any additional information provided pursuant to paragraph 3 and the communication referred to in paragraph 4.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	FR *(Drafting)*: *Article 45c* *Divestiture in case of unjustified inaction* ~~5~~ 1. Where the Digital Services Coordinator that sent the request, or, where appropriate, the Board, did not receive a reply within the time period laid down in paragraph 4 of Article 45b or where it does not agree with the assessment of the Digital Services Coordinator of establishment, it may refer the matter to the ~~Commission~~ network of Digital Services Coordinators, providing all relevant information. That information shall include at least the request ~~or recommendation~~ sent to the Digital Services Coordinator of establishment, any additional information provided at its request pursuant to paragraph 3 of Article 45b and the communication referred to in paragraph 4 of Article 45b.	**FR** *(Comments)*: Any disagreement between DSCs about failure to take action or about the envisaged decision (see infra) should be settled by a decision by a network of regulators from all Member States (in the text: "network of Digital Services Coordinators"). Actually, as explained earlier, other national competent authorities should be granted the same prerogatives as DSCs for operational supervision. Therefore, this network would bring together the competent authorities of the Member States designated to address the subject at hand: for each Member State, it may be either the DSC, or another competent authority that has been assigned certain missions or specific sectors.
6. The Commission shall assess the matter within three months following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and, unless it referred the matter itself, the Board.	**EL** *(Drafting)*: 6. The Commission shall assess the matter within three months following the referral of the matter pursuant to paragraph 5, after having consulted the competent authority ~~Digital Services Coordinator~~ of establishment and, unless it referred the matter itself, to the Board.	**DE** *(Comments)*: We wonder about the role of the Board in this context. E.g. we wonder whether the COM is obliged to take into account the opinion of the Board and to give reasons when it differs from it. **LU** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	FR *(Drafting)*: ~~6~~ 2. The ~~Commission~~ network of Digital Services Coordinators shall assess the matter ~~within three months following the referral of the matter pursuant to paragraph 5~~, after having consulted the Digital Services Coordinator of establishment ~~and, unless it referred the matter itself, the Board~~. **LU** *(Drafting)*: The Commission shall assess the matter within three months following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and~~, unless it referred the matter itself,~~ the Board**, unless the Board referred the matter itself**.	Slight reformulation for ease of readability.
7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken within two months from that	**EL** *(Drafting)*: 7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the competent authority, via the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it	**DE** *(Comments)*: We wonder about the legal quality of the COM's request to the MS accord-ing to para. 7, and about the consequences in the case a MS does not comply with the request. The COM should, in our view, be given the right to request the DSC of establishment to take action or to adapt its measures. In such a case, the coordinator of establishment would have to "take into utmost account" the COM's request. If the DSC does not comply with the request, the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
request.	about those measures taken within two months from that request. **FR** *(Drafting)*: ~~7~~ 3. Where, pursuant to paragraph ~~6~~2, the ~~Commission~~ network of Digital Services Coordinators concludes that ~~the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken within two months from that request.~~ the reply, or the absence of a reply within one month of the transmission of the question, from the Digital Services Coordinator of establishment does not appear appropriate in the light of the information available, it may reallocate the case to the Digital Services Coordinator that originated the request, which shall then become automatically competent for handling the case. **PL***(Drafting)*: 7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or	DSC must give reasons accordingly.Also the COM shall have the right to exercise its own enforcement powers, if a MS does not comply with its request. This right shall not be limited to VLOPs, as stated in Art. 50 et seq. There is an increasing number of niche platforms which, despite their small size, could be of great importance for specific areas. We also think that the COM should be obliged to take action within a certain period of time if, according to its assessment, there is a violation of the DSA which cannot be remedied by the coordinator of establishment. **DK** *(Comments)*: It is uncler what will happen if the DSC maintains an assessment, that is not aligned with the Commission's assessment. **PL***(Comments)*: See general comment in art. 45. **LU** *(Comments)*: We consider that the formulation "incompatible with this Regulation" is quite vague. Does the Commission have any example what is meant? We propose to focus on the functioning and effectiveness of the Regulation and reformulate accordingly.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken within two months from that request. This information should be also transmitted to the Digital Services Coordinator or the Board that initiated the proceedings pursuant to paragraph 1. **LU** *(Drafting)*: Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are **insufficient to ensure the effectiveness of** ~~incompatible with~~ this Regulation, it shall request the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken within two months from that request.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	FR *(Drafting)*: *Article 45d* *Involvement of the requesting authority in the proceedings* Where the Digital Services Coordinator of establishment decides, following the request referred to in Article 45b to initiate proceedings, and where the case has not been reallocated pursuant to Article 45c, the Digital Services Coordinator who sent the request shall be provided with all the information gathered by the Digital Services Coordinator of establishment during the proceedings relating to this case. *Article 45e* *Involvement in the adoption of a decision, reasoned objection and settlement of disputes* 1. Where the Digital Services Coordinator of establishment or, in the event of derogation from the rule of competence by application of paragraphs 2 or 4, another Digital Services Coordinator intends to adopt a non-compliance decision where it finds that the obligations of this Regulation have been infringed or the procedure has been dismissed, and the intermediary service provider concerned operates in several Member States, that Coordinator shall submit his draft decision to the other members of the network of	**FR** *(Comments)*: The DSC of destination that issued a request for intervention from the authority of the State of establishment should be associated to the handling of that case by the DSC of establishment. The DSC of destination that issued such a request should also be involved in the adoption of a decision on a potential infringement. The DSC of destination should be granted access to relevant data, and should be able to eventually raise a reasoned objection against a draft decision. In such a situation, the disagreement should be settled by the network of regulators. The DSC of destination that issued a request for intervention from the authority of the State of establishment should be involved in the monitoring of the implementation of the decision. In case of urgency, where serious harm is likely to occur, the DSC of destination should be granted the ability to adopt provisional measures

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	Digital Services Coordinators for their opinion. The other members of the network may, within four weeks of being consulted, raise a relevant and reasoned objection to the draft decision. The Digital Services Coordinator who prepared the draft decision may then submit a revised draft decision to the other members of the network, to which they may again raise a reasoned objection within two weeks. 2. In the event of disagreement between the Digital Services Coordinator which prepared the draft decision and the Digital Services Coordinator which raised a reasoned objection to the original or revised draft decision, the latter may submit a request to the network of Digital Services Coordinators for settlement of the dispute. The network of digital Services Coordinators shall inform the Commission, which may give an opinion on the conformity of the draft decision with this Regulation and Union law. The network shall adopt a decision by a [two-thirds] majority of its members within one month of the submission of the request. The Digital Services Coordinator who has prepared the decision or, in the case of dispute resolution under the previous paragraph, the network of Digital services coordinators shall notify the decision as soon as possible to the relevant intermediary service provider, the	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	members of the network and the Commission. *Article 45f* *Monitoring enforcement and request to reopen proceedings* 1. Where binding measures have been adopted by a Digital Services Coordinator against an intermediary service provider operating in several Member States, or where that provider has offered commitments which that Coordinator has made binding, the Digital Services Coordinators of the Member States in which the provider operates may request the Digital Services Coordinator who adopted the decision to transmit in a timely manner, any information relating to the monitoring of its implementation. 2. Where one of these Digital Services Coordinators considers that a platform is not complying with the binding measures or commitments referred to in the previous paragraph, it may ask the Digital Services Coordinator that adopted the decision to reopen the procedure. 3. If that Digital Services Coordinator does not grant the request, the requesting Coordinator may ask the network of Digital Services Coordinators to settle the dispute in accordance with the procedure described in Article 45d.	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	Article 45g *Interim measures* 1. In case of urgency justified by the fact that serious harm to the recipients of the service is likely to occur, any Digital Services Coordinator may, by way of derogation from the rule of jurisdiction laid down in Article 40, order for a specified period of time [not exceeding three months] interim measures against an intermediary service provider on the basis of a prima facie finding of infringement. The Digital Services Coordinator shall without undue delay communicate such measures and the reasons of the adoption to the other Digital Services Coordinators and to the Commission. 2. Where a Digital Services Coordinator has ordered measures under the previous paragraph and considers that definitive measures should be adopted as a matter of urgency, it may request an emergency binding decision from the network of Digital Services Coordinators, with supporting reasons. The emergency decision shall be adopted within two weeks.	
Article 46 *Joint investigations and requests for Commission intervention*	**FR** *(Drafting)*: *Article 46* *Joint investigations and mutual assistance ~~and requests for Commission intervention~~*	**HU** *(Comments)*: With regard to the rules in Articles 45 and 46, it would be important to clarify how cooperation and joint investigations will, in practice, affect and remedy the issue of under which Member

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		States' law should illegal content be investigated and should action be taken in the event of an infringement. **DE** *(Comments)*: We wonder how "joint oversight and investigation activities concerning matters covered by this Regulation" (see rec. 86) are defined. **FR** *(Comments)*: All DSCs should be granted the right to take part in joint investigations, and be subject to mutual assistance obligations. **PL***(Comments)*: Admittedly, the Commission has proposed certain safeguards, such as the possibility to request the Commission to take the necessary investigatory and enforcement measures (art. 46). But due to the time consuming procedure, there is a risk that the Commision's response to the problem will be issued months after sending the request. Hence, there is a need to introduce the mechanism which not only allows logging the complaint before to the local Digital Services Coordinator (art. 43), but also possibility for resolving the case on the national level as well.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
1. Digital Services Coordinators may participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States.	**HR** *(Drafting)*: Digital Services Coordinators may participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States. New provision added after the end of sentence: Digital Services Coordinator from The Member State in which the main establishment of the provider of intermediary services is located and which Member State has jurisdiction for the purposes of Chapters III and IV of this Regulation should participate in joint investigation. **EL** *(Drafting)*: ~~Digital Services Coordinators~~ Competent authorities may participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States **NL** *(Drafting)*: Explanation on how joint investigations can be started and what the cooperation in this regard	**HR** *(Comments)*: Article 40. defines jurisdiction competent for the provider and this amendment regulates that Digital Services Coordinator of the Member State of main residence of provider should participate in joint investigation, in order to directly obtain data, information and documentation from provider, and exchange it with other participants in joint investigation **RO** *(Comments)*: The other competent authorities may participate if they are not DSC? **SK** *(Comments)*: **EL** *(Comments)*: **We regard that the wording of par. 1 should be amended and include the possibility of other competent authorities being involved in the cross-border supervision and investigations of Digital Services Coordinators, as mentioned in recital 86. It should also be clarified who takes the decision to initiate a joint investigation (eg the Digital Services Coordinator of establishment).** **DK** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	will entail. **FR** *(Drafting)*: 1. **[Joint investigations]** Digital Services Coordinators ~~may~~ have the right to participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States. The Digital Services Coordinator of establishment shall invite the Digital Services Coordinators of those Member States to take part in the joint investigations and shall respond promptly to any request from a Digital Services Coordinator to participate.	The article could advantageously address what kind of joint investigations could be carried out. **NL** *(Comments)*: What does 'coordinated with the support of the board' mean? Will there be one MS the coordinator, or will/can COM take that role? Will DSCs that are involved in such a joint investigation, be able to share relevant data?
Such joint investigations are without prejudice to the tasks and powers of the participating Digital Coordinators and the requirements applicable to the performance of those tasks and exercise of those powers provided in this Regulation. The participating Digital Services Coordinators shall make the results of the joint investigations available to other Digital Services Coordinators, the Commission and the Board through the system provided for in Article 67 for the fulfilment of their respective tasks under this Regulation.	**EL** *(Drafting)*: Such joint investigations are without prejudice to the tasks and powers of the participating competent authorities ~~Digital Coordinators~~ and the requirements applicable to the performance of those tasks and exercise of those powers provided in this Regulation. The participating authorities ~~Digital Services Coordinators~~ shall make the results of the joint investigations available to all other competent authories ~~Digital Services Coordinators~~, the Commission and the Board through the system provided for in Article 67 for the fulfilment of their respective tasks	**DK** *(Comments)*: It could be stated more clearly, what powers the Digital Services Coordinators have when they conduct the joint investigations. For example whether the Digital Services Coordinators can conduct on-site inspections and request documents from intermediary services that are not established in their Member States. Further, it is unclear if the DSC from the Member State where the intermediary service is established, is required to participate in the joint investigation. That should be clarified as well in order to ensure

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	under this Regulation **FR** *(Drafting)*: Such joint investigations are without prejudice to the tasks and powers of the participating Digital Coordinators and the requirements applicable to the performance of those tasks and exercise of those powers provided in this Regulation. The participating Digital Services Coordinators shall make the results of the joint investigations available to other Digital Services Coordinators, the Commission ~~and the Board~~ through the system provided for in Article 67 for the fulfilment of their respective tasks under this Regulation.	legal clarity about the roles and the DSC's opportunity to influence the investigations.
2. Where a Digital Services Coordinator of establishment has reasons to suspect that a very large online platform infringed this Regulation, it may request the Commission to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation in accordance with Section 3. Such a request shall contain all information listed in Article 45(2) and set out the reasons for requesting the Commission to intervene.	**ES** *(Drafting)*: Where a Digital Services Coordinator of establishment, the Board acting on its own initiative or three Digital Services Coordinators of destination have reasons to suspect that a very large online platform infringed this Regulation, they may request the Commission to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation in accordance with Section 3. Such a request shall contain all information listed in Article 45(2) and set out the reasons for requesting the Commission to intervene.	**DE** *(Comments)*: We think that the authority to request an investigation and enforcement by the COM in accordance with para. 2 should not only cover violations by VLOPs but be extended to violations by all providers. We also ask ourselves whether the COM, in the event of an application, should be obliged to examine the facts within certain deadlines and to take the necessary measures. **ES** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	EL *(Drafting)*: 2. Where an authority ~~Digital Services Coordinator~~ of establishment has reasons to suspect that a very large online platform infringed this Regulation, it may request the Commission to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation in accordance with Section 3. Such a request shall contain all information listed in Article 45(2) and set out the reasons for requesting the Commission to intervene. **NL** *(Drafting)*: We suggest to move this provision (art. 46(2)) to art 51.	Not only the DSC of establishment but the Board acting on its own initiative or three DSC of destination should be able to trigger the request for COM intervention, in case a VLOP is suspected to infringe the DSA.
	FR *(Drafting)*: 2. [**Mutual assistance**] The Digital Services Coordinators shall provide each other with relevant information and assistance for the consistent implementation and application of this Regulation and shall establish measures for effective cooperation. Mutual assistance shall include information requests and control measures, such as inspections and investigations. A Digital Services Coordinator, or other competent authority, may not refuse to comply with a request for assistance unless: (a) it is not competent to deal with the matter of	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	the request or to take the action it is required to take; or (b) compliance with the request would constitute a breach of this Regulation or Union law or the law of the Member State to which it is subject.	
Section 2 **European Board for Digital Services**	**FR** *(Drafting)*: *Article 46a* For the application and enforcement of the provisions of Section 3a of Chapter III, cooperation and assistance between national competent authorities and with the Commission shall shall fall exclusively under: (a) Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ; (b) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws; (c) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products.	**FR** *(Comments)*: The supervision of issues regarding consumer protection should rely, as much as possible, on existing cross-border cooperation and mutual assistance mechanisms.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 47 *European Board for Digital Services*		**DE** *(Comments)*: In principle, we welcome the establishment of this Board. In our view, efforts should be made to make optimum use of possible synergy effects with the existing institutions like BEREC, ERGA, EDPB, etc.
1. An independent advisory group of Digital Services Coordinators on the supervision of providers of intermediary services named 'European Board for Digital Services' (the 'Board') is established.		
2. The Board shall advise the Digital Services Coordinators and the Commission in accordance with this Regulation to achieve the following objectives:		
(a) Contributing to the consistent application of this Regulation and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(b) coordinating and contributing to guidance and analysis of the Commission and Digital Services Coordinators and other competent authorities on emerging issues across the internal market with regard to matters covered by this Regulation;		
(c) assisting the Digital Services Coordinators and the Commission in the supervision of very large online platforms.		**DK** *(Comments)*: It needs to be clarified, what the Board could assist the Digital Services Coordinators and the Commissione with in the supervision of very large online platforms. **NL** *(Comments)*: Can the board also advise on disputes between MS/DSCs? Why Comparable with art 65 GDPR? Or to let the Commission play a role in this, see also recital 23 CPC Regulation.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 48 *Structure of the Board*		**IT** *(Comments)* in Article 48 an explicit reference to the cooperation of the European Digital Services Board with the European Data Protection Board should be included;
1. The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and enforcement of this Regulation alongside the Digital Services Coordinator shall participate in the Board. Other national authorities may be invited to the meetings, where the issues discussed are of relevance for them.	**SE** *(Drafting)*: 1. The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and enforcement of this Regulation alongside the Digital Services Coordinator shall participate in the Board. Other national authorities may be invited to the meetings, where the issues discussed are of relevance for them. The composition of the Board should be gender balanced. **CZ** *(Drafting)*: 1. The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and	**BE** *(Comments)*: Given the horizontal nature of DSA and the repartition of competences within Belgium, it is of key importance that national/sectorial authorities and regulators have the possibility to participate in the Board. **RO** *(Comments)*: What will be the procedure in this regard? Will the presence of other competent authorities be facilitated at the request / under the coordination of the DSC? **CZ** *(Comments)*: Since experts can be invited on the basis of para 5, in order to maintain a high-level profile of the Board, we suggest to specify that "other national authorities" in para 1 should also be represented by high-level officials. This will better ensure a more horizontal approach to the substance. **NL** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	enforcement of this Regulation alongside the Digital Services Coordinator shall participate in the Board. Other national authorities, **who shall be represented by high-level officials,** may be invited to the meetings, where the issues discussed are of relevance for them. **EL** *(Drafting)*: 1. The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials and ~~. Where provided for by national law, other~~ the sectorial competent authorities entrusted with specific operational responsibilities for the application and enforcement ~~of this Regulation alongside the Digital Services Coordinator shall participate in the Board~~. ~~Other~~ National authorities shall ~~may~~ be invited to the meetings, where the issues discussed are of relevance for them.	It seems it is up to MS to decide which other competent athoritties shall participate in the Board, if provided for in national law. But who will invite the 'other' national authorities to the meeting? Should the reference to provisions of national law be understood as a threshold for participation?
2. Each Member State shall have one vote. The Commission shall not have voting rights.		
The Board shall adopt its acts by simple majority.		
3. The Board shall be chaired by the		**DE** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Commission. The Commission shall convene the meetings and prepare the agenda in accordance the tasks of the Board pursuant to this Regulation and with its rules of procedure.		We wonder why the Board should be chaired by the COM. We also wonder • how this fits with the fact that, according to Art. 47(1), the Board should be independent and advise the COM (cf. Art. 49(1) lit. d); and whether the chairmanship of the Board should be passed on annually from one DSC to another DSC (similar to BEREC).
4. The Commission shall provide administrative and analytical support for the activities of the Board pursuant to this Regulation.		
5. The Board may invite experts and observers to attend its meetings, and may cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.		
6. The Board shall adopt its rules of procedure, following the consent of the Commission.	**PL***(Drafting)*: 6. The Board shall adopt its rules of procedure and inform the Commission thereof.~~,~~	**DE** *(Comments)*: We question the requirement that the adoption of the rules of procedure shall be subject to the COM's consent. This would contravene the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	~~following the consent of the Commission~~.	intended independence of the Board from the COM. **DK** *(Comments)*: We find it important to involve Member States in the drafting of the rules of procedures of the Board. **PL***(Comments)*: Requirement for Comission consent for rules of procedure is contrary to intended independence of the Board
Article 49 *Tasks of the Board*		
1. Where necessary to meet the objectives set out in Article 47(2), the Board shall in particular:		**BE** *(Comments)*: (see also our comment on recital 90): We understand from the meeting discussions and the slides given by the Commission that the list of tasks of the Board is not exhaustive. Is this list left open through the words "***in particular***" in article 49.1 ? ("***met name***" in the Dutch version). Those words are not reflected in the French version of the text. Does it mean that the Board has the possibility to issue opinions at its **own initiative** and with

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		regard to **any topics**, in addition to cases mentioned in the articles of this Regulation, dealing with the competences of the Board ? Could the COM explain what is meant exactly by the words "***in accordance with this Regulation***" (art. 49.1 c)
(a) support the coordination of joint investigations;		
(b) support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to this Regulation;		**DE** *(Comments)*: Pursuant to para. 1 lit. b, the Board shall assist the competent authorities in analysing the reports and results of audits of the VLOPs. We wonder what reports and results of audits are specifically at issue here: • Art. 28, for example, does not provide for an analysis by the competent authorities but by an independent organisation. We wonder whether the Board can act upon its own initiative regarding its tasks described in para. 1.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(c) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation;		**DK** *(Comments)*: The Board can issue advice, opinions and recommendations to the Digital Services Coordinators. Digital Services Coordinators and other national competent authorities that do not follow these opinions, requests or recommendations addressed to them adopted by the board shall provide the reasons for this choice. Although such advice, opinions and recommendations are not binding according to the recitals, it also appears from recital 90, that the reason to deviate therefrom can be taken into account in assessing the compliance of the Member State concerned. This seems contradictory.
(d) advise the Commission to take the measures referred to in Article 51 and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation;	**AT** *(Drafting)*: (d) advise the Commission to take the measures referred to in Article 51 and~~, where requested by the Commission,~~ adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation; **PL***(Drafting)*: (d) advise the Commission to take the measures	**AT** *(Comments)*: The Board should not be dependant on the Commission to adopt such an opinion. **IT** *(Comments)* Article 49(1)(d) should be amended in order to allow the European Digital Services Board to issue own-initiative opinions (not only "where requested by the Commission") and to enable the Board to issue opinions on matters other than "the draft Commission measures concerning very

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	referred to in Article 51 and, ~~where requested by the Commission~~, adopt opinions on ~~draft Commission measures and other~~ issues concerning very large online platforms in accordance with this Regulation;	large online platforms in accordance with" the DSA. **PL***(Comments)*: 1. Board should be allowed to issue opinion based on its own inititive. 2. Board should be allowed to issue opinion also on other issues – not only on Comission measures.
(e) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts as provided for in this Regulation, as well as the identification of emerging issues, with regard to matters covered by this Regulation.		
	PL*(Drafting)*: New paragraph (f) issue opinions, recommendations or advice on matters related to Article 34.	**PL***(Comments)*: It is important to ensure that public authorities have an influence on the standards established according to the art. 34. In this respect, an important role should be played by the Board, which could, for example, at the request of the European Commission, provide opinions on the adopted solutions, obtain regular information from the Commission on the activities concerning industry standards, as well as assess the implementation of the already adopted

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		solutions, and in case of a negative assessment of their implementation, influence the imposition of the obligation to take appropriate remedial action. Such solutions would allow the representatives of the EU Member States, acting within the Board, to retain influence over the definition and implementation of important regulations that directly affect the activities of online intermediaries and the protection of users of their services.
2. Digital Services Coordinators and other national competent authorities that do not follow the opinions, requests or recommendations addressed to them adopted by the Board shall provide the reasons for this choice when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate.	**EL** *(Drafting)*: 2. ~~Digital Services Coordinators and other~~ The national competent authorities that do not follow the opinions, requests or recommendations addressed to them adopted by the Board shall provide the reasons for this choice when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate. **LU** *(Drafting)*: Digital Services Coordinators and other national competent authorities that do not follow the opinions, **submissions for** request~~s~~ or recommendations addressed to them adopted by the Board shall provide the reasons for this choice when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate.	**BE** *(Comments)*: Where the Board advices/recommends the COM (ex: in art. 37, drawing up of crisis protocols), but the COM decides not to follow, does the Commission have to provide reasons for this choice (like it is the case for the DSC) ? **DE** *(Comments)*: According to rec. 90, opinions, requests and recommendations of the Board are not binding for competent national authorities. We wonder • in which cases DSCs and other national competent authorities that do not follow the opinions, requests or recommendations addressed to them are obliged to provide reasons; • whether the COM is obliged to provide reasons, if it does not act upon the Board´s

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		opinion, request or recommendation; • in the case that a MS deviates from opinions, requests and recommendations of the Board and duly justifies this: to what extent can this deviation still be taken into account by the COM in accordance with rec. 90 when assessing the compliance of the MS concerned with this Regulation; and why the DSA does not provide for legally binding resolutions of the Board. **NL** *(Comments)*: Why not the same wording as in 49(1)(c)? Shouldn't request be added, for legal reasons. Why is COM not mentioned in this article? The Board can also send a recommendation toe the COM, see art 51(1).
Section 3 **Supervision, investigation, enforcement and monitoring in respect of very large online platforms**		
Article 50 *Enhanced supervision for very large online*		**DE** *(Comments)*: The total duration when adding all the individual

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
platforms		deadlines set out in Art. 50 leads to a very lengthy procedure. From our point of view, the lengthy procedure must be shortened. **CZ** *(Comments)*: In view of the fact that a failure of VLOPs to comply with the specific obligations applicable to them may affect a substantial number of recipients and may cause large societal harms, **CZ** welcomes the common system of enhanced supervision and enforcement at Union level in respect of VLOPs. **IT** *(Comments)* Articles 50-58 should clarify that competent supervisory authorities under the DSA should be able to provide, upon request of competent supervisory authorities under the GDPR or on their own initiative, any information obtained in the context of any audits and investigations that relate to the processing of personal data and include an explicit legal basis to that this effect;
1. Where the Digital Services Coordinator of establishment adopts a decision finding that a very large online platform has infringed any of the provisions of Section 4 of Chapter III, it shall make use of the enhanced supervision system laid down in this Article. It shall take utmost	**HU** *(Drafting)*: It shall take ~~utmost~~ **into** account ~~of~~ any opinion and recommendation of the Commission and the Board pursuant to this Article. **EL** *(Drafting)*:	**HU** *(Comments)*: Due to their legal nature, opinions and recommendations cannot be binding. Thus, in practice, they cannot take utmost account since they are not requirements.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
account of any opinion and recommendation of the Commission and the Board pursuant to this Article.	Where the competent authority ~~Digital Services Coordinator~~ of establishment adopts a decision finding that a very large online platform has infringed any of the provisions of Section 4 of Chapter III, it shall make use of the enhanced supervision system laid down in this Article. It shall take utmost account of any opinion and recommendation of the Commission and Board pursuant to this Article.	In order to properly ensure the aspects of the country of destination – in relation to an action against an infringement in its territory – we recommend clarifying the relevant procedural rules. **RO** *(Comments)*: In the case DSC is not established, according to art. 40, who makes the decision? Can the decision be taken at the request of another DSC? **DE** *(Comments)*: Following this provision, the DSC of establishment can adopt a decision finding that a VLOP has infringed any of the provisions of Section 4 of Chapter III. We wonder whether this is only about systemic misconduct on the part of the VLOP, or whether each individual violation can also be punished. Additionally, the DSC shall take "utmost account" of any opinion and recommendation of the COM and the Board. We wonder whether that means that the DSC can also deviate from those opinions and that they are not binding on the DSC, and we wonder whether the DSC is obliged to justify a derogation. **EL** *(Comments)*: **Par. 1 states that the Digital Services Coordinator of the country of establishment**

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		shall (eg upon recommendation by the Commission or the Board) take a decision regarding the suspected infringement within a reasonable time period. This time of period should be defined. **We also regard that a specific reference should be made regarding the case of third country online platforms offering services within the EU.** ========= NCRTV supports ERGA's opinion that all competences of the DSCs should be transferred to the sector specific authorities.
The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, may, where it has reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period.	**CZ** *(Drafting)*: The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, may, where it has reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period. **<u>If the Digital Services Coordinator of</u>**	**IE** *(Comments)*: The Commission are proposing to assign themselves a role as regulator for VLOPs under the proposed Regulation. Similarly to the merger control framework, the Commission may "step in" and take investigatory, compliance and enforcement action in certain defined circumstances as set out in Article 46. Unlike the proposed DSCs and competent authorities of Member States, which Article 39 of the proposed Regulation states "shall act with complete independence", the European Commission is not an independent regulatory body. While merger

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	<u>establishment decides not to investigate the suspected infridgment on the basis of a recommendation from the Commission or the Board, the Digital Services Coordinator of establishment shall justify the main elements of its assessment.</u> **EL** *(Drafting)*: The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three sectorial authorities ~~Digital Services Coordinators~~ of destination, may, where it has reasons to suspect that a very large online platform infringed any of those provisions, recommend the competent authority ~~Digital Services Coordinator~~ of establishment to investigate the suspected infringement with a view to that competent authority ~~Digital Services Coordinator~~ adopting such a decision within a reasonable time period.	control often has and is often designated to have a political element to it, it is accepted and well-established practice that content regulation be carried out by politically independent regulatory bodies. **DE** *(Comments)*: We wonder which criteria determine the "reasonable time period". **CZ** *(Comments)*: This suggestion is supposed to provide a minimalist request for presenting the main elements of the DSC's assessment. "Main elements" is there to avoid unneccesary administrative burden. **DK** *(Comments)*: It appears from this subparagraph that the Digital Services Coordinator shall adopt a decision within *reasonable time*. In addition, the recitals do not provide any guidance in this matter. *"Within reasonable time"* is a very unclear timeframe and it should be defined more clearly in order to provide efficiency and legal certainty for the digital services coordinators.
2. When communicating the decision referred to in the first subparagraph of paragraph	**SE** *(Drafting)*: ~~The measures set out in the action plan may~~	**SE** *(Comments)*: **SE** is of the opinion that a code of conduct

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
1 to the very large online platform concerned, the Digital Services Coordinator of establishment shall request it to draw up and communicate to the Digital Services Coordinator of establishment, the Commission and the Board, within one month from that decision, an action plan, specifying how that platform intends to terminate or remedy the infringement. The measures set out in the action plan may include, where appropriate, participation in a code of conduct as provided for in Article 35.	~~include, where appropriate, participation in a code of conduct as provided for in Article 35.~~ **EL** *(Drafting)*: 2. When communicating the decision referred to in the first subparagraph of paragraph 1 to the very large online platform concerned, the competent authority ~~Digital Services Coordinator~~ of establishment shall request it to draw up and communicate to this authority ~~the Digital Services Coordinator~~ of establishment, the Commission and the Board, within one month from that decision, an action plan, specifying how that platform intends to terminate or remedy the infringement. The measures set out in the action plan may include, where appropriate, participation in a code of conduct as provided for in Article 35.	according to art. 35 shall not be given any binding effect, neither directly or indirectly. **DE** *(Comments)*: When para. 2 states "The measures set out in the action plan may include, where appropriate, participation in a code of conduct as provided for in Article 35", we wonder whether this presupposes that the Code of Conduct has already been drafted and already exists.
3. Within one month following receipt of the action plan, the Board shall communicate its opinion on the action plan to the Digital Services Coordinator of establishment. Within one month following receipt of that opinion, that Digital Services Coordinator shall decide whether the action plan is appropriate to terminate or remedy the infringement.	**EL** *(Drafting)*: 3. Within one month following receipt of the action plan, the Board shall communicate its opinion on the action plan to the competent authority ~~Digital Services Coordinator~~ of establishment. Within one month following receipt of that opinion, that authority ~~Digital Services Coordinator~~ shall decide whether the action plan is appropriate to terminate or remedy the infringement	**NL** *(Comments)*: What happens if the Board doesn't react in time?

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Where the Digital Services Coordinator of establishment has concerns on the ability of the measures to terminate or remedy the infringement, it may request the very large online platform concerned to subject itself to an additional, independent audit to assess the effectiveness of those measures in terminating or remedying the infringement. In that case, that platform shall send the audit report to that Digital Services Coordinator, the Commission and the Board within four months from the decision referred to in the first subparagraph. When requesting such an additional audit, the Digital Services Coordinator may specify a particular audit organisation that is to carry out the audit, at the expense of the platform concerned, selected on the basis of criteria set out in Article 28(2).	**EL** *(Drafting)*: Where the competent authority ~~Digital Services Coordinator~~ of establishment has concerns on the ability of the measures to terminate or remedy the infringement, it may request the very large online platform concerned to subject itself to an additional, independent audit to assess the effectiveness of those measures in terminating or remedying the infringement. In that case, that platform shall send the audit report to that authority ~~Digital Services Coordinator~~, the Commission and the Board within four months from the decision referred to in the first subparagraph. When requesting such an additional audit, the Digital Services Coordinator may specify a particular audit organisation that is to carry out the audit, at the expense of the platform concerned, selected on the basis of criteria set out in Article 28(2).	**DE** *(Comments)*: We wonder why such an "additional, independent audit" is proposed in addition to the DSC audit. There is a risk that the procedure could be unnecessarily delayed here. It could be considered to make such an ad-hoc-audit (in terms of the effort and the costs) dependent on certain criteria in any case. We ask ourselves according to which specific criteria the DSC selects the particular audit organisation (that meets the criteria set out in Art. 28(2)). We also wonder about the relation between these ad-hoc-audits and the (at least annually carried out) audits set out in Art. 28. It should be excluded that compliance with the same obligations of the VLOPs is checked twice in a row within a short period of time.
4. The Digital Services Coordinator of establishment shall communicate to the Commission, the Board and the very large online platform concerned its views as to whether the very large online platform has terminated or remedied the infringement and the reasons	**EL** *(Drafting)*: 4. The competent authority Digital Services Coordinator of establishment shall communicate to the Commission, the Board and the very large online platform concerned its views as to	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
thereof. It shall do so within the following time periods, as applicable:	whether the very large online platform has terminated or remedied the infringement and the reasons thereof. It shall do so within the following time periods, as applicable	
(a) within one month from the receipt of the audit report referred to in the second subparagraph of paragraph 3, where such an audit was performed;		
(b) within three months from the decision on the action plan referred to in the first subparagraph of paragraph 3, where no such audit was performed;		
(c) immediately upon the expiry of the time period set out in paragraph 2, where that platform failed to communicate the action plan within that time period.		
Pursuant to that communication, the Digital Services Coordinator of establishment shall no longer be entitled to take any investigatory or enforcement measures in respect of the relevant conduct by the very large online platform concerned, without prejudice to Article 66 or any	**EL** *(Drafting)*: Pursuant to that communication, the competent authority ~~Digital Services Coordinator~~ of establishment shall no longer be entitled to take any investigatory or enforcement measures in respect of the relevant conduct by the very large	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
other measures that it may take at the request of the Commission.	online platform concerned, without prejudice to Article 66 or any other measures that it may take at the request of the Commission	
Article 51 *Intervention by the Commission and opening of proceedings*		**DE** *(Comments)*: With regard to Art. 51 et seq., we think that the authorities of the MS, which are familiar with the regulation of VLOPs on national level, should be involved. Consideration could be given as to whether these authorities of all MS should be given the right to initiate procedures by the COM, irrespective of the place of establishment of the VLOP concerned. In order to ensure that certain national special interests do not motivate the initiation, one could provide for certain requirements, e.g. the requirement of specific level of support by other MS (as in Art. 50 para. 1 subpara. 2). From our point of view, however, the COM's powers of procedures under Art. 51 et seq. should not be limited to VLOPs, but should cover all platforms that are subject to the DSA. **CZ** *(Comments)*: Given the size and impact of VLOPs and the importance of effectively ensuring their

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		compliance, **CZ** welcomes the strong investigative and enforcement powers of the Commission. At the same time, as **CZ** has raised at the WPs, we believe there is misbalance between the internal and external powers of the DSC (towards the intermediaries and towards the Commission). **EL** *(Comments)*: **We regard that the article should define the obligation of the Commission (and not its discretion) to intervene in cases this Article applies.**
1. The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board, may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:	**CZ** *(Drafting)*: The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board and **the Digital Services Coordinator of establishment in the case of point (c)**, may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that: **EL** *(Drafting)*: 1. **The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board, will initiate proceedings in view of the possible**	**DE** *(Comments)*: The COM "may initiate proceedings". Following recital 97, scope for decision-making is left to the COM. We wonder why the COM is not obliged to intervene, as we wonder which criteria are to be used to decide whether to intervene or not. From our point of view, an obligation to intervene and a deadline would be desirable. **CZ** *(Comments)*: (see justification above)

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:	
(a) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment did not take any investigatory or enforcement measures, pursuant to the request of the Commission referred to in Article 45(7), upon the expiry of the time period set in that request;	**CZ** *(Drafting)*: is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment did not take any investigatory or enforcement measures **pursuant to Article 50(1) or** pursuant to the request of the Commission referred to in Article 45(7), upon the expiry of the time period set in that request; **EL** *(Drafting)*: (a) is suspected of having infringed any of the provisions of this Regulation and the competent authority ~~Digital Services Coordinator~~ of establishment did not take any investigatory or enforcement measures, pursuant to the request of the Commission referred to in Article 45(7), upon the expiry of the time period set in that request;	**BE** *(Comments)*: Article 51.1 (a): "(…) *and the DSC of establishment did not take **any** investigatory or enforcement measures* (…)". Does it mean that the COM could normally not intervene if the DSC has taken measures…even if those are considered not sufficient by the COM? **CZ** *(Comments)*: This is to complete the list of situations when the Commission can act on its own initiative. **DK** *(Comments)*: It is unclear how discrepancy is handled in the case, where the Members State has acted, in its own view correctly, but incorrectly in the Commissions view.
(b) is suspected of having infringed any of the provisions of this Regulation and the Digital Services Coordinator of establishment requested the Commission to intervene in accordance with	**EL** *(Drafting)*: (b) is suspected of having infringed any of the provisions of this Regulation and the the	**EL** *(Comments)*: Maybe it could be envisaged that the Commission may initiate proceedings also based

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 46(2), upon the reception of that request;	competent authority ~~Digital Services Coordinator~~ of establishment requested the Commission to intervene in accordance with Article 46(2), upon the reception of that request;	on a justified request of a competent authority of destination.
(c) has been found to have infringed any of the provisions of Section 4 of Chapter III, upon the expiry of the relevant time period for the communication referred to in Article 50(4).		
	CZ *(Drafting)*: **1a. The Commission shall initiate the proceedings pursuant to paragraph 1 based on decision of its designated independent body.**	**CZ** *(Comments)*: This is in line with our comment on Article 39(2).
2. Where the Commission decides to initiate proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.	**EL** *(Drafting)*: **2. Where the Commission initiates proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.**	
	CZ *(Drafting)*: **The Digital Services Coordinator of establishment and the Board are informed of all steps taken by the Commission pursuant to provisions of Section 3 Chapter IV of this Regulation.**	**CZ** *(Comments)*: Since the Regulation is based on article 114 of the TFEU, the DSC of establishment and the Board should be informed about all steps taken by the Commission in this Section.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
As regards points (a) and (b) of paragraph 1, pursuant to that notification, the Digital Services Coordinator of establishment concerned shall no longer be entitled to take any investigatory or enforcement measures in respect of the relevant conduct by the very large online platform concerned, without prejudice to Article 66 or any other measures that it may take at the request of the Commission.	**EL** *(Drafting)*: As regards points (a) and (b) of paragraph 1, pursuant to that notification, the competent authority ~~Digital Services Coordinator~~ of establishment concerned shall no longer be entitled to take any investigatory or enforcement measures in respect of the relevant conduct by the very large online platform concerned, without prejudice to Article 66 or any other measures that it may take at the request of the Commission.	
3. The Digital Services Coordinator referred to in Articles 45(7), 46(2) and 50(1), as applicable, shall, without undue delay upon being informed, transmit to the Commission:	**EL** *(Drafting)*: 3. The competent authority ~~Digital Services Coordinator~~ referred to in Articles 45(7), 46(2) and 50(1), as applicable, shall, without undue delay upon being informed, transmit to the Commission:	
(a) any information that that Digital Services Coordinator exchanged relating to the infringement or the suspected infringement, as applicable, with the Board and with the very large online platform concerned;	**EL** *(Drafting)*: a) any information that that authority ~~Digital Services Coordinator~~ exchanged relating to the infringement or the suspected infringement, as applicable, with the Board and with the very large online platform concerned;	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(b) the case file of that Digital Services Coordinator relating to the infringement or the suspected infringement, as applicable;	**EL** *(Drafting)*: b) the case file of that authority ~~Digital Services Coordinator~~ relating to the infringement or the suspected infringement, as applicable;	
(c) any other information in the possession of that Digital Services Coordinator that may be relevant to the proceedings initiated by the Commission.	**EL** *(Drafting)*: (c) any other information in the possession of that authority ~~Digital Services Coordinator~~ that may be relevant to the proceedings initiated by the Commission.	**DE** *(Comments)*: We wonder why this commitment ("any other information in the possession of that DSC that may be relevant to the proceedings") has not been further specified.
4. The Board, and the Digital Services Coordinators making the request referred to in Article 45(1), shall, without undue delay upon being informed, transmit to the Commission any information in their possession that may be relevant to the proceedings initiated by the Commission.		**DE** *(Comments)*: We wonder why this commitment has not been further specified.
Article 52 *Requests for information*		**HU** *(Comments)*: We recommend that the Commission should only pursue a request for information with the competent authority/digital coordinator of the Member State concerned by the infringement. As the request for information may concern data of citizens of the Member State concerned, we feel

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		it is necessary to involve the national level in the process. **DE** *(Comments)*: As a preliminary remark on Art. 52-54, we would like to raise the question of whether, in view of the far-reaching powers of intervention of the COM, further safeguards of the fundamental rights of the persons concerned should be provided for. Rec. 98 merely states that the COM's investigative and enforcement powers must fully respect the principle of proportionality and the rights and interests of the affected parties. We wonder • how this is to be safeguarded in the absence of explicit provisions; and where legal protection will be granted to the affected parties.
1. In order to carry out the tasks assigned to it under this Section, the Commission may by simple request or by decision require the very large online platforms concerned, as well as any other persons acting for purposes related to their trade, business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement,	**PL***(Drafting)*: In order to carry out the tasks assigned to it under this Section, the Commission may by simple request or by decision require the very large online platforms concerned, their legal representatives, as well as any other persons acting for purposes related to their trade,	**RO** *(Comments)*: Is this attribution interpreted to be the sole responsibility of the Commission in the case of very large online platforms / VLOP? **DE** *(Comments)*: Para. 1 provides that the COM shall require not only the VLOPs concerned but also “any other

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period.	business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement, as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period	persons acting for purposes related to their trade, business, craft or profession that may be reasonably aware of information relating to the suspected infringement or the infringement" to provide such information. Penalties are possible in case of non-compliance, para. 2 and 3 in accordance with Art. 59. We wonder • who these "any other persons" could be and whether this extension is primarily about the commercial users of the respective services; and • whether it is a prerequisite that these persons are accused of misconduct. Para. 1, in contrast, only refers to the awareness or knowledge of these persons. Possibly, the group of addressees should be narrowed down further. We also wonder whether it is appropriate to grant the same powers in Art. 52-54 to the COM with regard to the VLOPs affected by the procedures on the one hand and any other persons or organisations (e.g. audit organisations according to Art. 28 and 50(3)) on the other hand. It seems also unclear to us what specific information the COM is able to request from the VLOPs and any other persons and organisations. According to rec. 99, access to data-bases and algorithms should also be included. In addition,

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		access to all relevant documents, data and information should be granted, irrespective of who possesses them. Maybe, this should be specified in more detail in Art. 52. Otherwise, the COM's right to information would be almost unlimited. A more detailed specification by the COM according to para. 2 or 3 is not sufficient in our view. Additionally, we wonder whether the COM should also be able to collect, store and use personal data in this context. If so, we wonder what data does the COM have in view here, and on on what legal basis the data processing should be based. **DK** *(Comments)*: It appears from this subparagraph that the Commission by simple request or by decision may require to provide such information within *reasonable time*. In addition, the recitals do not provide any guidance in this matter. This is a very unclear timeframe and it should be defined more clearly in order to provide effiency and legal certainty. Further, the Commission may require information from the VLOP or any other persons acting for purposes related to their trade, business, craft or profession. However, the wording of the recital suggests a more broad

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		approach, i.e. for instance information from persons not acting for purposes related to their trade, business, craft or profession (private or natural persons/consumers). The circle of people covered by the provision is unclear and could be defined more precise. **PL***(Comments)*: In case of no establishment in the EU, a legal representative of the very large online platform should be requested to provide necessary information to the Commission. **LU** *(Comments)*: We consider that the Digital Services Coordinator of establishment shall have the same powers of requesting information and that the Article should be amended accordingly.
2. When sending a simple request for information to the very large online platform concerned or other person referred to in Article 52(1), the Commission shall state the legal basis and the purpose of the request, specify what information is required and set the time period within which the information is to be provided, and the penalties provided for in Article 59 for supplying incorrect or misleading information.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
3. Where the Commission requires the very large online platform concerned or other person referred to in Article 52(1) to supply information by decision, it shall state the legal basis and the purpose of the request, specify what information is required and set the time period within which it is to be provided. It shall also indicate the penalties provided for in Article 59 and indicate or impose the periodic penalty payments provided for in Article 60. It shall further indicate the right to have the decision reviewed by the Court of Justice of the European Union.		
4. The owners of the very large online platform concerned or other person referred to in Article 52(1) or their representatives and, in the case of legal persons, companies or firms, or where they have no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the very large online platform concerned or other person referred to in Article 52(1). Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
5. At the request of the Commission, the Digital Services Coordinators and other competent authorities shall provide the Commission with all necessary information to carry out the tasks assigned to it under this Section.	**EL** *(Drafting)*: 5. At the request of the Commission, the ~~Digital Services Coordinators and other~~ competent authorities shall provide the Commission with all necessary information to carry out the tasks assigned to it under this Section.	
Article 53 *Power to take interviews and statements*		
In order to carry out the tasks assigned to it under this Section, the Commission may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, in relation to the suspected infringement or infringement, as applicable.		**DE** *(Comments)*: In addition to Art. 52, Art. 53 would empower the COM to obtain relevant information from "any natural or legal person", provided that such person consents. The COM's right to information is thus almost unlimited, especially since it can determine which information it needs for an investigation of the infringement or suspected infringement. In our view, the powers of the COM should also be specified in more detail in Art. 53. **LU** *(Comments)*: We consider that the Digital Services

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		Coordinator of establishment shall have the same powers of taking interviews and that the Article should be amended accordingly.
Article 54 *Power to conduct on-site inspections*		**HU** *(Comments)*: It is not clear for us whether digital service coordinator with jurisdiction over a given online platform can carry out an on-site inspection in another Member State? If they can, for Hungary it is important that either the European Commission or a digital service coordinator with jurisdiction over a given online platform carries out an on-site inspection in another Member State, they should do so only with the assistance and in the presence of the competent authority and/or digital service coordinator of that particular Member State. **CZ** *(Comments)*: Similarly to our comments on the previous articles, there is no role for the DSC in article 54. We suggest at least state their presence at the inspection. Since the investigations carried out by the DSC in previous articles were confirmed by the Cion that they would be subject to national rules, **CZ** would simply like to get confirmation this also applies to this article. See our comments above.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		EL *(Comments)*: **General Comment** **We regard that on-site inspections should be clarified in case of very large online platforms of third countries.**
1. In order to carry out the tasks assigned to it under this Section, the Commission may conduct on-site inspections at the premises of the very large online platform concerned or other person referred to in Article 52(1).	**CZ** *(Drafting)*: 1. In order to carry out the tasks assigned to it under this Section, the Commission may conduct on-site inspections at the premises of the very large online platform concerned or other person referred to in Article 52(1). **The Digital Services Coordinator of establishment may take part at these inspections.** **LU** *(Drafting)*: In order to carry out the tasks assigned to it under this Section, the Commission may conduct on-site inspections at the premises of the very large online platform concerned or other person referred to in Article 52(1) **in close cooperation with the Digital Services Coordinator of establishment**.	**RO** *(Comments)*: Is this attribution interpreted as performed only by the Commission in the case of VLOP? It is not clear whether competent DSCs are involved. **DE** *(Comments)*: Para. 1 provides that the COM may conduct on-site inspections at the premises of the VLOP concerned, but also "of any other person acting for purposes related to their trade, business, craft or profession that may be reasonably aware of information relating to the (suspected) infringement", including audit organisations according to Art. 28 and 50(3). In our view, the individual persons' knowledge or awareness of information does not justify an on-site inspection. At least, it presupposes that there are demonstrable indications that concrete information to this effect can be found in the respective premises. Again, we consider the COM's powers laid down in Art. 54 to be too comprehensive and vague

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		and thus request further clarification. Implementing acts according to Art. 66 alone, i.e. further specifications on the practical modalities by the COM, are not sufficient in our view. **LU** *(Comments)*: For any on-site inspections taking place on the territory of the establishment of a VLOP, it seems logical that the Digitial Services Coordinator of establishment is closely involved.
2. On-site inspections may also be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 57(2).	**HU** *(Drafting)*: 2. On-site inspections may also be carried out with the assistance of auditors or experts ***with appropriate security background check*** appointed by the Commission pursuant to Article 57(2).	**HU** *(Comments)*: On site inspections may reveal sensitive information on individual users of the hosting Member State, therefore only persons with appropriate security background check should be able to be involved in on-site inspections. **DE** *(Comments)*: We wonder whether it is common practice under other legal acts that independent external experts and auditors are also granted access to the premises of third parties.
3. During on-site inspections the Commission and auditors or experts appointed by it may require the very large online platform concerned or other person referred to in Article		**DE** *(Comments)*: We wonder whether it is common practice that independent external experts and auditors may

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
52(1) to provide explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel of the very large online platform concerned or other person referred to in Article 52(1).		require third parties to provide "explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts". We wonder wether the COM should be able to collect, store and use personal data during on-site inspections. If so, we ask for further specification, what data the COM has in mind here and on what legal basis the data processing should be based.
4. The very large online platform concerned or other person referred to in Article 52(1) is required to submit to an on-site inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 59 and 60 and the right to have the decision reviewed by the Court of Justice of the European Union.		**DE** *(Comments)*: Even if, according to para. 4, an order of the COM by decision is required for this, we consider these inspection powers to be very extensive and in need of concretisation.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 55 *Interim measures*		**HU** *(Comments)*: We propose to specify the provisional measure ordered and the time limit for its extension in both paragraphs: in paragraph 2 it is appropriate to refer to paragraph 1 as a reason for extension, the phrase " so far this is necessary and appropriate " is too broad.
1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 58(1), where there is an urgency due to the risk of serious damage for the recipients of the service, the Commission may, by decision, order interim measures against the very large online platform concerned on the basis of a prima facie finding of an infringement.		**DE** *(Comments)*: We wonder what interim measures against the VLOP in question are conceivable in the event of urgency due to the risk of serious damage for the recipients of the service under para. 1. Unfortunately, the corresponding recitals do not contain any further explanations. In addition, there are no explanations as to when the conditions are met, e.g. how many recipients must be affected and at what threshold the risk of serious damage within the meaning of Art. 55(1) is to be assumed. From our point of view, implementing acts according to Art. 66 alone, i.e. further specifications on the practical modalities by the COM, are not sufficient for this. Rather, further stipulations in the DSA are required.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.		
Article 56 *Commitments*		
1. If, during proceedings under this Section, the very large online platform concerned offers commitments to ensure compliance with the relevant provisions of this Regulation, the Commission may by decision make those commitments binding on the very large online platform concerned and declare that there are no further grounds for action.		**SE** *(Comments)*: It is important that these commitments should not go beyond what is binding according to the DSA. **SE** believes it could be clarified that the commitments should not include voluntary measures.
2. The Commission may, upon request or on its own initiative, reopen the proceedings:		**EL** *(Comments)*: **In par. 2 it is not clarified upon whose request the Commission may reopen the proceedings.** **DK** *(Comments)*: According to the wording of this subparagraph, the Commission may, upon request or on its own initiative, reopen the proceedings; where there has been a material change in any of the facts on which the decision was based; where the very

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		large platform concerns acts contrary to its commitments; or where the decision was based on incomplete, incorrect or misleading information provided by the very large online platform concerned or other person referred to in article 52 (1). It is unclear whether the Commission will actively ensure compliance with such commitments. We are concerned, that the very large online platforms offer commitments that they do not act upon after the Commission has declared that there are no further actions to take.
(a) where there has been a material change in any of the facts on which the decision was based;		
(b) where the very large online platform concerned acts contrary to its commitments; or		
(c) where the decision was based on incomplete, incorrect or misleading information provided by the very large online platform concerned or other person referred to in Article 52(1).		
3. Where the Commission considers that the		**DE** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
commitments offered by the very large online platform concerned are unable to ensure effective compliance with the relevant provisions of this Regulation, it shall reject those commitments in a reasoned decision when concluding the proceedings.		We wonder why the COM does not have to provide reasons for considering the commitments made as sufficient. We also wonder what transparency rules apply to thecommitments made.
Article 57 *Monitoring actions*		**HU** *(Comments)*: We recommend to co-ordinate the wording of Art. 57 and 31. According to Article 57 (1), "the Commission may also order that platform to provide access to, and explanations relating to, its databases and algorithms." Art. 31 states "very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation." According to Paragraph 3, "Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate." It is quite understandable that the Digital Service Coordinator or the Commission has access to different kind of data than the vetted researchers, but it should be clarified whether it is access to databases and algorithms or data on user

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		interfaces. We recommend that the involvement of external experts and inspectors for the implementation of the measures set out in article 57 (1) be preceded by the consultation with Member State competent authority, as regard to the identity of the experts and inspectors. In our opinion, the protection of users' fundamental rights can only be guaranteed with the strong involvement of national competent authorities into the procedures set out by the draft.
1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the very large online platform concerned. The Commission may also order that platform to provide access to, and explanations relating to, its databases and algorithms.		**DE** *(Comments)*: As an initial comment, we want to highlight that, with a view to an effective implementation and enforcement, strong investigative and enforcement powers of the COM are needed which allow to investigate, enforce and monitor the rules laid down in this Regulation. At the same time, the principle of proportionality needs to be respected. According to para. 1, the COM may take the "necessary actions to monitor the effective implementation and compliance with this Regulation by the VLOPs concerned". In our view, clarifications are needed on how

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		Art. 57 relates to Art. 50 to 56. We wonder how do monitoring measures based on Art. 57 differ from supervision, investigation and enforcement measures based on Art. 50 to 56. This is particular relevant since Art. 57 uses wording that is relatively broad and vague, both with regard to the conditions set out ("For the purposes of carrying out the tasks assigned to it under this Section") and with regard to the consequence ("the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation") – in contrast to the much more precise regulations under the preceding provisions of the DSA. We wonder whether Art. 57 should be a catch-all provision in the sense of a regulatory general clause. If so, we wonder how is the scope of application different from the scope of other measures under the DSA. We are also wondering whether it would be preferable to clarify the possible monitoring actions within the DSA. For the sake of clarity, possible monitoring measures should at least be exemplified. **DK** *(Comments)*: The article sets out, that the Commission may order platforms to provide access to, and

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		explanations relating to, its databases and algorithms. The extensions of the Commission's rights are unclear.
2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission in monitoring compliance with the relevant provisions of this Regulation and to provide specific expertise or knowledge to the Commission.	**IE** *(Drafting)*: We believe it would be appropriate to make reference here to the responsibilities not to disclose at this stage which are included in Article 63.6.	**DE** *(Comments)*: We wonder what qualitative requirements should be placed on "independent external experts and auditors" according to para. 2. Above all, the rules should as far as possible exclude any conflicts of interest. Also we wonder what importance do the test results / reports from the external experts and auditors have for the process. We wonder whether the COM has to observe them.
Article 58 *Non-compliance*		
1. The Commission shall adopt a non-compliance decision where it finds that the very large online platform concerned does not comply with one or more of the following:		**HU** *(Comments)*: We recommend, that the Commission also inform the Digital Services Coordinator of establishment of the very large online platform about the outcome of the non-compliance investigation. **DK** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		The article could advantageously address whether the very large online platform has the option to complain about the non-compliance decision by the Commission.
(a) the relevant provisions of this Regulation;		**HU** *(Comments)*: The phrase "the relevant provisions of this Regulation" is also too broad, it is not possible to know exactly which provisions it refers to.
(b) interim measures ordered pursuant to Article 55;		
(c) commitments made binding pursuant to Article 56,		
2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the very large online platform concerned. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the very large online platform concerned should take, in order to effectively address the preliminary findings.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
3. In the decision adopted pursuant to paragraph 1 the Commission shall order the very large online platform concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within a reasonable time period and to provide information on the measures that that platform intends to take to comply with the decision.		**DE** *(Comments)*: We wonder what "reasonable time period" does mean here. We are also wondering whether it would enhance clarity and equality if the DSA would contain a reference to a maximum time period. In addition, we wonder whether the COM determines in its decision which specific measures the VLOP concerned has to take, or wether the COM only asks the VLOP concerned to take "necessary measures" and thus leaves the implementation to the VLOP concerned. From our point of view, specific obligations might be preferable to ensure effective implementation of the decision. **DK** *(Comments)*: This subparagraph sets no time frame for the very large online platform to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 – only that they need to ensure compliance within *a reasonable time period*. We find it important that "*a reasonable time period"* is clarified and ensures efficiency and legal clarity.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
4. The very large online platform concerned shall provide the Commission with a description of the measures it has taken to ensure compliance with the decision pursuant to paragraph 1 upon their implementation.		
5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision.		**BE** *(Comments)*: As it is written, this paragraph could suggest that the COM can start the procedure but then realize that the conditions were in fact **not met from the beginning.** Shouldn't this paragraph rather state « Where the COM finds that the condition of §1 ***are no longer met…*** ? **DE** *(Comments)*: In case the COM finds no failure to comply and takes a decision pursuant to para. 5, we wonder in what instances the COM can and should reopen proceedings.
Article 59 *Fines*		**DE** *(Comments)*: As a general comment re. Art. 59-62, we want to underline that we support that compliance with the obligations set forth in the DSA proposal should be enforceable through appropriate fines and periodic penalty payments that are subject to appropriate limitation periods.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		However, we are wondering whether the COM should be able to impose fines on any kind of violation and shortcoming listed in Art. 59(1) and (2), or whether the COM considered that a certain threshold should be reached for sanctions in Art. 59 and 60, for example a sustained failure to comply with specific due diligence obligations or a particularly grave violation of the DSA. If so, we wonder what the scenarios envisaged by the COM were. We are also not sure whether we understand the COM correctly, that the relevant turnover refers to the multicorporate enterprise and not only to the service in question. The question arises whether that means that a penalty for example against Instagram would be based on the total turnover of Facebook, WhatsApp and Instagram, etc. Additionally, for the sake of clarification, we propose to add to rec. 100 or 101 that the European Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments. This clarification is also set forth in rec. 73 of the DMA proposal.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
1. In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total turnover in the preceding financial year where it finds that that platform, intentionally or negligently:		
(a) infringes the relevant provisions of this Regulation;		**HU** *(Comments)*: The phrase "the relevant provisions of this Regulation" is also too broad, it is not possible to know exactly which provisions it refers to.
(b) fails to comply with a decision ordering interim measures under Article 55; or		
(c) fails to comply with a voluntary measure made binding by a decision pursuant to Articles 56.		
2. The Commission may by decision impose on the very large online platform concerned or other person referred to in Article 52(1) fines not exceeding 1% of the total turnover in the preceding financial year, where they intentionally or negligently:		**NL** *(Comments)*: Is the stated 1% of the total turnover a cumulative ceiling or does this apply to each individual fine? This seems important in cases where a VLOP repeatedly (and intentionally) acts as described under (a)-(c).

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(a) supply incorrect, incomplete or misleading information in response to a request pursuant to Article 52 or, when the information is requested by decision, fail to reply to the request within the set time period;		
(b) fail to rectify within the time period set by the Commission, incorrect, incomplete or misleading information given by a member of staff, or fail or refuse to provide complete information;		
(c) refuse to submit to an on-site inspection pursuant to Article 54.		
3. Before adopting the decision pursuant to paragraph 2, the Commission shall communicate its preliminary findings to the very large online platform concerned or other person referred to in Article 52(1).		**DE** *(Comments)*: We wonder about the precise purpose of the requirement contained in para. 3 that, before adopting the decision, the COM shall communicate its preliminary findings "to other person referred to in Art. 52(1)".
4. In fixing the amount of the fine, the Commission shall have regard to the nature,		**BE** *(Comments)*: As already mentioned above, we believe that a

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
gravity, duration and recurrence of the infringement and, for fines imposed pursuant to paragraph 2, the delay caused to the proceedings.		consistency with Articles 41 and 42 is necessary. **HU** *(Comments)*: We suggest the gain achieved by the infringement to be listed among the named criteria for assessment. **NL** *(Comments)*: On the basis of which criteria will the Commission calculate the amount of the fine? Is there, for example, a difference between intent and neglect on the part of the VLOP?
Article 60 *Periodic penalty payments*		
1. The Commission may, by decision, impose on the very large online platform concerned or other person referred to in Article 52(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:		
(a) supply correct and complete information in response to a decision requiring information		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
pursuant to Article 52;		
(b) submit to an on-site inspection which it has ordered by decision pursuant to Article 54;		
(c) comply with a decision ordering interim measures pursuant to Article 55(1);		
(d) comply with commitments made legally binding by a decision pursuant to Article 56(1);		
(e) comply with a decision pursuant to Article 58(1).		
	HR *(Drafting)*: New point (f) added: (f) submit to a joint investigation pursuant to Article 46	**HR** *(Comments)*: As joint investigation are provide as one of solutions for investigating providers and platforms, penalties could be also provided for entities which don´t comply with action of joint investigation.
2. Where the very large online platform concerned or other person referred to in Article 52(1) has satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may fix the definitive amount of the periodic penalty payment at a	**CZ** *(Drafting)*: Where the very large online platform concerned or other person referred to in Article 52(1) has **subsequently** satisfied the obligation which the periodic penalty payment was intended to	**DE** *(Comments)*: The exact content and purpose of para. 2 is still unclear to us: We are not sure what exactly the “definitive amount of the periodic penalty payment” means

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
figure lower than that which would arise under the original decision.	enforce, the Commission may fix the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision.	and ask for clarification. We understand Art. 60 to mean that the COM can impose on the VLOP concerned or other person a certain amount as a penalty payment per day for as long as a VLOP concerned or other person referred to in Art. 52(1) fails to comply with one of the ob-ligations set out in lit. a to e. It shall be calculated from the date appointed by the decision until the date on which the VLOP concerned or other person has satisfied the obligation which the periodic penalty payment was intended to enforce. This is thus an indefinite period and entails an indefinite amount. We wonder how the COM can possibly fix the definitive amount at a figure lower than that which would arise under the original decision. We also wonder what the purpose and advantage of an ex-post reduction of a periodic penalty payment is. We are concerned that para. 2 might lead to an unjustified unequal treatment of VLOPs. We understand that the purpose of these periodic penalty payments is rather to end the ongoing infringement than to penalise the infringement that has occurred. **CZ** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		To clarify that the obligation is satisfied only after the decision has been taken.
Article 61 *Limitation period for the imposition of penalties*		**HU** *(Comments)*: We consider the limitation period to be short, given that in the case of such infringements, it is very difficult to determine the starting date of the infringement.
1. The powers conferred on the Commission by Articles 59 and 60 shall be subject to a limitation period of five years.		
2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases.		
3. Any action taken by the Commission or by the Digital Services Coordinator for the purpose of the investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. Actions which interrupt the limitation period shall include, in	**EL** *(Drafting)*: 3. Any action taken by the Commission or by the competent authority ~~Digital Services Coordinator~~ for the purpose of the investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition	

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
particular, the following:	of fines or periodic penalty payments. Actions which interrupt the limitation period shall include, in particular, the following:	
(a) requests for information by the Commission or by a Digital Services Coordinator;	**HR** *(Drafting)*: requests for information and joint investigations by the Commission or by a Digital Services Coordinator **EL** *(Drafting)*: a) requests for information by the Commission or by a competent authority ~~Digital Services Coordinator~~;	**HR** *(Comments)*: Added provision on joint investigation from article 40. which should also be mentioned as action in purpose of investigation
(b) on-site inspection;		
(c) the opening of a proceeding by the Commission pursuant to Article 51(2).		
4. Each interruption shall start time running afresh. However, the limitation period for the imposition of fines or periodic penalty payments shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
shall be extended by the time during which the limitation period is suspended pursuant to paragraph 5.		
5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Union.		
Article 62 *Limitation period for the enforcement of penalties*		
1. The power of the Commission to enforce decisions taken pursuant to Articles 59 and 60 shall be subject to a limitation period of five years.		
2. Time shall begin to run on the day on which the decision becomes final.		
3. The limitation period for the enforcement of penalties shall be interrupted:		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
(a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;		
(b) by any action of the Commission, or of a Member State acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment.		
4. Each interruption shall start time running afresh.		
5. The limitation period for the enforcement of penalties shall be suspended for so long as:		
(a) time to pay is allowed;		
(b) enforcement of payment is suspended pursuant to a decision of the Court of Justice of the European Union.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 63 *Right to be heard and access to the file*		**DE** *(Comments)*: In our view, the involvement of the EDPB is necessary when the implementing acts are drafted by the COM in accordance with Art. 66(1) lit. c. Because confidential information of the DSCs, competing online platforms or recipients of the services may also be involved here, to which the VLOPs should not have access.
1. Before adopting a decision pursuant to Articles 58(1), 59 or 60, the Commission shall give the very large online platform concerned or other person referred to in Article 52(1) the opportunity of being heard on:		**HU** *(Comments)*: We recommend that the hearings referred to in paragraph (1) conducted by the European Commission – based on the proposal for Article 54. should be carried out only with the assistance and in the presence of the competent Member State authority and/or the Digital Services Coordinator.
(a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; and		
(b) measures that the Commission may intend to take in view of the preliminary findings		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
referred to point (a).		
2. The very large online platform concerned or other person referred to in Article 52(1) may submit their observations on the Commission's preliminary findings within a reasonable time period set by the Commission in its preliminary findings, which may not be less than 14 days.		
3. The Commission shall base its decisions only on objections on which the parties concerned have been able to comment.		
4. The rights of defence of the parties concerned shall be fully respected in the proceedings. They shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of the very large online platform concerned or other person referred to in Article 52(1) in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or Member States' authorities. In particular, the right of access shall not extend to correspondence between the Commission and those authorities. Nothing in		**HU** *(Comments)*: In our opinion, further clarification is necessary concerning the second sentence of Article 63(4) in relation to the requirements concerning the access to the files and the protection of business secrets. **DK** *(Comments)*: This subparagraph sets out, that disclosure is negotiated and subject to legitimate interest in the protection of business secrets. However, we are uncertain of the last paragraph in the provision: *'Nothing in this paragraph shall prevent the Commission from disclosing and*

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.		*using information necessary to prove an infringement'.* The extension of the Commission's rights in this matter is unclear and could be clarified further. **NL** *(Comments)*: On the basis of which criteria will requests related to the right of access to the file be assessed?
5. The information collected pursuant to Articles 52, 53 and 54 shall be used only for the purpose of this Regulation.		
6. Without prejudice to the exchange and to the use of information referred to in Articles 51(3) and 52(5), the Commission, the Board, Member States' authorities and their respective officials, servants and other persons working under their supervision,; and any other natural or legal person involved, including auditors and experts appointed pursuant to Article 57(2) shall not disclose information acquired or exchanged by them pursuant to this Section and of the kind covered by the obligation of professional secrecy.		**SE** *(Comments)*: **SE** is of the opinion that it could be clarified that the articles 63.4 and 63.6 do not in themselves give rise to confidentiality for the correspondence.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 64 *Publication of decisions*		**IT** *(Comments)* Article 64: would the Commission find it useful that decisions are published also on the website of the platforms involved? This would also be for the sake of transparency towards consumers.
1. The Commission shall publish the decisions it adopts pursuant to Articles 55(1), 56(1), 58, 59 and 60. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.		**HU** *(Comments)*: We suggest setting a specific date or deadline for the publication of the decisions. **DE** *(Comments)*: We wonder whether "main content" in para. 1 also includes the main reasons for the decision. Additionally, according to rec. 101, Art. 64 aims at allowing the addressee of the decision to understand the facts and considerations that lead up to the decision. Therefore, from a data protection point of view, we are wondering whether it is necessary to make the name of the other person referred to in Art. 52(1), which is an addressee of the decision, publicly available in case this is a natural person. Hence, it should be taken into consideration to publish the name of the VLOP concerned or respective entities only.
2. The publication shall have regard to the rights and legitimate interests of the very large		**HU** *(Comments)*:

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
online platform concerned, any other person referred to in Article 52(1) and any third parties in the protection of their confidential information.		In our opinion, it would be helpful to list a few examples for data that should be anonymized or restricted. **DE** *(Comments)*: We wonder how the COM intends to protect any confidential information obtained in the context of Section 2.
Article 65 *Requests for access restrictions and cooperation with national courts*		**CZ** *(Comments)*: **CZ** is of the opinion that the access to information for the DSC at this stage of the procedure is too late. It is a missed opportunity not to involve the MS earlier. See our proposal on Article 51(2).
1. Where all powers pursuant to this Article to bring about the cessation of an infringement of this Regulation have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the Commission may request the Digital Services Coordinator of establishment of the very large online platform concerned to act pursuant to Article 41(3).	**EL** *(Drafting)*: 1. Where all powers pursuant to this Article to bring about the cessation of an infringement of this Regulation have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the Commission may request the competent authority ~~Digital Services Coordinator~~ of establishment of the very large online platform concerned to act pursuant to Article 41(3).	**HU** *(Comments)*: We recommend, that it should not be only an option but an obligation under this regulation for the Commission to request the Digital Services Coordinator of a Member State to act pursuant to Article 41(3) if all powers pursuant to bring about the cessation of an infringement of this Regulation have been exhausted. **DE** *(Comments)*: We wonder

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		• about the legal nature of the COM's request to the DSC to act pursuant to para. 1; • what happens if the DSC does not act accordingly; and what a "serious harm" within the meaning of para. 1 constitutes.
Prior to making such request to the Digital Services Coordinator, the Commission shall invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures it intends to request and identifying the intended addressee or addressees thereof.	**AT** *(Drafting)*: *delete* **EL** *(Drafting)*: Prior to making such request to the competent authority ~~Digital Services Coordinator~~, the Commission shall invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures it intends to request and identifying the intended addressee or addressees thereof.	**AT** *(Comments)*: Those measures seem to be unnecessary cumbersome, see also the proposed changes to Article 41(3).
2. Where the coherent application of this Regulation so requires, the Commission, acting on its own initiative, may submit written observations to the competent judicial authority referred to Article 41(3). With the permission of the judicial authority in question, it may also make oral observations.		**AT** *(Comments)*: Since it is suggested to leave it to the member states which authority decides upon access restrictions (see suggestions to Article 41), the judicial authority referred to in this paragraph would be the one that decides upon the judicial redress against such decisions.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
For the purpose of the preparation of its observations only, the Commission may request that judicial authority to transmit or ensure the transmission to it of any documents necessary for the assessment of the case.	**EE** *(Drafting)*: For the purpose of the preparation of its observations only, the Commission may request that judicial authority to transmit or ensure the transmission to it of any documents necessary for the assessment of the case **in accordance with the legislation of the Member State concerned.**	**EE** *(Comments)*: We believe that the requirement laid down in this article should be without prejudice to requirements under national law of the Member State concerned. In Estonia, the disclosure of information concerning pre-court proceedings is possible only under limited circumstances, in case the Commission should request information related to cases of pre-court proceedings. Also, the regulation concerning the activities of national security authorities allows transferring information to an international organisation for the performance of obligations arising from legislation of the European Union laws, but it does not oblige transferring the information, thus it is at the discretion of the national security authority. It cannot be ruled out that the information required by the Commission related to the application of DSA coincide with the pre-court proceedings or the national security authorities, e.g. data related to some platform activity violating the DSA regulation, but the national security authorities may have reasons not to share this information.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 66 *Implementing acts relating to Commission intervention*		**DE** *(Comments)*: In our view, the COM drafts for the implementing acts should first be coordinated with the EDPB. In doing so, the COM should be obliged to take the suggestions of the EDPB into account ("taking utmost account"). This concerns, among other things, para. 1 lit. b and c.
1. In relation to the Commission intervention covered by this Section, the Commission may adopt implementing acts concerning the practical arrangements for:		
(c) the proceedings pursuant to Articles 54 and 57;		
(a) the hearings provided for in Article 63;		
(b) the negotiated disclosure of information provided for in Article 63.		
2. Those implementing acts shall be adopted in accordance with the advisory procedure	**LU** *(Drafting)*: Those implementing acts shall be adopted in	**LU** *(Comments)*: see Article 70.

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
referred to in Article 70. Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time period set out therein, which shall not be less than one month.	accordance with the ~~advisory~~ **examination** procedure referred to in Article 70. Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time period set out therein, which shall not be less than one month.	
Section 4 **Common provisions on enforcement**		
Article 67 *Information sharing system*		**DE** *(Comments)*: Generally, we welcome the establishment and maintenance of a reliable and secure information sharing system supporting communications between DSCs, the COM and the Board. However, we ask ourselves whether it is correct to assume that the information sharing system described in Art. 67 is not identical with the internal market information system (IMI), currently also being used on the basis of Art. 3 ECD. Additionally we ask ourselves • if so, what are the specific differences and advantages compared to IMI; • whether the new system will be interoperable with IMI; and

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		• whether the system will also support communications between the DSC and the other competent authorities in a MS (and if not: why not?). We suggest to involve the EDPS in the design of the information sharing system.
1. The Commission shall establish and maintain a reliable and secure information sharing system supporting communications between Digital Services Coordinators, the Commission and the Board.	**CZ** *(Drafting)*: 1. The Commission shall establish and maintain a reliable and secure information sharing system supporting communications between Digital Services Coordinators, the Commission and the Board. **Existing tools for Internal Market information sharing or communication between authorities shall be used for the purpose of this Regulation.** **LU** *(Drafting)*: The Commission shall establish and maintain a reliable and secure information sharing system supporting communications between Digital Services Coordinators, the Commission and the Board **based on the Internal Market Information system**.	**RO** *(Comments)*: What will this communications system suppose to do and what will be its architecture? Will a pre-existing infrastructure be used to operationalize this communications flow? **CZ** *(Comments)*: The Single Digital Gateway was designed to make movement across the EU easier and to increase transparency for both business, consumers and the administration. Better access to information also means increasing trust. It would therefore seem logical to include the new administrative channels resulting from the DSA in the Single Digital Gateway Dashboard and to subsequently publish relevant information on Your Europe portal as well. **CZ** suggests to include this directly into the article in order to use the already developed solution and not to develop a new one. **CZ** therefore also supports the announced upgrade of the IMI system for

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		information sharing. **EL** *(Comments)*: **We are of the view that other competent authorities in each MS should have access to the information sharing system. Otherwise, the DSCs will be obliged to use other (and potentially non secure) means (i.e. email) in order to communicate with the competent authorities of their MS for matters falling withing the scope ofthe Regulation. Furthermore, there should be a clarification for the existing IMI system and its connection to the new sharing system.** **DK** *(Comments)*: It is important that the information sharing system is easy to access and user friendly. Furthermore, it is important to secure the information sharing systems interoperability with other relevant systems and other EU systems. **LU** *(Comments)*: We propose to avoid reinventing the wheel when it comes to information sharing systems. The IMI systems works well, is already in place, Member States know how it works, it would be less costly and could be immediately operational. We would advise against creating dedicated information sharing systems for each piece of legislation for

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		no obvious reason.
2. The Digital Services Coordinators, the Commission and the Board shall use the information sharing system for all communications pursuant to this Regulation.		
3. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.	**LU** *(Drafting)*: ~~The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.~~	
Article 68 *Representation*		**DE** *(Comments)*: In its submission re. the public consultation, DEU has spoken out in favour of consumers being able to rely on strong and independent consumer organisations for advice, information and the exercise of their rights. We thus welcome the fact that recipients of intermediary services can mandate a not-for-profit institution, body, organisation or

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		association to exercise their rights. However, we are wondering what role Art. 19 (Trusted flaggers) plays in this context: it remains unclear whether this means that a trusted flagger can mandate an institution, a body, organisation or association to exercise its rights or rather tasks according to Art. 19. A clarification about the exact meaning of the reference to Art. 19 would be helpful.
Without prejudice to Directive 2020/XX/EU of the European Parliament and of the Council[2], recipients of intermediary services shall have the right to mandate a body, organisation or association to exercise the rights referred to in Articles 17, 18 and 19 on their behalf, provided the body, organisation or association meets all of the following conditions:	**EE *(Drafting)*:** **(1)** Without prejudice to **Member States' national civil law and** Directive 2020/XX/EU of the European Parliament and of the Council, recipients of intermediary services shall have the right to mandate a ~~body, organisation or association~~ **legal person** to exercise the rights referred to in Articles 17, 18 and 19 on their behalf, provided the ~~body, organisation or association~~ **legal person** meets all of the following conditions:	**DE** *(Comments)*: We wonder why Art. 68 refers only to the rights referred to in Art. 17, 18 and 19. We therefore ask ourselves whether the COM did consider to extend Art. 68 to other cases, such as individuals acting against violations of Art. 12, 24 or 29. Also we wonder how the designated not-for-profit institutions, bodies, organisations and associations are to finance themselves. Also we ask ourselves whether bodies, organisations or associations acting to defend a common good or public interest, such as the environment, can exercise the rights pursuant to

[2] [Reference]

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		Art. 17 or 18 or take legal action if the infringement does not directly affect specific consumers/recipients of intermediary services (e.g. an illegal offer of protected species). **EE** *(Comments)*: Our comment relies on our current understanding that Article 68 is about *collective* representation (i.e bringing a claim and participating in proceedings on behalf of the organisation itself and not on behalf of the service recipients) and that claims under article 17(1) are limited and do not include, for example, monetary claims. It should be clear from the text of Article 68 that representation in Article 68 is an alternative possibility and that Article 68 does not preclude the application of national civil law. Therefore, there should be an addition in the text and in the corresponding Recital, which we understand does not exist currently, stating that Article 68 is without prejudice to MS' law and additional explanation in the Recital that explains that DSA will provide an additional opportunity for representation and that service recipients will also be able to turn to the service provider or out-of-court dispute settler in person or using another representative in accordance with national civil law. The situaton where service recipients would not be entitled to exercise their rights through other representatives could create a constitutional

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		problem It is not clear why should an organisation participate in the proceedings on its own behalf and not on behalf of the service recipients. In our view, it is not justified, as the service recipients have to opt-in anyway and the competence of the organisation is limited and does not include monetary claims. Furthermore, the fact that it is a "representative organisation" (i.e bringing a claim and participating in proceedings on behalf of the organisation itself and not on behalf of the service recipients) is not apparent from the wording of Article 68 either. In case Article 17 (1) is interpreted differently and the representative under Article 68 is also competent to represent the recipients of intermediary services in monetary claims, the Article 68 should be deleted in its entirety. In this case, DSA must be included in the scope of the Collective Representative Actions Directive. The regulation of DSA is not sufficient and the creation of a parallel sector-specific redress system would not be justified. A broad interpretation of Article 17 (1) would be a very big problem for us. Regarding point b of the article, we deem it an unnecessary condition. If legal person exists and has legal capacity, it is established. The service provider, out-of-court dispute settler or a court of

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		another MS shall not have the competence to assess the proper constitution of the legal person anyway.
(a) it operates on a not-for-profit basis;		
(b) it has been properly constituted in accordance with the law of a Member State;		**SK** *(Comments)*: *The need for close cooperation with other authorities supervising online intermediary service providers (eg personal data protection authorities) cannot be overlooked in relation to the draft Regulation and all the issues concerned. We support the explicit indication of the legal basis for mutual cooperation and in this context the exchange of personal data held by the authorities.*
(c) its statutory objectives include a legitimate interest in ensuring that this Regulation is complied with.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
SECTION 5 **DELEGATED ACTS**		
Article 69 *Exercise of the delegation*		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		**DK** *(Comments)*: As a general remark, we would like to underline that delegated acts should be reduced to a minimum and *only* be of *technical* caracter. Further, Member States should be closely involved in the formulation thereof.
2. The delegation of power referred to in Articles 23, 25, and 31 shall be conferred on the Commission for an indeterminate period of time from [date of expected adoption of the Regulation].		
3. The delegation of power referred to in Articles 23, 25 and 31 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following		**DE** *(Comments)*: With regard to the content of the delegated acts according to Art. 23, 25(3) and 31, the EDPB should be involved ("taking utmost account"). According to para. 3, the Council (as well as the

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.		EP) can revoke the delegation of power to adopt delegated acts (according to Art. 290 TFEU) at any time. We wonder whether this revocation is subject to certain conditions, and, in such a case, how, in what way and by whom is it ensured that the necessary specifications pursuant to Art. 23, 25(3) and 31 are made (e.g. methodology for the calculation of the average monthly number of active recipients of an online platform).
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
5. A delegated act adopted pursuant to Articles 23, 25 and 31 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 70 *Committee*		
1. The Commission shall be assisted by the Digital Services Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this Article, Article 4 of Regulation (EU) No 182/2011 shall apply.	**LU** *(Drafting)*: Where reference is made to this Article, Article ~~4~~ **5** of Regulation (EU) No 182/2011 shall apply.	**LU** *(Comments)*: We propose the examination procedure rather than the advisory procedure.
Chapter V **Final provisions**		
Article 71 *Deletion of certain provisions of Directive 2000/31/EC*		
1. Articles 12 to 15 of Directive 2000/31/EC shall be deleted.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
2. References to Articles 12 to 15 of Directive 2000/31/EC shall be construed as references to Articles 3, 4, 5 and 7 of this Regulation, respectively.		
Article 72 *Amendments to Directive 2020/XX/EC on Representative Actions for the Protection of the Collective Interests of Consumers*		**DE** *(Comments)*: We welcome the fact that the entire DSA is to be included in Annex I of the Directive on Representative Actions for the Protection of the Collective Interests of Consumers. This will enable consumer associations to take effective action against infringements. However, we wonder whether it is a problem that the scope of the Directive on Representative Actions covers "actions brought against infringements by traders" (pursuant to its Art. 2(1)), whereas the DSA lays down rules for intermediaries.
3. The following is added to Annex I:		
"(X) Regulation of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC"		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Article 73 *Evaluation*	**FR** *(Drafting)*: *Article 72a* *Amendments to Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004* The following is added to the Annex: "(X) Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC: Articles 24a0 to 24e [specific obligations for online marketplaces]"	**IT** *(Comments)* Article 73: does the Commission think that 3 years is an appropriate time span for the assessment of the functioning of the Board?;
1. By five years after the entry into force of this Regulation at the latest, and every five years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.	**AT** *(Drafting)*: 1. By ~~five~~ three years after the entry into force of this Regulation at the latest, and every ~~five~~ three years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. **PL***(Drafting)*: **Additional sentence and changes (in red)**	**HU** *(Comments)*: We recommend that this Regulation shall be evaluated in a shorter time (instead of 5 years) after the entry into force (e.g., after 3 years), based on the rapid change in the digital economy and services. **AT** *(Comments)*: In view of the rapid development in the digital space, it seems unnecessarily long to wait five

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
	By ~~five~~ three years after the entry into force of this Regulation at the latest, and every ~~five~~ three years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. On the basis of the findings and taking into utmost account the opinion of the Board, that report shall, where appropriate, be accompanied by a proposal for amendment of this Regulation.	years for an evaluation. Therefore, it is proposed that the evaluation be completed every three years. This would also have the additional advantage that the regulation can be evaluated at the same time as the board's functioning (cf. paragraph 4). **DE** *(Comments)*: We welcome the fact that the COM shall evaluate the Regulation (and the functioning of the Board, following para. 4). We wonder, however, whether it shall be prescribed, that the evaluation report should be made public, as e.g. the GDPR provides for in its Art. 97. Also the COM should be empowered to make appropriate proposals to amend the Regulation following its evaluation. The COM should be required to submit such proposals for amendment precisely in the event that the COM identifies gaps. Due to the considerable importance of the DSA, for example for the individual freedom of opinion, the public opinion-forming process or the protection of personality rights, it could be considered to include the effects of the regulation on certain fundamental rights as an explicit evaluation criterion. Addionally, in view of the rapid development of the digital sphere, the time span “every five years” seems a little bit too long to us. Every 3

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		years seem more appropriate. **PL***(Comments)*: While we strongly support the idea to conduct an evaluation of the Regulation, we also envisage that carrying out the assessment every five years may not be sufficient. Having in mind fast evolution of digital environment, our recommendation is to evaluate the rules laid down in the Regulations at least once in three years. As an example Regulation 2019/1150 on promoting fairness and transparency for business users of online intermediation services in art. 18 provide for review to be carry out every three years.
2. For the purpose of paragraph 1, Member States and the Board shall send information on the request of the Commission.		
3. In carrying out the evaluations referred to in paragraph 1, the Commission shall take into account the positions and findings of the European Parliament, the Council, and other relevant bodies or sources.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
4. By three years from the date of application of this Regulation at the latest, the Commission, after consulting the Board, shall carry out an assessment of the functioning of the Board and shall report it to the European Parliament, the Council and the European Economic and Social Committee, taking into account the first years of application of the Regulation. On the basis of the findings and taking into utmost account the opinion of the Board, that report shall, where appropriate, be accompanied by a proposal for amendment of this Regulation with regard to the structure of the Board.	**PL***(Drafting)*: **We opt to delete para 4.** ~~By three years from the date of application of this Regulation at the latest, the Commission, after consulting the Board, shall carry out an assessment of the functioning of the Board and shall report it to the European Parliament, the Council and the European Economic and Social Committee, taking into account the first years of application of the Regulation. On the basis of the findings and taking into utmost account the opinion of the Board, that report shall, where appropriate, be accompanied by a proposal for amendment of this Regulation with regard to the structure of the Board.~~	**PL***(Comments)*: There are other fundamental issues that should be the subject of such a review, e.g. the effectiveness of supervision of compliance with the DSA or its impact on freedom of expression. See our comments and amendments in art. 73(1).
Article 74 *Entry into force and application*		**IT** *(Comments)* Article 74: does the Commission think whether it might be useful that the entry into force is aligned with DMA?.
1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
2. It shall apply from [date - three months after its entry into force].	**DE** *(Drafting)*: It shall apply from [date - **eighteen** months after its entry into force]. **ES** *(Drafting)*: 2. It shall apply from [date - twelve months after its entry into force]. **CZ** *(Drafting)*: 2. It shall apply from [date - ~~three months~~ **two years** after its entry into force]. **NL** *(Drafting)*: 2. It shall apply from [date - **twelve** months after its entry into force]. **EE** *(Drafting)*: It shall apply from **12 months after its entry into force.** **LU** *(Drafting)*: It shall apply from [date - ~~three~~ **twenty-four** months after its entry into force].	**HR** *(Comments)*: RH considers the deadline of three months to be too short for its implementation in practice. In that regard we propose the timeframe from 18 till 24 months after its entry into force. Additionally, in that way the Council would have more room for negotiations with the EP in the later stage. **BE** *(Comments)*: While we are aware that it is in everyone's interest not to drag out the adoption of this text unnecessarily, it seems unrealistic to us to be able to complete the negotiations on such a long, complex text with such high stakes in such a short time. Since the implementation of the DSA will require the adoption of laws at different levels, it seems to us illusory to be able to carry out the work of drafting, political and legislative discussions within 3 months. **IE** *(Comments)*: The timescale suggested here would be unworkable for Ireland as primary legislation would be required to give the necessary powers to the Digital Services Co-ordinator to enforce the provisions of ths Regulation. Not only will this take time to be drawn up but it will also be necessary for the consequent legislation to be

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		given a time in the legislative schedule of the Oireachtas. **SE** *(Comments)*: **SE** is of the opinion that a longer time frame than three months is needed in order to be able to comply with the regulation. **RO** *(Comments)*: We consider necessary to extend the implementation deadline from 3 months to at least 1 year, to allow the adaptation of national administrative systems to the requirements of the DSA, as well as the alignment of platforms to the new obligations **DE** *(Comments)*: We – like many other MS – have considerable concerns about the time limits set for the Regulation's entry into force. This applies to the designation of the DSCs ("within two months from the date of entry into force of this Regulation") according to Art. 38(3) as well as to the general provision of Art. 74(2). For reasons of legal clarity, the provisions of the Regulation often need to be adapted in national law, even if the Regulation itself does not need to be implemented. Legislative measures are also required in DEU for the designation of the DSC, establishing corresponding responsibilitites and

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		the procedure, in particular for coordination with the competent authorities (competencies of the *Länder* may also be affected). Also the companies concerned need sufficient time. **At least 18 months** are required as deadline in both provisions (Art. 74(2) and Art. 38(3)). **ES** *(Comments)*: The DSA should foresee a feasible adaptation period for providers of intermediary services, especially those that are not VLOPs. **SK** *(Comments)*: *Concerning the length of the implementation/application period of the DSA, we strongly believe that this is a very short time for the public authorities to implement the requirements of this regulation into practice. We therefore plead to consider an adjustment of the length of the implementation period, for minimum of 12 months. It is important for us to point out the proposed (extremely short) implementation period. We are open to support any longer period of implementation in further discussions.* **CZ** *(Comments)*: **CZ** is of the opinion that the period of three months is too short, given the amount of new

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		obligations for both providers and MS (DSC can only be appointed after the whole text is negotiated and agreed by the co-legislators). The period for the entry into force of a legal act of this scope and impact should be much longer, at least 2 years. National parliamentary procedures also do not allow such short-time entry into force. Too-short application will not only cause problems for the constitutional system of **CZ** (and other MS as mentioned repeatedly at the WP) but will also create a lot of incertainty as to the correct application of the DSA. This is based on the experience with applying the GDPR in practice where the short application deadline showed harmful and required unneccesary follow-up work and caselaw. **NL** *(Comments)*: Too short, time for application needs to be longer, at least 12 months. See comment regarding art 38(3). We reserve the right to alter the amount of months deemed sufficient to allow for proper domestic parliamentary scrutiny and in conformity with constitutional procedures, as the application date is subject to ongoing internal discussions and consultations. **EE** *(Comments)*: We are of the opinion that <u>at least</u> 12 months are necessary for service providers to complete all

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
		relevant developments and hire necessary people for the application of the regulation. The same applies for comptent authorities. **PL***(Comments)*: Short implementation period poses a significant risks. In view of the need to adapt to the new complex regulations by both Member States and providers of intermediary services consideration should be given to extending date to entry into force and application of DSA. **LU** *(Comments)*: In order to put in place the necessary set-up at national level, including the Digital Services Coordinator, for which national legal procedures with set timeframes come into play, a period of at least 2 years is necessary before entry into force.
This Regulation shall be binding in its entirety and directly applicable in all Member States.		

MEMBER STATE	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL, IT, EE, PL, LU	HR, BE, HU, IE, AT, SE, RO, FI, DE, ES, SK, FR, CZ, EL, DK, NL ,IT, EE, PL, LU
COMMISSION PROPOSAL	**Drafting suggestions**	**Comments**
Done at Brussels,		
For the European Parliament *For the Council*		
The President *The President*		