

Electronic evidence in criminal proceedings: legal representatives directive

2018/0107(COD) - 28/07/2023 - Final act

PURPOSE : to oblige certain service provider offering services in the Union to designate legal representation in the Union for the receipt, compliance and enforcement of decisions and orders issued by Member States for the purpose of gathering evidence in criminal proceedings.

LEGISLATIVE ACT: Directive (EU) 2023/1544 of the European Parliament and of the Council laying down harmonised rules on the designation of designated establishments and the appointment of legal representatives for the purpose of gathering electronic evidence in criminal proceedings.

CONTENT: under this Directive, service providers offering their services in the EU will have to designate a legal representative or an establishment to which the judicial authorities can send their orders relating to electronic evidence. Their role will be to **receive, comply with and enforce** European Production and Preservation Orders issued by the competent authorities of the Member States for the purpose of obtaining evidence in criminal proceedings.

Scope

This Directive applies to **decisions and orders for the purpose of gathering electronic evidence** on the basis of [Regulation \(EU\) 2023/1543](#), [Directive 2014/41/EU](#) and of the Convention established by the Council on Mutual Assistance in Criminal Matters between Member States of the Union.

The categories of service providers covered by this Directive will include, for example, online marketplaces providing consumers and businesses with the ability to communicate with each other and other hosting services, including where the service is provided via cloud computing, as well as online gaming platforms and online gambling platforms.

Designated establishments and legal representatives

Member States will have to ensure that the recipients for the receipt of, compliance and enforcement of decisions and orders: (a) are **established or resident in a Member State** where the service providers offer their services; and (b) may be subject to enforcement procedures.

Service providers established in their territory or offering services in their territory will have to provide their designated establishments and their legal representatives with the powers and resources necessary to comply with decisions and orders received from a Member State.

Both the designated establishment or the legal representative and the service provider itself may be held **jointly and severally liable** for non-compliance the decisions.

Service providers who offer services in the Union on 18 February 2026 will be required to appoint designated establishments or legal representatives **no later than 18 August 2026**. Service providers who start offering services in the Union after on 18 February 2026 will be required to appoint designated establishments or legal representatives within six months of the date on which these service providers begin to offer services in the Union.

Penalties

Member States will ensure that penalties are provided for in the event of non-compliance with the national provisions adopted pursuant to the Directive. The penalties provided for must be effective, proportionate and dissuasive. Member States must inform the Commission on an annual basis about non-compliant service providers, relevant enforcement action taken against them and the penalties imposed.

By 18 August 2029 at the latest, the Commission will carry out an evaluation of the directive. It will forward the evaluation report to the European Parliament and the Council.

ENTRY INTO FORCE: 17.8.2023.

TRANSPOSITION: no later than 18.2.2026.