



2018/0331(COD)

4.3.2019

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council
on preventing the dissemination of terrorist content online
(COM(2018)0640 – C8-0405/2018 – 2018/0331(COD))

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AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) This Regulation aims at ensuring the smooth functioning of the digital single market in an open and democratic society, by **preventing** the misuse of hosting services for terrorist purposes. The functioning of the digital single market should be improved by reinforcing legal certainty for hosting service providers, reinforcing users' trust in the online environment, and by strengthening safeguards to the freedom of expression and information.

Amendment

(1) This Regulation aims at ensuring the smooth functioning of the digital single market in an open and democratic society, by **addressing** the misuse of hosting services for terrorist purposes. The functioning of the digital single market should be improved by reinforcing legal certainty for hosting service providers, reinforcing users' trust in the online environment, and by strengthening safeguards to the freedom of expression and information, ***the right to freedom and pluralism of the media, the freedom to conduct a business and the rights to privacy and protection of personal data.***

Amendment 2

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) Regulation of hosting service providers can only complement Member States' strategies to address terrorism, which must emphasise offline measures such as investment in social work, de-radicalisation initiatives and engagement

with affected communities to achieve a sustainable prevention of radicalisation in society.

Amendment 3

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Hosting service providers active on the internet play an essential role in the digital economy by connecting business and citizens and by facilitating public debate and the distribution and receipt of information, opinions and ideas, contributing significantly to innovation, economic growth and job creation in the Union. However, their services are in certain cases abused by third parties to carry out illegal activities online. ***Of particular*** concern is the misuse of hosting service providers by terrorist groups and their supporters to disseminate terrorist content online in order to spread their message, to radicalise and recruit and to facilitate and direct terrorist activity.

Amendment

(2) Hosting service providers active on the internet play an essential role in the digital economy by connecting business and citizens and by facilitating public debate and the distribution and receipt of information, opinions and ideas, contributing significantly to innovation, economic growth and job creation in the Union. However, their services are in certain cases abused by third parties to carry out illegal activities online. ***A matter of extreme*** concern is the misuse of hosting service providers by terrorist groups and their supporters to disseminate terrorist content online in order to spread their message, to radicalise, ***disinform*** and recruit and to facilitate and direct terrorist activity.

Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) The presence of terrorist content online has serious negative consequences for users, for citizens and society at large as well as for the online service providers hosting such content, since it undermines the trust of their users and damages their business models. In light of their central role and the technological means and capabilities associated with the services they provide, online service providers have

Amendment

(3) The presence of terrorist content online has serious negative consequences for users, for citizens and society at large as well as for the online service providers hosting such content, since it undermines the trust of their users and damages their business models. In light of their central role and ***in proportion to*** the technological means and capabilities associated with the services they provide, online service

particular societal responsibilities to protect their services from misuse by terrorists and to help tackle terrorist *content disseminated* through their services.

providers have societal responsibilities to protect their services from misuse by terrorists and to help *competent authorities* to tackle terrorist *offences committed* through their services, *whilst taking into account the fundamental importance of the freedom of expression and information in an open and democratic society*.

Amendment 5

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Efforts at Union level to counter terrorist content online commenced in 2015 through a framework of voluntary cooperation between Member States and hosting service providers need to be ***complemented by*** a clear legislative framework in order to further reduce accessibility to terrorist content online and ***adequately address a rapidly evolving problem***. This legislative framework seeks to build on voluntary efforts, which were reinforced by the Commission Recommendation (EU) 2018/334⁷ and responds to calls made by the European Parliament to strengthen measures to tackle illegal and harmful content and by the European Council to improve the ***automatic*** detection and removal of content that incites to terrorist acts.

⁷ Commission Recommendation (EU) 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online (OJ L 63, 6.3.2018, p. 50).

Amendment

(4) Efforts at Union level to counter terrorist content online commenced in 2015 through a framework of voluntary cooperation between Member States and hosting service providers need to be ***improved through*** a clear legislative framework in order to further reduce accessibility to terrorist content online and ***in order to put in place urgently needed safeguards to ensure the rule of law and the protection of fundamental rights***. This legislative framework seeks to build on voluntary efforts, which were reinforced by the Commission Recommendation (EU) 2018/334⁷ and responds to calls made by the European Parliament to strengthen measures to tackle illegal and harmful content ***in line with the horizontal framework established by Directive 2000/31/EC*** and by the European Council to improve the detection and removal of content that incites to terrorist acts.

⁷ Commission Recommendation (EU) 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online (OJ L 63, 6.3.2018, p. 50).

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) ***The application of*** this Regulation should not affect the application of ***Article 14 of*** Directive 2000/31/EC⁸. ***In particular, any measures taken by the hosting service provider in compliance with this Regulation, including any proactive measures, should not in themselves lead to that service provider losing the benefit of the liability exemption provided for in that provision.*** This Regulation leaves unaffected the powers of national authorities and courts to establish liability of hosting service providers in specific cases where the conditions under ***Article 14*** of Directive 2000/31/EC for liability exemption are not met.

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

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Rules to ***prevent the misuse*** of hosting services for the dissemination of terrorist content online in order to guarantee the smooth functioning of the internal market are set out in this Regulation in full respect of the fundamental rights protected in the Union's

Amendment

(5) ***This Regulation should lay down specific obligations for hosting service providers, exposed to terrorist content.*** This Regulation should not affect the application of Directive 2000/31/EC⁸. This Regulation leaves unaffected the powers of national authorities and courts to establish liability of hosting service providers in specific cases where the conditions under of Directive 2000/31/EC for liability exemption are not met.

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

Amendment

(6) Rules to ***address the use*** of hosting services for the dissemination of terrorist content online in order to guarantee the smooth functioning of the internal market are set out in this Regulation in full respect of the ***rule of law and the*** fundamental rights protected in the Union's legal order

legal order and notably those guaranteed in the Charter of Fundamental Rights of the European Union.

and notably those guaranteed in the Charter of Fundamental Rights of the European Union.

Amendment 8

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) This Regulation *contributes* to the protection of public security while establishing appropriate and robust safeguards to ensure protection of the fundamental rights at stake. This includes the rights to respect for private life and to the protection of personal data, the right to effective judicial protection, the right to freedom of expression, including the freedom to receive and impart information, the freedom to conduct a business, and the principle of non-discrimination. Competent authorities and hosting service providers should only adopt measures which are necessary, appropriate and proportionate within a democratic society, taking into account the particular importance accorded to the freedom of expression and information, which *constitutes one of* the essential foundations of a pluralist, democratic society, and *is one of* the values on which the Union is founded. Measures *constituting* interference in the freedom of expression and information should be strictly targeted, *in the sense that they must serve to prevent the dissemination* of terrorist *content*, but without thereby affecting the right to lawfully receive and impart information, taking into account the central role of hosting service providers in facilitating public debate and the distribution and receipt of facts, opinions and ideas in accordance with the law.

Amendment

(7) This Regulation *aims at contributing* to the protection of public security while establishing appropriate and robust safeguards to ensure protection of the fundamental rights at stake. This includes the rights to respect for private life and to the protection of personal data, the right to effective judicial protection, the right to freedom of expression, including the freedom to receive and impart information, the freedom to conduct a business, and the principle of non-discrimination. Competent authorities and hosting service providers should only adopt measures which are necessary, appropriate and proportionate within a democratic society, taking into account the particular importance accorded to the freedom of expression and information, *the rights to privacy and to personal data protection as well as the freedom of the press and pluralism of the media*, which *constitute* the essential foundations of a pluralist, democratic society, and *are among* the values on which the Union is founded. Measures *taken to remove terrorist content online should avoid any* interference in the freedom of expression and information *and* should be strictly targeted, *necessary, appropriate and proportionate to help the fight against terrorism, including investigation and prosecution* of terrorist *offences*, but without thereby affecting *freedom of expression*, the right to lawfully receive and impart information, taking into account the central role of hosting service providers

in facilitating public debate and the distribution and receipt of facts, opinions and ideas in accordance with the law.

Amendment 9

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) This Regulation should not have the effect of modifying the obligation for Member States to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on the European Union. Those fundamental rights include the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities. Any restrictions to the exercise of these fundamental rights within the framework of this Regulation should be prescribed by law and should be necessary in a democratic society, with the aim of fulfilling the aims of this Regulation.

Amendment 10

Proposal for a regulation Recital 7 b (new)

Text proposed by the Commission

Amendment

(7 b) This Regulation should respect the fundamental rights and observe the principles recognised in the European Convention on Human Rights and in the case-law of the European Court of Justice. In particular, in its judgment of 24 November 2011 the European Court of Justice concluded that Union law, and in particular Directive 2000/31/EC^{1a} and the applicable fundamental rights, precluded an injunction imposed on an Internet service provider to introduce a system for

filtering all electronic communications passing via its services, applied indiscriminately to all its customers, as a preventive measure, exclusively at its expense and for an unlimited period.

^{1a} Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')

Amendment 11

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) The right to an effective remedy is enshrined in Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union. Each natural or legal person has the right to an effective judicial remedy before the competent national court against any of the measures taken pursuant to this Regulation, which can adversely affect the rights of that person. The right includes, in particular the possibility for hosting service providers and content providers to effectively contest the removal orders before the court of the Member State whose authorities issued the removal order.

Amendment

(8) The right to an effective remedy is enshrined in Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union. Each natural or legal person has the right to an effective judicial remedy before the competent national court against any of the measures taken pursuant to this Regulation, which can adversely affect the rights of that person. The right includes, in particular the ***right for the hosting service providers and content providers to be informed about all available means of redress and the possibility for content providers to contest the results of measures taken by the hosting provider, and to be informed of effective means of remedies. It also includes the right*** for hosting service providers and content providers to effectively contest the removal orders ***or penalties*** before the court of the Member State whose authorities issued the removal order ***or penalties, or the court where the hosting service provider or content provider is established or represented.***

Amendment 12

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) In order to provide clarity about the actions that both hosting service providers and competent **authorities** should take to **prevent** the dissemination of terrorist content online, this Regulation should establish a definition of terrorist content **for preventative purposes drawing on** the definition of terrorist offences under Directive (EU) 2017/541 of the European Parliament and of the Council⁹. Given the need to address **the most harmful** terrorist propaganda online, the definition should capture material and information that incites, **encourages** or advocates the commission **or contribution to** terrorist offences, provides instructions for the commission of such offences **or promotes the participation** in activities of a terrorist group. Such information includes in particular text, images, sound recordings and videos. When assessing whether content constitutes terrorist content within the meaning of this Regulation, competent authorities **as well as hosting service providers** should take into account factors such as the nature and wording of the statements, the context in which the statements were made and their potential to lead to harmful consequences, thereby affecting the security and safety of persons. The fact that the **material was** produced by, **is** attributable to or disseminated on behalf of an EU-listed terrorist organisation or person constitutes an important factor in the assessment. Content disseminated for educational, journalistic or research purposes should be **adequately** protected. Furthermore, the expression of radical, polemic or controversial views in the

Amendment

(9) In order to provide clarity about the actions that both hosting service providers and **the** competent **authority** should take to **restrict** the dissemination of terrorist content online, this Regulation should establish a definition of terrorist content **in line with** the definition of terrorist offences under Directive (EU)2017/541 of the European Parliament and of the Council⁹. Given the need to address terrorist propaganda online, the definition should capture material and information that **intentionally** incites or advocates the commission **of** terrorist offences, **or intentionally** provides instructions for **the making and use of explosives, firearms or other weapons or noxious or hazardous substances for the purpose of** the commission of such offences, **knowing that the skills provided are intended to be used for this purpose, or participates** in activities of a terrorist group. Such information includes in particular text, images, sound recordings and videos. When assessing whether content constitutes terrorist content within the meaning of this Regulation, competent authorities should take into account factors such as the nature and wording of the statements, the context in which the statements were made, **their intentionality** and their potential to lead to harmful consequences, thereby affecting the security and safety of persons. The fact that the **content** was produced by, **are** attributable to or disseminated on behalf of an EU-listed terrorist organisation or person constitutes an important factor in the assessment. Content disseminated for

public debate on sensitive political questions should not be considered terrorist content.

educational, *counter-narrative*, journalistic or research purposes should be **strongly** protected. *Where the disseminated material is published under the editorial responsibility of the hosting provider, any decision as to the removal of such content should take into account the journalistic standards established by press or media regulation consistent with the law of the Union and the right to freedom of expression and the right to freedom and pluralism of the media as enshrined in Article 11 of the Charter of Fundamental Rights.* Furthermore, the expression of radical, polemic or controversial views in the public debate on sensitive political questions should not be considered terrorist content. *The right to such expression can be invoked before the court of the Member State where the hosting service provider has its main establishment or where the legal representative designated by the hosting service provider pursuant to this Regulation resides or is established, as well as the court of the Member State where the content provider is based.*

⁹ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

⁹ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

Amendment 13

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) In order to cover those online hosting services where terrorist content is disseminated, this Regulation should apply to information society services which store

Amendment

(10) In order to cover those online hosting services where terrorist content is disseminated, this Regulation should apply ***to the extent that it is possible to identify***

information provided by a recipient of the service at his or her request and in making the information stored available to **third parties, irrespective of whether this activity is of a mere technical, automatic and passive nature**. By way of example such providers of information society services include social media platforms, video streaming services, video, image and audio sharing services, file sharing and other cloud services to the extent they make the information available **to third parties and websites where users can make comments or post reviews**. The Regulation should also apply to hosting service providers established outside the Union but offering services within the Union, since a significant proportion of hosting service providers exposed to terrorist content on their services are established in third countries. This should ensure that all companies operating in the Digital Single Market comply with the same requirements, irrespective of their country of establishment. The determination as to whether a service provider offers services in the Union requires an assessment whether the service provider enables legal or natural persons in one or more Member States to use its services. However, the mere accessibility of a service provider's website or of an email address and of other contact details in one or more Member States taken in isolation should not be a sufficient condition for the application of this Regulation.

and remove specific content that is the subject of this Regulation, to information society services which store information provided by a recipient of the service at his or her request and in making the information stored **directly** available to **the public**. **The definition of hosting service providers is therefore distinct from and narrower than that employed in Directive 2000/31/EC**. By way of example such providers of information society services include social media platforms, video streaming services, video, image and audio sharing services, file sharing and other cloud services to the extent they make the information **publicly** available **and accelerate the dissemination of content**. **Providers of services such as online encyclopaedias, educational and scientific repositories, open source software developing platforms, cloud infrastructure service providers and cloud providers (including business-to-business cloud services), should not be considered hosting service providers within the meaning of this Regulation. Mere conduits and other electronic communication services within the meaning of Directive (EU) 2018/1972 or providers of caching services, or other services provided in other layers of the Internet infrastructure, such as registries and registrars, DNS (domain name system) or adjacent services, such as payment services or DDoS (distributed denial of service) protection services are excluded from the scope**. The Regulation should also apply to hosting service providers established outside the Union but offering services within the Union, since a significant proportion of hosting service providers exposed to terrorist content on their services are established in third countries. This should ensure that all companies operating in the Digital Single Market comply with the same requirements, irrespective of their country of establishment. The determination as to whether a service provider offers services

in the Union requires an assessment whether the service provider enables legal or natural persons in one or more Member States to use its services. However, the mere accessibility of a service provider's website or of an email address and of other contact details in one or more Member States taken in isolation should not be a sufficient condition for the application of this Regulation.

Amendment 14

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Hosting service providers should apply certain duties of care, in order to **prevent** the dissemination of terrorist content on their services. These duties of care should not amount to a general **monitoring** obligation. Duties of care should include that, when applying this Regulation, hosting services providers act in a diligent, proportionate and non-discriminatory manner in respect of content that they store, in particular when implementing their own terms and conditions, with a view to avoiding removal of content which is not terrorist. The removal or disabling of access has to be undertaken in the observance of freedom of expression and information.

Amendment

(12) Hosting service providers **exposed to terrorist content** should apply certain duties of care, in order to **restrict** the dissemination of terrorist content on their services. These duties of care should not amount to a general **obligation on hosting service providers to monitor the information which they store, nor to a general obligation to actively seek facts or circumstances indicating illegal activity**. Duties of care should include that, when applying this Regulation, hosting services providers act in a **transparent**, diligent, proportionate and non-discriminatory manner in respect of content that they store, in particular when implementing their own terms and conditions, with a view to avoiding removal of content which is not terrorist. The removal or disabling of access has to be undertaken in the observance of freedom of expression and information **and freedom and pluralism of the media**.

Amendment 15

Proposal for a regulation

Recital 13

(13) The procedure and obligations resulting from legal orders requesting hosting service providers to remove terrorist content or disable access to it, following an assessment by the competent authorities, should be harmonised. Member States should ***remain free as to the choice of the competent authorities allowing them to designate administrative, law enforcement or judicial authorities with that task. Given the speed at which terrorist content is disseminated across online services, this*** provision imposes obligations on hosting service providers to ensure that terrorist content identified in the removal order is removed or access to it is disabled within ***one hour from receiving*** the removal order. It is for the hosting service providers to decide whether to remove the content in question or disable access to the content ***for*** users in the Union.

(13) The procedure and obligations resulting from legal orders requesting hosting service providers to remove terrorist content or disable access to it, following an assessment by the competent authorities should be harmonised. Member States should ***freely designate a single competent authority with that task, unless their constitutional arrangements prevent a single authority from being responsible, whilst at the same time guaranteeing legal certainty and predictability to users and service providers. Where the authority designated for issuing removal orders is of an administrative or law enforcement nature, the Member State should provide for an effective and independent review of removal orders issued by the competent authorities in its Member State. This review would provide a mechanism to assess ex officio (in the absence of a request for review) individual removal orders and rectify any erroneous decisions. This review mechanism complements possibilities for hosting service providers and content providers to seek judicial redress against removal orders addressed to or affecting them. This*** provision imposes obligations on hosting service providers to ensure that terrorist content identified in the removal order is removed or access to it is disabled within ***the period specified by the competent authority. The competent authority should provide the hosting service provider with a defined time limit in the removal order, which should be no shorter than eight hours, taking into account the size and previous exposure to terrorist content of a hosting service provider. Without prejudice to the requirement to preserve data under Article 7 of this Regulation,*** it is for the hosting service providers to decide whether to remove the content in question or disable access to the content ***or*** users in the

Amendment 16

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) The removal order should include a classification of the relevant content as terrorist content and contain sufficient information so as to locate the content, by providing a URL and any other additional information, such as a screenshot, where obtainable, of the content in question. The competent authority should also provide a supplementary statement of reasons as to why the content is considered terrorist content. The reasons provided need not contain sensitive information, which could jeopardise investigations. The statement of reasons should however allow the hosting service provider and, ultimately, the content provider to effectively exercise their right to judicial redress.

Amendment 17

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) The competent authority should transmit the removal order directly to the addressee and point of contact by any electronic means capable of producing a written record under conditions that ***allow*** the service provider ***to establish authenticity***, including the accuracy of the date and the time of sending and receipt of the order, such as by secured email and platforms or other secured channels, including those made available by the service provider, in line with the rules

(14) The competent authority should transmit the removal order directly to the addressee and point of contact by any electronic means capable of producing a written record under conditions that ***establish the authenticity of the order without unreasonable financial or other burden on*** the service provider, including the accuracy of the date and the time of sending and receipt of the order, such as by secured email and platforms or other secured channels, including those made

protecting personal data. This requirement may notably be met by the use of qualified electronic registered delivery services as provided for by Regulation (EU) 910/2014 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

available by the service provider, in line with the rules protecting personal data. This requirement may notably be met by the use of qualified electronic registered delivery services as provided for by Regulation (EU) 910/2014 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Amendment 18

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Referrals by the competent authorities or Europol constitute an effective and swift means of making hosting service providers aware of specific content on their services. This mechanism of alerting hosting service providers to information that may be considered terrorist content, for the provider's voluntary consideration of the compatibility its own terms and conditions, should remain available in addition to removal orders. It is important that hosting service providers ***assess such referrals as a matter of priority and*** provide swift feedback about action taken. The ultimate decision about whether or not to remove the content ***because it is not compatible with their terms and conditions*** remains with the hosting service provider. In implementing this Regulation related to referrals, Europol's mandate as laid down in Regulation (EU) 2016/794¹³ remains unaffected.

Amendment

(15) Referrals by the competent authorities or Europol constitute an effective and swift means of making hosting service providers aware of specific content on their services. This mechanism of alerting hosting service providers to information that may be considered terrorist content, for the provider's voluntary consideration of the compatibility its own terms and conditions ***as foreseen by Regulation (EU) 2016/794***, should remain available in addition to removal orders ***provided that the competent authority of the Member State in which the hosting service provider is established verifies swiftly after a referral has been issued whether the content subject to the referral constitutes terrorist content and follows it up by a removal order where appropriate***. It is important that ***the competent authorities or Europol provide a detailed assessment and*** hosting service providers provide swift feedback about action taken. The ultimate decision

about whether or not to remove the content ***subject to a referral*** remains with the hosting service provider, ***unless it gets followed up by a removal order***. In implementing this Regulation related to referrals, Europol's mandate as laid down in Regulation (EU)2016/794¹³remains unaffected.

¹³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

¹³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

Amendment 19

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Given the ***scale and speed necessary for*** effectively identifying and removing terrorist content, proportionate ***proactive*** measures, ***including by using automated means in certain cases, are an essential element in tackling*** terrorist content online. With a view to reducing the accessibility of terrorist content on their services, hosting service providers should assess whether it is appropriate to take ***proactive*** measures depending on the risks and level of exposure to terrorist content as well as to the effects on the rights of third parties and the public interest of information. Consequently, hosting service providers should determine what appropriate, effective and proportionate ***proactive*** measure should be put in place. This requirement should not imply a general monitoring obligation. ***In the context of this assessment, the absence of***

Amendment

(16) Given the ***complexity of*** effectively identifying and removing terrorist content ***at scale and the potential impact on fundamental rights***, proportionate ***specific*** measures ***should be taken by hosting service providers depending on the risk and level of exposure, concerning*** terrorist content online. ***Such obligatory measures should not include the use of content filters or other measures that entail the systematic monitoring of user behaviour. Specific measures could include, for example, systems to allow users to report potential terrorist content or peer-to-peer content moderation.*** With a view to reducing the accessibility of terrorist content on their services, hosting service providers should assess whether it is appropriate to take ***specific*** measures depending on the risks and level of exposure to terrorist content as well as to

removal orders and referrals addressed to a hosting provider, is an indication of a low level of exposure to terrorist content.

the effects on the rights of third parties and the public interest of information. Consequently, hosting service providers should determine what ***justified***, appropriate, effective and proportionate ***specific*** measure should be put in place. This requirement should not imply a general monitoring obligation. ***This is without prejudice to possible additional voluntary measures taken by the hosting service provider outside the scope of this Regulation.***

Amendment 20

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) When putting in place ***proactive*** measures, hosting service providers should ensure that users' ***right*** to freedom of expression and information - including to freely receive and impart information - is preserved. In addition to any requirement laid down in the law, including the legislation on protection of personal data, hosting service providers should act with due diligence and implement safeguards, including notably human oversight ***and*** verifications, where appropriate, to avoid any unintended and erroneous decision leading to removal of content that is not terrorist content. ***This is of particular relevance when hosting service providers use automated means to detect terrorist content.*** Any decision to use ***automated means***, whether taken by the hosting service provider itself or pursuant to a request by the competent authority, should be assessed with regard to the reliability of the underlying technology and the ensuing impact on fundamental rights.

Amendment

(17) When putting in place ***specific*** measures, hosting service providers should ensure that users' ***rights*** to freedom of expression and information - including to freely receive and impart information - ***as well as the right to privacy and personal data protection*** is preserved. In addition to any requirement laid down in the law, including the legislation on protection of personal data, hosting service providers should act with due diligence and implement safeguards, including notably human oversight, ***as well as including*** verifications, where appropriate, to avoid any unintended and erroneous decision leading to removal of content that is not terrorist content. Any decision to use ***measures against terrorist content, including voluntary ones***, whether taken by the hosting service provider itself or pursuant to a request by the competent authority, should be assessed with regard to the reliability of the underlying technology and the ensuing impact on fundamental rights. ***In any case, hosting service providers should undertake a fundamental rights audit for any***

voluntary or specific measures they use.

Amendment 21

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) In order to ensure that hosting service providers exposed to terrorist content take appropriate measures to ***prevent the misuse of*** their services, the competent authorities should request hosting service providers having received a removal order, which has become final, to report on ***the proactive*** measures taken. ***These could consist of measures to prevent the re-upload of terrorist content, removed or access to it disabled as a result of a removal order or referrals they received, checking against publicly or privately-held tools containing known terrorist content. They may also employ the use of reliable technical tools to identify new terrorist content, either using those available on the market or those developed by the hosting service provider.*** The service provider should report on the specific ***proactive*** measures in place in order to allow the competent authority to judge whether the measures are effective and proportionate and whether, ***if automated means are used, the hosting service provider has the necessary abilities*** for human oversight and verification. In assessing the effectiveness and proportionality of the measures, competent authorities should take into account relevant parameters including the number of removal orders and referrals issued to the provider, their economic capacity and the impact of its service in disseminating terrorist content (for example, taking into account the number of users in the Union).

Amendment

(18) In order to ensure that hosting service providers exposed to terrorist content take appropriate ***specific*** measures to ***protect*** their services ***against misuse***, the competent authorities should request hosting service providers having received a removal order, which has become final, to report on ***any specific*** measures taken, ***where applicable***. The service provider should report on the specific measures in place in order to allow the competent authority to judge whether the measures are ***necessary***, effective and proportionate and whether, ***the specific measures are based on*** human oversight and verification. In assessing the effectiveness, ***necessity*** and proportionality of the measures, competent authorities should take into account relevant parameters including the number of removal orders and referrals issued to the provider, their economic capacity and the impact of its service in disseminating terrorist content (for example, taking into account the number of users in the Union) ***as well as the safeguards put in place to protect freedom of expression and information and the number of incidents of restrictions on legal content.***

Amendment 22

Proposal for a regulation Recital 19

Text proposed by the Commission

Amendment

(19) Following the request, the competent authority should enter into a dialogue with the hosting service provider about the necessary proactive measures to be put in place. If necessary, the competent authority should impose the adoption of appropriate, effective and proportionate proactive measures where it considers that the measures taken are insufficient to meet the risks. A decision to impose such specific proactive measures should not, in principle, lead to the imposition of a general obligation to monitor, as provided in Article 15(1) of Directive 2000/31/EC. Considering the particularly grave risks associated with the dissemination of terrorist content, the decisions adopted by the competent authorities on the basis of this Regulation could derogate from the approach established in Article 15(1) of Directive 2000/31/EC, as regards certain specific, targeted measures, the adoption of which is necessary for overriding public security reasons. Before adopting such decisions, the competent authority should strike a fair balance between the public interest objectives and the fundamental rights involved, in particular, the freedom of expression and information and the freedom to conduct a business, and provide appropriate justification.

deleted

Amendment 23

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) A hosting service provider should

be able, at any time, to request the competent authority to review and, where appropriate, to revoke a request pursuant to Article 6(2). The competent authority should provide a reasoned decision within a reasonable period of time after receiving the request by the hosting service provider.

Amendment 24

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) The obligation on hosting service providers to preserve removed content and related data, should be laid down for specific purposes *and* limited in time to what is necessary. There is need to extend the preservation requirement to related data to the extent that any such data would otherwise be lost as a consequence of the removal of the content in question. Related data can include data such as ‘subscriber data’, including in particular data pertaining to the identity of the content provider as well as ‘access data’, including for instance data about the date and time of use by the content provider, or the log-in to and log-off from the service, together with the IP address allocated by the internet access service provider to the content provider.

Amendment

(20) The obligation on hosting service providers to preserve removed content and related data, should be laid down for specific purposes, limited in time to what is necessary *and where this involves personal data, ensure it is duly protected*. There is need to extend the preservation requirement to related data to the extent that any such data would otherwise be lost as a consequence of the removal of the content in question. Related data can include data such as ‘subscriber data’, including in particular data pertaining to the identity of the content provider as well as ‘access data’, including for instance data about the date and time of use by the content provider, or the log-in to and log-off from the service, together with the IP address allocated by the internet access service provider to the content provider.

Amendment 25

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Transparency of hosting service providers' policies in relation to terrorist content is essential to enhance their

Amendment

(24) Transparency of hosting service providers' policies in relation to terrorist content is essential to enhance their

accountability towards their users and to reinforce trust of citizens in the Digital Single Market. Hosting service providers should publish annual transparency reports containing meaningful information about action taken in relation to the detection, identification and removal of terrorist content.

accountability towards their users and to reinforce trust of citizens in the Digital Single Market. Hosting service providers ***exposed to terrorist content*** should publish annual transparency reports containing meaningful information about action taken in relation to the detection, identification and removal of terrorist content ***including voluntary measures as well as the number of contested removals***. ***Hosting service providers should not be required to disclose any source code as part of their transparency reports. Competent authorities should also publish annual transparency reports containing meaningful information on the number of removal orders issued, the number of removals, the number of identified and detected terrorist content removed and the number of contested removals.***

Amendment 26

Proposal for a regulation Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) Content providers whose content has been removed should have a right to an effective remedy in accordance with Article 19 TEU and Article 47 of the Charter of Fundamental rights of the European Union. Certain hosting providers already use automated tools in order to remove illegal content from their platforms. Such technologies are unable to differentiate terrorist content from content that is legal, such as content that is disseminated for educational, journalistic or research purposes.

Amendment 27

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) Complaint procedures constitute a necessary safeguard against erroneous removal of content protected under the freedom of expression and information. Hosting service providers should therefore establish user-friendly complaint mechanisms and ensure that complaints are dealt with promptly and in full transparency towards the content provider. The requirement for the hosting service provider to reinstate the content where it has been removed in error, does not affect the possibility of hosting service providers to enforce their own terms and conditions on other grounds.

Amendment

(25) Complaint procedures constitute a necessary safeguard against erroneous removal of content protected under the freedom of expression and information. Hosting service providers should therefore establish user-friendly complaint mechanisms and ensure that complaints are dealt with promptly and in full transparency towards the content provider ***and this should include information on all effective remedy options, including judicial redress. Content providers should also have the right to complain directly to the competent authority in their own Member State if they are unable to resolve their complaint with a hosting service provider.*** The requirement for the hosting service provider to reinstate the content where it has been removed in error, does not affect the possibility of hosting service providers to enforce their own terms and conditions on other grounds.

Amendment 28

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Effective legal protection according to Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union requires that persons are able to ascertain the reasons upon which the content uploaded by them has been removed or access to it disabled. For that purpose, the hosting service provider should make available to the content provider meaningful information enabling the content provider to contest the decision. ***However, this does not necessarily require a notification to the content provider.*** Depending on the circumstances, hosting service providers may replace content

Amendment

(26) Effective legal protection according to Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union requires that persons are able to ascertain the reasons upon which the content uploaded by them has been removed or access to it disabled. For that purpose, the hosting service provider should make available to the content provider meaningful information enabling the content provider to contest the decision. Depending on the circumstances, hosting service providers may replace content which is considered terrorist content, with a message that it has been removed or

which is considered terrorist content, with a message that it has been removed or disabled in accordance with this Regulation. Further information about the reasons as well as possibilities for the content provider to contest the decision should be given *upon request*. Where competent authorities decide that for reasons of public security including in the context of an investigation, it is considered *inappropriate or* counter-productive to directly notify the content provider of the removal or disabling of content, they should inform the hosting service provider.

disabled in accordance with this Regulation. Further information about the reasons as well as possibilities for the content provider to contest the decision should be given . Where competent authorities decide that for reasons of public security including in the context of an investigation, it is considered counter-productive to directly notify the content provider of the removal or disabling of content, they should inform the hosting service provider.

Amendment 29

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) It is essential that the competent authority within the Member State responsible for imposing penalties is fully informed about the issuing of removal orders and referrals and subsequent exchanges between the hosting service provider and the relevant competent authority. For that purpose, Member States *should* ensure appropriate communication channels and mechanisms allowing the sharing of relevant information in a timely manner.

Amendment

(29) It is essential that the competent authority within the Member State responsible for imposing penalties is fully informed about the issuing of removal orders and referrals and subsequent exchanges between the hosting service provider and the relevant competent authority. For that purpose, Member States *must* ensure appropriate communication channels and mechanisms allowing the sharing of relevant information in a timely manner.

Amendment 30

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) Both hosting service providers and Member States should establish points of contact to facilitate the swift handling of removal orders and referrals. In contrast to the legal representative, the point of

Amendment

(33) Both hosting service providers and Member States should establish points of contact to facilitate the swift handling of removal orders and referrals. In contrast to the legal representative, the point of

contact serves operational purposes. The hosting service provider's point of contact should consist of any dedicated means allowing for the electronic submission of removal orders and referrals and of technical and personal means allowing for the swift processing thereof. The point of contact for the hosting service provider does not have to be located in the Union and the hosting service provider is free to nominate an existing point of contact, provided that this point of contact is able to fulfil the functions provided for in this Regulation. With a view to ensure that terrorist content is removed or access to it is disabled ***within one hour from the*** receipt of a removal order, hosting service providers should ensure that the point of contact is reachable 24/7. The information on the point of contact should include information about the language in which the point of contact can be addressed. In order to facilitate the communication between the hosting service providers and the competent authorities, hosting service providers are encouraged to allow for communication in one of the official languages of the Union in which their terms and conditions are available.

Amendment 31

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) In the absence of a general requirement for service providers to ensure a physical presence within the territory of the Union, there is a need to ensure clarity under which Member State's jurisdiction the hosting service provider offering services within the Union falls. As a general rule, the hosting service provider falls under the jurisdiction of the Member State in which it has its main establishment or in which it has designated a legal representative. ***Nevertheless, where***

contact serves operational purposes. The hosting service provider's point of contact should consist of any dedicated means allowing for the electronic submission of removal orders and referrals and of technical and personal means allowing for the swift processing thereof. The point of contact for the hosting service provider does not have to be located in the Union and the hosting service provider is free to nominate an existing point of contact, provided that this point of contact is able to fulfil the functions provided for in this Regulation. With a view to ensure that terrorist content is removed or access to it is disabled ***as soon as possible after*** receipt of a removal order, hosting service providers should ensure that the point of contact is reachable 24/7. The information on the point of contact should include information about the language in which the point of contact can be addressed. In order to facilitate the communication between the hosting service providers and the competent authorities, hosting service providers are encouraged to allow for communication in one of the official languages of the Union in which their terms and conditions are available.

Amendment

(34) In the absence of a general requirement for service providers to ensure a physical presence within the territory of the Union, there is a need to ensure clarity under which Member State's jurisdiction the hosting service provider offering services within the Union falls. As a general rule, the hosting service provider falls under the jurisdiction of the Member State in which it has its main establishment or in which it has designated a legal

another Member State issues a removal order, its authorities should be able to enforce their orders by taking coercive measures of a non-punitive nature, such as penalty payments. With regards to a hosting service provider which has no establishment in the Union and does not designate a legal representative, any Member State should, nevertheless, be able to issue penalties, provided that the principle of ne bis in idem is respected.

representative.

Amendment 32

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) Those hosting service providers which are not established in the Union, should designate in writing a legal representative in order to ensure the compliance with and enforcement of the obligations under this Regulation.

Amendment

(35) Those hosting service providers which are not established in the Union, should designate in writing a legal representative in order to ensure the compliance with and enforcement of the obligations under this Regulation. ***Hosting service providers may make use of an existing legal representative, provided that this legal representative is able to fulfil the functions as set out in this Regulation.***

Amendment 33

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) For the purposes of this Regulation, Member States should designate competent ***authorities***. The requirement to designate competent authorities does not necessarily require the establishment of new authorities but can be existing bodies tasked with the functions set out in this Regulation. This Regulation requires designating authorities competent for issuing removal orders, ***referrals and for***

Amendment

(37) For the purposes of this Regulation, Member States should designate ***a single*** competent ***authority unless their constitutional arrangements prevent a single authority from being responsible***. The requirement to designate competent authorities does not necessarily require the establishment of new authorities but can be existing bodies tasked with the functions set out in this Regulation. This Regulation

overseeing proactive measures and for imposing penalties. ***It is for Member States to decide how many authorities they wish to designate for these tasks.***

requires designating authorities competent for issuing removal orders, and for imposing penalties.

Amendment 34

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) Penalties are necessary to ensure the effective implementation by hosting service providers of the obligations pursuant to this Regulation. Member States should adopt rules on penalties, including, where appropriate, fining guidelines. ***Particularly severe penalties shall be ascertained in the event that the hosting service provider systematically fails to remove terrorist content or disable access to it within one hour from receipt of a removal order. Non-compliance in individual cases could be sanctioned while respecting the principles of ne bis in idem and of proportionality and ensuring that such sanctions take account of systematic failure. In order to ensure legal certainty, the regulation should set out to what extent the relevant obligations can be subject to penalties. Penalties for non-compliance with Article 6 should only be adopted in relation to obligations arising from a request to report pursuant to Article 6(2) or a decision imposing additional proactive measures pursuant to Article 6(4).*** When determining whether or not financial penalties should be imposed, due account should be taken of the financial resources of the provider. Member States ***shall*** ensure that penalties do not encourage the removal of content which is not terrorist content.

Amendment

(38) Penalties are necessary to ensure the effective implementation by hosting service providers of the obligations pursuant to this Regulation, ***and should also take into account the situation of subsidiaries or linked undertakings where applicable.*** Member States should adopt rules on penalties, including, where appropriate, fining guidelines. ***Penalties should be ascertained in the event that the hosting service provider systematically fails to remove terrorist content or disable access to it within the period specified by the competent authority. When assessing the nature of the breach and deciding upon applying penalties, full respect should be given to fundamental rights, such as the freedom of expression.*** When determining whether or not financial penalties should be imposed, due account should be taken of the financial resources of the provider, ***unintentional delays, in particular by small and medium sized businesses and start-ups.*** Member States ***should*** ensure that penalties do not encourage the removal of content which is not terrorist content.

Amendment 35

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) The use of standardised templates facilitates cooperation and the exchange of information between competent authorities and service providers, allowing them to communicate more quickly and effectively. It is particularly important to ensure swift action following the receipt of a removal order. Templates reduce translation costs and contribute to a high quality standard. Response forms similarly should allow for a standardised exchange of information, and this will be particularly important where service providers are unable to comply. Authenticated submission channels can guarantee the authenticity of the removal order, including the accuracy of the date and the time of sending and receipt of the order.

Amendment 36

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) Member States should collect information on the implementation of the legislation. A detailed programme for monitoring the outputs, results and impacts of this Regulation should be established in order to inform an evaluation of the legislation.

Amendment 37

Amendment

(39) The use of standardised templates facilitates cooperation and the exchange of information between competent authorities and service providers, allowing them to communicate more quickly and effectively. It is particularly important to ensure swift action following the receipt of a removal order, ***depending on the size and means of the hosting service provider***. Templates reduce translation costs and contribute to a high quality standard. Response forms similarly should allow for a standardised exchange of information, and this will be particularly important where service providers are unable to comply. Authenticated submission channels can guarantee the authenticity of the removal order, including the accuracy of the date and the time of sending and receipt of the order.

Amendment

(41) Member States should collect information on the implementation of the legislation ***including information on the number of cases of successful detection, investigation and prosecution of terrorist offences as a consequence of this Regulation***. A detailed programme for monitoring the outputs, results and impacts of this Regulation should be established in order to inform an evaluation of the legislation.

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) Based on the findings and conclusions in the implementation report and the outcome of the monitoring exercise, the Commission should carry out an evaluation of this Regulation no sooner than three years after its entry into force. The evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU added value. It will assess the functioning of the different operational and technical measures foreseen under the Regulation, including the effectiveness of measures to enhance the detection, identification and removal of terrorist content, the effectiveness of safeguard mechanisms as well as the impacts on potentially affected rights *and interests of third parties, including a review of the requirement to inform content providers.*

Amendment

(42) Based on the findings and conclusions in the implementation report and the outcome of the monitoring exercise, the Commission should carry out an evaluation of this Regulation no sooner than three years after its entry into force. The evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU added value. It will assess the functioning of the different operational and technical measures foreseen under the Regulation, including the effectiveness of measures to enhance the detection, identification and removal of terrorist content, the effectiveness of safeguard mechanisms as well as the impacts on potentially affected *fundamental* rights, *especially the freedom of expression and information, the right to privacy and protection of personal data.*

Amendment 38

Proposal for a regulation
Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Regulation lays down uniform rules to *prevent* the misuse of hosting services for the dissemination of terrorist content online. It lays down in particular:

Amendment

1. This Regulation lays down uniform rules to *address* the misuse of hosting services for the dissemination of terrorist content online. It lays down in particular:

Amendment 39

Proposal for a regulation
Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) rules on duties of care to be applied by hosting service providers *in order to*

Amendment

(a) rules on duties of care to be applied by hosting service providers *that are*

prevent the dissemination of terrorist content ***through their services and*** ensure, where necessary, its swift removal;

exposed to terrorist content, ***in order to*** ensure, where necessary, its swift removal;

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) a set of measures to be put in place by Member States to identify terrorist content, to enable its swift removal by hosting service providers and to facilitate cooperation with the competent authorities in other Member States, hosting service providers and where appropriate relevant Union bodies.

Amendment

(b) a set of measures to be put in place by Member States to identify terrorist content, to enable its swift removal by hosting service providers and to facilitate cooperation with the competent authorities in other Member States, hosting service providers and where appropriate relevant Union bodies ***in order to coordinate actions combating online terrorist content.***

Amendment 41

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall apply to hosting service providers offering services in the Union, irrespective of their place of main establishment.

Amendment

2. This Regulation shall apply to ***exposed*** hosting service providers offering services in the Union, irrespective of their place of main establishment.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The application of this Regulation shall be subject to Union law regarding fundamental rights, freedoms and values as enshrined in particular in Articles 2 and 6 of the Treaty on the European

Union and shall not have the effect of modifying the obligations resulting therefrom. Member States may establish conditions required by, and in accordance with fundamental principles relating to freedom of the press and freedom and pluralism of the media.

Amendment 43

Proposal for a regulation Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. This Regulation is without prejudice to Directive 2000/31/EC.

Amendment 44

Proposal for a regulation Article 2 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

(1) 'hosting service provider' means a provider of information society services **consisting** in the storage of information provided by and at the request of the content provider and in **making** the information stored **available to third parties**;

(1) 'hosting service provider' means a provider of information society services **whose business activity consists** in the storage **and processing** of information provided by and at the request of the content provider and in **disseminating** the information stored **to the public, and for which it is possible to identify and remove specific content**;

In particular, for the purpose of this Regulation, providers of services at other layers of the Internet infrastructure than the application layer, and cloud IT infrastructure service providers shall not be considered as hosting service providers;

Amendment 45

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) 'terrorist offences' means **offences as defined** in Article 3(1) of Directive (EU) 2017/541;

Amendment

(4) 'terrorist offences' means **one of the intentional acts as listed** in Article 3(1) of Directive (EU) 2017/541;

Amendment 46

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – introductory part

Text proposed by the Commission

(5) 'terrorist content' means one or more of the following **information**:

Amendment

(5) 'terrorist content' means **information or material that constitutes** one or more of the following **offences committed intentionally as defined in Articles 3 to 7 in Directive 2017/541, in particular by**:

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point a

Text proposed by the Commission

(a) inciting **or advocating, including by glorifying**, the commission of terrorist offences, thereby causing a danger that **such acts** be committed;

Amendment

(a) inciting **the commission of one of the offences listed in points (a) to (i) of Article 3(1) of Directive (EU) 2017/541, where such conduct, directly or indirectly, such as by the glorification of terrorist acts, advocates** the commission of terrorist offences, thereby causing a danger that **one or more such offences may** be committed;

Amendment 48

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point b

Text proposed by the Commission

Amendment

(b) **encouraging the contribution to terrorist** offences;

(b) **soliciting another person to commit or contribute to the commission of one of the offences listed in points (a) to (i) of Article 3(1), or in Article 4 of Directive (EU) 2017/541;**

Amendment 49

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point c

Text proposed by the Commission

Amendment

(c) **promoting** the activities of a terrorist group, **in particular by encouraging the participation in or support to a** terrorist group within the meaning of Article 2(3) of Directive (EU) 2017/541;

(c) **participating in** the activities of a terrorist group, **including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the** terrorist group, within the meaning of Article 4 of Directive (EU)2017/541;

Amendment 50

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point d

Text proposed by the Commission

Amendment

(d) **instructing on** methods or techniques for the purpose of committing terrorist offences.

(d) **providing instruction on the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or on other specific** methods or techniques for the purpose of committing **or contributing to the commission of, one of the** terrorist offences **listed in points (a) to (i) of Article 3(1) of Directive (EU) 2017/541, knowing that the skills provided are intended to be used for this purpose, is punishable as a criminal offence when committed intentionally.**

Amendment 51

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) ‘dissemination of terrorist content’ means making terrorist content available to third parties on the hosting service providers’ services;

Amendment

(6) ‘dissemination of terrorist content’ means making terrorist content **publicly** available to third parties on the hosting service providers’ services. **Content disseminated for educational, scientific or documentary purposes, and for purposes for anti-radicalisation, and counter-narratives shall be adequately protected;**

Amendment 52

Proposal for a regulation

Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9 a) ‘competent authority’ means a single designated national judicial authority in the Member State, or an administrative authority.

Amendment 53

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Hosting service providers shall take appropriate, reasonable and proportionate actions in accordance with this Regulation, against the dissemination of terrorist content and to protect users from terrorist content. In doing so, they shall act in a diligent, proportionate and non-discriminatory manner, and with due regard to the fundamental rights of the users and take into account the

1. Hosting service providers **that are exposed to terrorist content** shall take appropriate, reasonable and proportionate actions in accordance with this Regulation, against the dissemination of terrorist content and to protect users from terrorist content. In doing so, they shall act in a diligent, proportionate and non-discriminatory manner, and with due regard **in all circumstances** to the

fundamental importance of the freedom of expression and information in an open and democratic society.

fundamental rights of the users and take into account the fundamental importance of the freedom of expression and information in an open and democratic society. ***Those actions shall not amount to a general obligation on hosting service providers to monitor the information, which they store, nor a general obligation actively to seek facts or circumstances indicating illegal activity.***

Amendment 54

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. ***Hosting service providers shall include in their terms and conditions, and apply, provisions to prevent the dissemination of terrorist content.***

Amendment

deleted

Amendment 55

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

1. The competent authority shall have the power to issue a ***decision*** requiring the hosting service provider to remove terrorist content or disable access to it.

Amendment

1. The competent authority shall have the power to issue a ***removal order*** requiring the hosting service provider to remove terrorist content or disable access to it ***and shall immediately inform the competent authorities of any other Member States whose interests it considers may be affected by the issuing of that removal order.***

Amendment 56

Proposal for a regulation Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that removal orders issued by an administrative authority are subject to a review by an independent judicial authority to assess the conformity with the definition of terrorist content pursuant to Article 2(5) and to revoke the removal order where appropriate.

Amendment 57

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. Hosting service providers shall remove terrorist content or disable access to it ***within one hour from receipt of*** the removal order.

2. Hosting service providers shall remove terrorist content or disable access to it ***expeditiously. The competent authority shall set a deadline for compliance with the removal order that shall be no shorter than eight hours. When setting the deadline, the competent authority shall take due account of the size and resources of the hosting service provider, in particular that SMEs may require a longer time limit to comply with the removal order. In any event, the deadline shall be no sooner than the end of the next working day for hosting service providers that have not previously been subject to a removal order and are microenterprises as defined in the Commission Recommendation 2003/361/EC, including sole traders.***

Amendment 58

Proposal for a regulation Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) a statement of reasons explaining why the content is considered terrorist content, **at least, by** reference to the categories of terrorist content listed in Article 2(5);

Amendment

(b) a **detailed** statement of reasons explaining why the content is considered terrorist content, **by specific** reference to the categories of terrorist content listed in Article 2(5) **and substantiating the elements of unlawfulness and intentionality and the relevant national law**;

Amendment 59

Proposal for a regulation

Article 4 – paragraph 3 – point f

Text proposed by the Commission

(f) information about redress available to the hosting service provider and to the content provider;

Amendment

(f) information about **redress and deadline available for** redress available to the hosting service provider and to the content provider;

Amendment 60

Proposal for a regulation

Article 4 – paragraph 3 – point g

Text proposed by the Commission

(g) where **relevant**, the decision not to disclose information about the removal of terrorist content or the disabling of access to it referred to in Article 11.

Amendment

(g) where **necessary and appropriate**, the decision not to disclose information about the removal of terrorist content or the disabling of access to it referred to in Article 11.

Amendment 61

Proposal for a regulation

Article 4 – paragraph 4

Text proposed by the Commission

4. Upon request by the hosting service provider or by the content

Amendment

deleted

provider, the competent authority shall provide a detailed statement of reasons, without prejudice to the obligation of the hosting service provider to comply with the removal order within the deadline set out in paragraph 2.

Amendment 62

Proposal for a regulation Article 4 – paragraph 8

Text proposed by the Commission

8. If the hosting service provider cannot comply with the removal order **because** the removal order contains manifest errors or does not contain sufficient information to execute the order, it shall inform the competent authority **without undue delay**, asking for the necessary clarification, using the template set out in Annex III. The **deadline set out in paragraph 2** shall **apply** as soon as the clarification is provided.

Amendment

8. If the hosting service provider cannot comply with the removal order **in instances when** the removal order contains manifest errors or does not contain sufficient information to execute the order, it shall inform the competent authority **immediately**, asking for the necessary clarification, using the template set out in Annex III. The **hosting service provider shall remove the terrorist content or disable access to it expeditiously** as soon as the clarification **to the removal order** is provided.

Amendment 63

Proposal for a regulation Article 4 – paragraph 9

Text proposed by the Commission

9. The competent authority which issued the removal order shall inform the competent authority which oversees the implementation of **proactive** measures, referred to in Article 17(1)(c) when the removal order becomes final. A removal order becomes final where it has not been appealed within the deadline according to the applicable national law or where it has been confirmed following an appeal.

Amendment

9. The competent authority which issued the removal order shall inform the competent authority which oversees the implementation of **specific** measures, referred to in Article 17(1)(c) when the removal order becomes final. A removal order becomes final where it has not been appealed **and redress has not been sought** within the deadline according to the applicable national law or where it has been confirmed following an appeal.

Amendment 64

Proposal for a regulation Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4 a

Cross-border cooperation related to removal orders

- 1. The competent authority issuing the removal order to the hosting service provider shall submit immediately a copy of that removal order to the competent authority referred to in Article 17(1)(a) of the Member State in which the main establishment of the hosting service provider or its designated representative is located.*
- 2. In cases where the competent authority of the Member State in which the main establishment of the hosting service provider, its designated representative or the content provider is located has reasonable grounds to believe that the removal order may affect fundamental rights of the individual, it shall inform the requesting competent authority.*
- 3. The requesting competent authority shall take those circumstances into account and shall, where necessary, withdraw or adapt the removal request.*

Amendment 65

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

Amendment

- 2. Hosting service providers shall put in place operational and technical measures facilitating the expeditious* *deleted*

assessment of content that has been sent by competent authorities and, where applicable, relevant Union bodies for their voluntary consideration.

Amendment 66

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

3. The referral shall be addressed to the main establishment of the hosting service provider or to the legal representative designated by the service provider pursuant to Article 16 and transmitted to the point of contact referred to in Article 14(1). Such referrals shall be sent by electronic means.

Amendment

3. The referral shall be addressed to the main establishment of the hosting service provider or to the legal representative designated by the service provider pursuant to Article 16 and transmitted to the point of contact referred to in Article 14(1). Such referrals shall be sent by electronic means. ***The referral shall also be sent to the competent authority of the Member State in which the main establishment of the hosting service provider or its designated representative is located.***

Amendment 67

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

4. The referral shall contain ***sufficiently*** detailed information, including ***the*** reasons why the content is considered terrorist content, a URL and, where necessary, additional information enabling the identification of the terrorist content referred.

Amendment

4. The referral shall contain detailed information, including ***a detailed statement of*** reasons why the content is considered terrorist content, a URL, ***screenshots where obtainable*** and, where necessary, additional information enabling the identification of the terrorist content referred.

Amendment 68

Proposal for a regulation Article 5 – paragraph 5

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Text proposed by the Commission

5. The hosting service provider ***shall, as a matter of priority, assess the content identified in the referral against its own terms and conditions and decide whether to remove that content or to disable access to it.***

Amendment

5. The hosting service provider ***may*** remove that content or disable access to it ***until the decision by the competent authority pursuant to paragraph 6a is made final.***

Amendment 69

**Proposal for a regulation
Article 5 – paragraph 6**

Text proposed by the Commission

6. The hosting service provider shall ***expeditiously*** inform the competent authority or relevant Union body of ***the outcome of the assessment and the timing of*** any action taken as a result of the referral.

Amendment

6. The hosting service provider shall inform the competent authority or relevant Union body of any action taken as a result of the referral, ***including when no action has been taken.***

Amendment 70

**Proposal for a regulation
Article 5 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6 a. The competent authority of the Member State in which the main establishment of the hosting service provider or its designated representative is located shall without undue delay assess whether the content that is subject to the referral constitutes terrorist content within the meaning of this Regulation. Following the assessment, the competent authority shall without undue delay either inform the hosting service provider that the content was deemed not to be terrorist content, or issue a removal order pursuant to Article 4.

Amendment 71

Proposal for a regulation Article 5 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6 b. *Hosting services providers shall not be held liable solely for complying with the provisions of this Article.*

Amendment 72

Proposal for a regulation Article 5 – paragraph 7

Text proposed by the Commission

Amendment

7. *Where the hosting service provider considers that the referral does not contain sufficient information to assess the referred content, it shall inform without delay the competent authorities or relevant Union body, setting out what further information or clarification is required.*

deleted

Amendment 73

Proposal for a regulation Article 6 – title

Text proposed by the Commission

Amendment

Proactive measures

Specific measures

Amendment 74

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Hosting service providers shall, where appropriate, ***take proactive*** measures

1. Hosting service providers shall, where appropriate ***and depending on the***

to protect their services against the dissemination of terrorist content. ***The measures shall be effective and proportionate, taking into account the risk and level of exposure to terrorist content,*** the fundamental rights of the users, and the fundamental importance of the freedom of expression and information in an open and democratic society.

risk and level of exposure, take proportionate specific measures to protect their services against the dissemination of terrorist content ***that fully respect*** the fundamental rights of the users, and the fundamental importance of the freedom of expression and information ***as well as the right to privacy and protection of personal data*** in an open and democratic society. ***Such measures may include systems to allow users to report potential terrorist content or peer-to-peer content moderation. Such measures shall be taken in accordance with Article 3(1) and in particular shall not include automated content filters or other measures that entail the systematic monitoring of user behaviour. They shall be targeted and proportionate, taking into account the risk and level of exposure to terrorist content, and must respect the constitutional arrangements of the Member State in which the main establishment of the hosting service provider or its designated representative is located. . This paragraph is without prejudice to possible additional voluntary measures taken by the hosting service provider outside the scope of this Regulation.***

Amendment 75

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Where it has been informed according to Article 4(9), the competent authority referred to in Article 17(1)(c) shall request the hosting service provider to submit a report, within ***three*** months after receipt of the request and thereafter at least on an annual basis, on the specific ***proactive*** measures it has taken, ***including by using automated tools, with a view to:***

Amendment

Where it has been informed according to Article 4(9), the competent authority ***of the Member State in which the main establishment of the hosting service provider or its designated representative is located*** referred to in Article 17(1)(c) shall request the hosting service provider to submit a report, within ***six*** months after receipt of the request and thereafter at least on an annual basis, on the specific

measures it has taken.

Amendment 76

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) preventing the re-upload of content which has previously been removed or to which access has been disabled because it is considered to be terrorist content;

deleted

Amendment 77

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) detecting, identifying and expeditiously removing or disabling access to terrorist content.

deleted

Amendment 78

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The reports shall include all relevant information allowing the competent authority referred to in Article 17(1)(c) to assess whether the **proactive** measures are **effective** and proportionate, **including to evaluate the functioning of any automated tools used as well as the** human oversight and **verification** mechanisms employed.

The reports shall include all relevant information allowing the competent authority referred to in Article 17(1)(c) to assess whether the **specific** measures are **targeted** and proportionate **and whether the specific measures are based on** human oversight and **whether effective** mechanisms **to protect users' fundamental rights are** employed.

Amendment 79

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. *Where the competent authority referred to in Article 17(1)(c) considers that the proactive measures taken and reported under paragraph 2 are insufficient in mitigating and managing the risk and level of exposure, it may request the hosting service provider to take specific additional proactive measures. For that purpose, the hosting service provider shall cooperate with the competent authority referred to in Article 17(1)(c) with a view to identifying the specific measures that the hosting service provider shall put in place, establishing key objectives and benchmarks as well as timelines for their implementation.*

deleted

Amendment 80

Proposal for a regulation

Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. *Where no agreement can be reached within the three months from the request pursuant to paragraph 3, the competent authority referred to in Article 17(1)(c) may issue a decision imposing specific additional necessary and proportionate proactive measures. The decision shall take into account, in particular, the economic capacity of the hosting service provider and the effect of such measures on the fundamental rights of the users and the fundamental importance of the freedom of expression and information. Such a decision shall be sent to the main establishment of the hosting service provider or to the legal representative designated by the service*

deleted

provider. The hosting service provider shall regularly report on the implementation of such measures as specified by the competent authority referred to in Article 17(1)(c).

Amendment 81

Proposal for a regulation Article 6 – paragraph 5

Text proposed by the Commission

5. A hosting service provider may, at any time, request the competent authority referred to in Article 17(1)(c) *a* review and, where appropriate, to revoke a request or decision pursuant to *paragraphs 2, 3, and 4 respectively*. The competent authority shall provide a reasoned decision within a reasonable period of time after receiving the request by the hosting service provider.

Amendment

5. A hosting service provider may, at any time, request the competent authority referred to in Article 17(1)(c) *to* review and, where appropriate, to revoke a request or decision pursuant to *paragraph 2*. The competent authority shall provide a reasoned decision within a reasonable period of time after receiving the request by the hosting service provider.

Amendment 82

Proposal for a regulation Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Hosting service providers shall preserve terrorist content which has been removed or disabled as a result of a removal order, a referral or as a result of *proactive* measures pursuant to Articles 4, 5 and 6 and related data removed as a consequence of the removal of the terrorist content and which is necessary for:

Amendment

1. Hosting service providers shall preserve terrorist content which has been removed or disabled as a result of a removal order, a referral or as a result of *specific* measures pursuant to Articles 4, 5 and 6 and related data removed as a consequence of the removal of the terrorist content and which is necessary for:

Amendment 83

Proposal for a regulation Article 7 – paragraph 1 – point b a (new)

(b a) remedying complaints following the mechanism described in Article 10.

Amendment 84

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. The terrorist content and related data referred to in paragraph 1 shall be preserved for six months. The terrorist content shall, upon request from the competent authority or court, be preserved for a longer period when and for as long as necessary for ongoing proceedings of administrative or judicial review referred to in paragraph 1(a).

2. The terrorist content and related data referred to in paragraph 1 shall be preserved for six months. The terrorist content shall, upon request from the competent authority or court, be preserved for a ***specifically defined*** longer period when and for as long as necessary for ***investigation or prosecution of terrorist offences or*** ongoing proceedings of administrative or judicial review referred to in paragraph 1(a).

Amendment 85

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Hosting service providers shall ***set out*** in their terms and conditions their policy to ***prevent the dissemination of*** terrorist content, including, ***where appropriate***, a meaningful explanation of the functioning of ***proactive*** measures including the use of automated tools.

1. Hosting service providers shall ***explain in a clear manner*** in their terms and conditions their policy, ***with regard to*** terrorist ***content and protection of users from such*** content, including, a meaningful explanation of the functioning of ***specific*** measures, ***as well as any additional voluntary measures a hosting service provider may employ in addition to its obligations under this Regulation***, including the use of automated tools ***where applicable, as well as a description of the complaint mechanism available for content providers in accordance with***

Article 10.

Amendment 86

**Proposal for a regulation
Article 8 – paragraph 2**

Text proposed by the Commission

2. Hosting service providers shall **publish** annual transparency reports on action taken against the dissemination of terrorist content.

Amendment

2. Hosting service providers, **unless there has been no specific action required by them under this Regulation in any given year, and competent authorities and relevant Union bodies** shall **make publicly available** annual transparency reports on action taken against the dissemination of terrorist content.

Amendment 87

**Proposal for a regulation
Article 8 – paragraph 3 – introductory part**

Text proposed by the Commission

3. Transparency reports shall include at least the following information:

Amendment

3. Transparency reports **of hosting service providers** shall include at least the following information:

Amendment 88

**Proposal for a regulation
Article 8 – paragraph 3 – point a**

Text proposed by the Commission

(a) information about the hosting service provider's measures in relation to the detection, identification and removal of terrorist content;

Amendment

(a) information about the hosting service provider's measures in relation to the detection, identification and removal of terrorist content, **including voluntary measures**;

Amendment 89

Proposal for a regulation

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) information about the hosting service provider’s measures to prevent the re-upload of content which has previously been removed or to which access has been disabled because it is considered to be terrorist content;

deleted

Amendment 90

Proposal for a regulation

Article 8 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) number of pieces of terrorist content removed or to which access has been disabled, following removal orders, referrals, or *proactive* measures, respectively;

(c) number of pieces of terrorist content removed or to which access has been disabled, following removal orders, referrals, or *specific measures pursuant to this Regulation, as well as voluntary* measures, respectively;

Amendment 91

Proposal for a regulation

Article 8 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) overview and outcome of complaint procedures.

(d) overview and outcome of complaint procedures *including the number of cases in which it was established that content was wrongly identified as terrorist content;*

Amendment 92

Proposal for a regulation

Article 8 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(d a) Transparency reports of competent authorities and relevant Union bodies shall include information on the number of removal orders and referrals issued, including information on the number of removals that led to successful detection, investigation and prosecution of terrorist offences, and on their use of the terrorist content, which has been preserved pursuant to Article 7 for the prevention, detection, investigation and prosecution of terrorist offences.

Amendment 93

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8 a

Appeal and redress

Member States shall ensure that a content provider or a hosting service provider can appeal a removal order as referred to in Article 4(9) by seeking redress in front of the relevant judicial authority in the Member State in which the content provider is located or in which the main establishment of the hosting service provider or legal representative designated by the hosting service provider pursuant to Article 16 resides or is established.

Amendment 94

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Amendment

Safeguards regarding ***the use and***

Safeguards regarding ***content removal***

implementation of proactive measures

Amendment 95

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Where hosting service providers use **automated tools** pursuant to this Regulation in respect of content that they store, they shall provide effective and appropriate safeguards to ensure that decisions taken concerning that content, in particular decisions to remove or disable content considered to be terrorist content, are accurate and well-founded.

Amendment

1. Where hosting service providers use **voluntary measures** pursuant to **or measures otherwise in pursuit of the aims of** this Regulation in respect of content that they store, they shall provide effective and appropriate safeguards to ensure that decisions taken concerning that content, in particular decisions to remove or disable content considered to be terrorist content, are accurate and well-founded, **and do not lead to the removal or disabling of access to content that is not terrorist content.**

Amendment 96

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. Safeguards shall consist, in particular, of human oversight and verifications **where appropriate and, in any event, where a detailed assessment of the relevant context is required in order to determine whether or not the content is to be considered terrorist content.**

Amendment

2. Safeguards shall consist, in particular, of human oversight and verifications **of the appropriateness of the decision to remove or disable access to content, in particular with regard to the right to freedom of expression and information.**

Amendment 97

Proposal for a regulation Article 10 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Content providers, whose content has been removed or access to it has been

disabled, shall have the right to an effective remedy in accordance with Article 19 TEU and Article 47 of the Charter of Fundamental rights of the European Union.

Amendment 98

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. Hosting service providers shall establish effective and accessible mechanisms allowing content providers whose content has been removed or access to it disabled as a result of a referral pursuant to Article 5 *or of proactive* measures pursuant to Article 6, to submit a complaint against the action of the hosting service provider requesting reinstatement of the content.

Amendment

1. Hosting service providers shall establish effective and accessible mechanisms allowing content providers whose content has been removed or access to it disabled as a result of a **removal order pursuant to Article 4, a** referral pursuant to Article 5, **specific** measures pursuant to Article 6 **or of additional voluntary measures**, to submit a complaint against the action of the hosting service provider requesting reinstatement of the content. **Safeguards relating to removal or disabling of access shall also include the possibility of judicial redress.**

Amendment 99

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. Hosting service providers shall promptly examine every complaint that they receive and reinstate the content without undue delay where the removal or disabling of access was unjustified. They shall inform the complainant about the outcome of the examination.

Amendment

2. Hosting service providers shall promptly examine every complaint that they receive and reinstate the content without undue delay where the removal or disabling of access was unjustified. They shall inform the complainant about the outcome of the examination **without undue delay and no later than two weeks from the receipt of the complaint, unless national law provides for a different deadline.**

Amendment 100

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. Where hosting service providers **removed** terrorist content or disable access to it, they shall make available to the content provider information on the removal or disabling of access to terrorist content.

Amendment

1. Where hosting service providers **remove** terrorist content or disable access to it, they shall make available to the content provider **comprehensive** information on the removal or disabling of access to terrorist content **provided to them by the competent authority in line with Article 4(3), including the legal basis establishing that it is terrorist content and possibilities to contest the decision including formal requirements, the description of the next steps of the procedure and related timeframes.**

Amendment 101

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. **Upon request of the content provider, the hosting service provider shall inform the content provider about the reasons for the removal or disabling of access and possibilities to contest the decision.**

Amendment

deleted

Amendment 102

Proposal for a regulation Article 11 – paragraph 3

Text proposed by the Commission

3. The obligation pursuant to **paragraphs 1 and 2** shall not apply where the competent authority decides that there

Amendment

3. The obligation pursuant to **paragraph 1** shall not apply where the competent authority decides that there

should be no disclosure for reasons of public security, such as the prevention, investigation, detection and prosecution of terrorist offences, for as long as necessary, but not exceeding [four] weeks from that decision. In such a case, the hosting service provider shall not disclose any information on the removal or disabling of access to terrorist content.

should be no disclosure for reasons of public security, such as the prevention, investigation, detection and prosecution of terrorist offences, for as long as necessary, but not exceeding [four] weeks from that decision. In such a case, the hosting service provider shall not disclose any information on the removal or disabling of access to terrorist content.

Amendment 103

Proposal for a regulation Article 13 – paragraph 4

Text proposed by the Commission

4. Where hosting service providers become aware of **any evidence** of terrorist offences, they shall promptly inform **authorities** competent for the investigation and prosecution in criminal offences in the concerned Member State or the point of contact in the Member State pursuant to Article 14(2), where they have their main establishment or a legal representative. Hosting service providers may, in case of doubt, transmit this information to Europol for appropriate follow up.

Amendment

4. Where hosting service providers become aware of **an imminent threat to life or lives as a result** of terrorist offences, they shall promptly inform **the authority** competent for the investigation and prosecution in criminal offences in the concerned Member State or the point of contact in the Member State pursuant to Article 14(2), where they have their main establishment or a legal representative. Hosting service providers may, in case of doubt, transmit this information to Europol for appropriate follow up.

Amendment 104

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

3. Member States shall establish a point of contact to handle requests for clarification and feedback in relation to removal orders and referrals issued by them. Information about the contact **point** shall be made publicly available.

Amendment

3. Member States shall establish a point of contact to handle requests for clarification and feedback in relation to removal orders and referrals issued by them. **A database with** information about the contact **points in Member States** shall be made publicly available **by the European Commission**.

Amendment 105

Proposal for a regulation

Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall designate *the* authority *or authorities* competent to

Amendment

1. Each Member State shall designate ***a single*** authority ***for the purpose of implementing this Regulation unless their constitutional arrangements prevent a single authority from being responsible.*** ***That authority shall be*** competent to:

Amendment 106

Proposal for a regulation

Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) issue removal orders pursuant to Article 4;

Amendment

(a) issue removal orders pursuant to Article 4, ***subject to independent judicial review in the case of administrative authorities;***

Amendment 107

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) detect, identify and refer terrorist content to hosting service providers pursuant to Article 5;

Amendment

(b) detect, identify and refer ***potential*** terrorist content to hosting service providers pursuant to Article 5 ***while the assessment of whether it meets the definition of terrorist content is pending;***

Amendment 108

Proposal for a regulation

Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) oversee the implementation of **proactive** measures pursuant to Article 6;

Amendment

(c) oversee the implementation of **specific** measures pursuant to Article 6 **as well as voluntary measures referred to in Article 9**;

Amendment 109

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

2. By [six months after the entry into force of this Regulation] at the latest Member States shall notify the Commission of the competent **authorities** referred to in paragraph 1. The Commission shall publish the notification and any modifications of it in the Official Journal of the European Union.

Amendment

2. By [six months after the entry into force of this Regulation] at the latest Member States shall notify the Commission of the competent **authority** referred to in paragraph 1. The Commission shall publish the notification and any modifications of it in the Official Journal of the European Union.

Amendment 110

Proposal for a regulation
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall lay down the rules on penalties applicable to breaches of the obligations by hosting service providers under this Regulation and shall take all necessary measures to ensure that they are implemented. Such penalties shall be limited to infringement of the obligations pursuant to:

Amendment

1. Member States shall lay down the rules on penalties applicable to **systematic and ongoing** breaches of the obligations by hosting service providers **or their representatives** under this Regulation and shall take all necessary measures to ensure that they are implemented. Such penalties shall be limited to infringement of the obligations pursuant to:

Amendment 111

Proposal for a regulation
Article 18 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) Article 3(2) (hosting service providers' terms and conditions);

deleted

Amendment 112

Proposal for a regulation

Article 18 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) Article 5(5) and (6) (assessment of and feedback on referrals);

(c) Article 5(6)(assessment of and feedback on referrals);

Amendment 113

Proposal for a regulation

Article 18 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) Article 6(2) and (4) (reports on *proactive* measures *and the adoption of measures following a decision imposing specific proactive measures*);

(d) Article 6(2) (reports on *specific* measures);

Amendment 114

Proposal for a regulation

Article 18 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) Article 9 (safeguards in relation to *proactive measures*);

(g) Article 9 (safeguards in relation to *content removal*);

Amendment 115

Proposal for a regulation

Article 18 – paragraph 3 – point c

Text proposed by the Commission

(c) previous breaches by the legal person held responsible;

Amendment

(c) previous breaches by the legal person held responsible, ***a subsidiary or linked person or undertaking***;

Amendment 116

**Proposal for a regulation
Article 18 – paragraph 3 – point d**

Text proposed by the Commission

(d) the financial strength of the legal person held liable;

Amendment

(d) the financial strength of the legal person held liable, ***a subsidiary or linked person or undertaking***;

Amendment 117

**Proposal for a regulation
Article 18 – paragraph 3 – point e**

Text proposed by the Commission

(e) the level of cooperation of the hosting service provider with the competent authorities.

Amendment

(e) the level of cooperation of the hosting service provider, ***or their representatives***, with the competent authorities;

Amendment 118

**Proposal for a regulation
Article 18 – paragraph 3 – point e a (new)**

Text proposed by the Commission

Amendment

(e a) unintentional delays, in particular by small and medium sized businesses and start-ups.

Amendment 119

**Proposal for a regulation
Article 18 – paragraph 4**

Text proposed by the Commission

4. Member States shall ensure that a systematic failure to comply with obligations pursuant to Article 4(2) is subject to financial penalties of up to 4% of the hosting service provider's global turnover of the last business year.

Amendment

4. Member States shall ensure that a systematic failure to comply with obligations pursuant to Article 4(2) is subject to financial penalties of **at least 1%** **and** up to 4% of the hosting service provider's global turnover of the last business year.

Amendment 120

Proposal for a regulation

Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall collect from their competent authorities and the hosting service providers under their jurisdiction and send to the Commission every year by [31 March] information about the actions they have taken in accordance with this Regulation. That information shall include:

Amendment

1. Member States shall collect from their competent authorities and the hosting service providers under their jurisdiction and send to the Commission every year by [31 March] information about the actions they have taken in accordance with this Regulation. That information shall include ***policies, terms and conditions and transparency reports of hosting service providers in addition to:***

Amendment 121

Proposal for a regulation

Article 21 – paragraph 1 – point b

Text proposed by the Commission

(b) information about the specific ***proactive*** measures taken pursuant to ***Article 6***, including the amount of terrorist content which has been removed or access to it disabled and the corresponding ***timeframes***;

Amendment

(b) information about the specific measures taken pursuant to ***Articles 4 and 6***, including the amount of terrorist content which has been removed or access to it disabled and the corresponding ***information on the number of cases of successful detection, investigation and prosecution of terrorist offences***;

Amendment 122

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

No sooner than [three years from the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and submit a report to the European Parliament and to the Council on the application of this Regulation including the functioning of the effectiveness of the safeguard mechanisms. Where appropriate, the report shall be accompanied by legislative proposals. Member States shall provide the Commission with the information necessary for the preparation of the report.

Amendment

*The Commission shall carry out an evaluation of this Regulation [at the latest, three years from the date of application of this Regulation], and submit a report to the European Parliament and to the Council on the application of this Regulation including the functioning of the effectiveness of the safeguard mechanisms. **The report shall also cover the impact of this Regulation on freedom of expression and information.** Where appropriate, the report shall be accompanied by legislative proposals. Member States shall provide the Commission with the information necessary for the preparation of the report.*

Amendment 123

Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission

It shall apply from [6 months after its entry into force].

Amendment

It shall apply from [**18** months after its entry into force].

Amendment 124

Proposal for a regulation
Annex I – paragraph 1

Text proposed by the Commission

Under Article 4 of Regulation (EU)...¹⁶ the addressee of the removal order shall remove terrorist content or disable access to it, within **one hour from receipt of the removal order from** the competent authority.

Amendment

Under Article 4 of Regulation (EU)...¹⁶the addressee of the removal order shall remove terrorist content or disable access to it, within **the deadline specified by** the competent authority.

¹⁶ Regulation of the European Parliament

¹⁶ Regulation of the European Parliament

and of the Council on preventing the dissemination of terrorist content online (OJ L ...).

and of the Council on preventing the dissemination of terrorist content online (OJ L ...).

Amendment 125

Proposal for a regulation Annex I – paragraph 2

Text proposed by the Commission

In accordance with Article 7 of Regulation (EU)¹⁷, addressees must preserve content and related data, which has been removed or access to it disabled, for six months or longer upon request from the competent authorities or courts.

¹⁷ Regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online (OJ L ...).

Amendment

In accordance with Article 7 of Regulation (EU)¹⁷, addressees must preserve content and related data, which has been removed or access to it disabled, for six months or longer upon request from the competent authorities or courts ***or the content provider in order to remedy complaints following the mechanism described in Article 10.***

¹⁷ Regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online (OJ L ...).

Amendment 126

Proposal for a regulation Annex I – section B – title

Text proposed by the Commission

B Content to be removed or access to it disabled within ***one hour***:

Amendment

B Content to be removed or access to it disabled within ***the deadline specified by the competent authority***:

Amendment 127

Proposal for a regulation Annex I – section B – paragraph 1

Text proposed by the Commission

A URL and any additional information

Amendment

A URL and any additional information

enabling the identification and exact location of the content referred:

including screenshot where obtainable
enabling the identification and exact location of the content referred:

Amendment 128

Proposal for a regulation Annex I – section B – paragraph 4

Text proposed by the Commission

Additional information on the reasons why the content is considered terrorist content ***(optional)***:

Amendment

Additional information on the reasons why the content is considered terrorist content ***in accordance with national law, possibilities to contest the decision including formal requirements, the description of the next steps of the procedure and related timeframes:***

Amendment 129

Proposal for a regulation Annex I – section G – paragraph 1

Text proposed by the Commission

Information about competent body or court, deadlines and procedures for contesting the removal order:

Amendment

Information about competent body or court, deadlines and procedures ***including formal requirements*** for contesting the removal order:

PROCEDURE – COMMITTEE ASKED FOR OPINION

| | | |
|---|--|-----------|
| Title | Preventing the dissemination of terrorist content online | |
| References | COM(2018)0640 – C8-0405/2018 – 2018/0331(COD) | |
| Committee responsible Date announced in plenary | LIBE 22.10.2018 | |
| Opinion by Date announced in plenary | IMCO 22.10.2018 | |
| Rapporteur Date appointed | Julia Reda 24.9.2018 | |
| Discussed in committee | 21.1.2019 | 21.2.2019 |
| Date adopted | 4.3.2019 | |
| Result of final vote | +: 28 | –: 0 |
| | 0: 2 | |
| Members present for the final vote | John Stuart Agnew, Lucy Anderson, Carlos Coelho, Sergio Gaetano Cofferati, Daniel Dalton, Nicola Danti, Pascal Durand, Liisa Jaakonsaari, Philippe Juvin, Marlene Mizzi, Jiří Pospíšil, Jasenko Selimovic, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Marco Zullo | |
| Substitutes present for the final vote | Birgit Collin-Langen, Edward Czesak, Emma McClarkin, Julia Reda, Adam Szejnfeld, Kerstin Westphal | |
| Substitutes under Rule 200(2) present for the final vote | Asim Ademov, John Howarth, Sandra Kalniete, Tunne Kelam, Jude Kirton-Darling, Andrey Kovatchev, Andrey Novakov, Vladimir Urutchev, Kathleen Van Brempt | |

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

| 28 | + |
|-----------|---|
| ALDE | Jasenko Selimovic |
| ECR | Edward Czesak, Daniel Dalton, Emma McClarkin |
| ENF | Mylène Troszczynski |
| PPE | Asim Ademov, Carlos Coelho, Birgit Collin-Langen, Philippe Juvin, Sandra Kalniete, Tunne Kelam, Andrey Kovatchev, Andrey Novakov, Jiří Pospíšil, Adam Szejnfeld, Róza Gräfin von Thun und Hohenstein, Vladimir Urutchev |
| S&D | Lucy Anderson, Sergio Gaetano Cofferati, Nicola Danti, John Howarth, Liisa Jaakonsaari, Jude Kirton-Darling, Marlene Mizzi, Kathleen Van Brempt, Kerstin Westphal |
| VERTS/ALE | Pascal Durand, Julia Reda |

| 0 | - |
|----------|----------|
| | |

| 2 | 0 |
|----------|-------------------|
| EFDD | Marco Zullo |
| ENF | John Stuart Agnew |

Key to symbols:

+ : in favour

- : against

0 : abstention