



2018/0331(COD)

13.12.2018

DRAFT 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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PA_Legam

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 Title 1

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on preventing the dissemination of terrorist
content online

*A contribution from the European
Commission to the Leaders' meeting in
Salzburg on 19-20 September 2018*

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on preventing the dissemination of *illegal*
terrorist content online

Or. en

Amendment 2

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

Amendment

(1) This Regulation aims at ensuring the smooth functioning of the digital single market in an open and democratic society, by *contributing to the investigation of offences*. 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 *ensure the rule of law and fundamental rights, in*

and information.

particular 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.*

Or. en

Amendment 3

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Regulation of hosting service providers can only complement Member States' strategies to address illegal terrorist acts, which must emphasize 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.

Or. en

Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

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 the technological means and capabilities associated with the services they provide, online service providers have *particular* societal responsibilities to

(3) The presence of *illegal* 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 providers have societal

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

responsibilities to protect their services from misuse by terrorists and to help **competent authorities to address** terrorist **offences committed** through their services.

Or. en

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 complemented by a clear legislative framework in order to further reduce accessibility to **illegal** terrorist content online and **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 **and address some shortcomings of** 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 **address** illegal content **in line with the horizontal framework established by Directive 2000/31/EC** and by the European Council to improve the removal of **illegal** terrorist **content**.

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).

Or. en

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

Amendment

(5) ***This Regulation should lay down specific obligations of certain hosting service providers, and duties of care for those hosting service providers exposed to a substantial amount of illegal terrorist content.*** The application of this Regulation should not affect the application of ***Articles 14 and 15*** of Directive 2000/31/EC⁸ ***to hosting service providers on the condition that they do not have actual knowledge or illegal activity or information or, upon obtaining such knowledge, they remove or disable access expeditiously to that content. As Article 15 of Directive 2000/31/EC prohibits general monitoring obligations on the information which they store as well as general obligations to actively seek facts or circumstances indicating illegal activity, this regulation should not lead to information being transmitted to hosting providers that is vague about the status of legality of the content notified to the hosting provider or encourage them to seek these facts or circumstances indicating illegal activity. Where the hosting provider is not informed by the competent authority whether the content notified is considered to be illegal, it might risk facing liability for failing to act expeditiously to remove the content. Therefore, this information needs to be provided in any case by the competent authority.*** 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).

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).

Or. en

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

Amendment

(6) Rules to **address** the misuse of hosting services for the dissemination of **illegal** 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 and notably those guaranteed in the Charter of Fundamental Rights of the European Union.

Or. en

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

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 **and the rule of law**. 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

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.

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***, which constitutes one of the essential foundations of a pluralist, democratic society, and *are* one of the values on which the Union is founded. Measures, ***taken to remove illegal*** terrorist content ***online should be necessary, appropriate and proportionate to help the fight against terrorism, including investigation and prosecution of terrorist offences***, 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.

Or. en

Amendment 9

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

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***

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.

hosting providers and content providers to be informed about all available redress channels, the possibility for content providers to contest the results of measures taken by the hosting provider, 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.

Or. en

Amendment 10

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

Amendment

(9) In order to provide clarity about the actions that both hosting service providers and competent authorities should take to ***restrict*** the dissemination of ***illegal*** terrorist content online, this Regulation should establish a definition of terrorist content ***that is in line with*** the definition of terrorist offences under Directive (EU) 2017/541 of the European Parliament and of the Council⁹. Such information includes in particular text, images, sound recordings and videos. When assessing whether content constitutes ***illegal*** 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 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

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

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).

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.

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).

Or. en

Amendment 11

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* 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,

Amendment

(10) In order to cover those online hosting services where terrorist content is disseminated, this Regulation should apply to information society services *whose main business activity consists of storing* information provided by a recipient of the service at his or her request and in making the information stored *publicly* available to third parties. By way of example such services include social media platforms, video streaming services, video, image and audio sharing services to the extent they

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.

make the information ***publicly available and accelerate the dissemination of content***. ***This Regulation applies to the activity of providing hosting services, rather than to the specific provider or its dominant activity***. 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. ***By contrast, services which consist of providing mere technical facility such as file sharing and other cloud services, or services that consist of selling goods on-line, delivery of goods as such, or the provision of services off-line, private websites, including blogs, should not be considered in scope of this Regulation. Mere conduits and other electronic communication services within the meaning of [European Electronic Communication Code] 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. Interpersonal communication services that enable direct interpersonal and interactive exchange of***

information between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s), are not in scope.

Or. en

Amendment 12

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 a substantial number of uncontested removal orders** 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 monitoring obligation **or an obligation to actively seek facts indicating illegal activities**. 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 **illegal** 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**.

Or. en

Amendment 13

Proposal for a regulation Recital 13

Text proposed by the Commission

(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.

Amendment

(13) The procedure and obligations resulting from legal orders requesting hosting service providers to remove terrorist content or disable access to it, following **a legal** assessment by the competent authorities, should be harmonised. Member States should designate **their** judicial authorities with that task. Given the speed at which terrorist content is disseminated across online services, **competent administrative bodies should be able to obtain a court order under an expeditious proceeding.** This provision imposes obligations on hosting service providers to ensure that **illegal** terrorist content identified in the removal order is removed or access to it is disabled **expeditiously after** 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 **based on the definition of illegal terrorist content and provided that effective redress mechanisms are available.**

Or. en

Amendment 14

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**

Amendment

deleted

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.

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).*

Or. en

Amendment 15

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***

Amendment

(16) ***The vast majority of hosting service providers are never exposed to illegal terrorist content.*** Given the ***complexity of*** effectively identifying and removing terrorist content ***at scale and the potential impact on fundamental rights, duties of care that go beyond the mere removal of illegal*** terrorist content ***following removal orders from competent authorities could be taken by those*** hosting service providers ***that have been***

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

subject to a substantial number of uncontested removal orders. Those duties of care must only consist of proportionate measures, necessary to achieve the goals of this Regulation, and be limited to certain specific cases. These duties of care should not lead to a general monitoring or actively seeking facts indicating illegal activity.

Or. en

Amendment 16

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 **additional** measures **voluntarily**, 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 rights to privacy and protection of personal data**, - **are** 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, to avoid any unintended and erroneous decision leading to removal of content that is not **illegal** terrorist content. Hosting service providers **should not** use automated means **based on artificial intelligence** to detect terrorist content. Any decision to use automated means 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 measures they use.

Or. en

Amendment 17

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**

Amendment

(18) The service provider should report on the specific **voluntary** measures in place in order to allow the competent authority to judge whether the measures are proportionate and whether, if automated means are used, the hosting service provider has the necessary abilities for human oversight and verification.

example, taking into account the number of users in the Union).

Or. en

Amendment 18

Proposal for a regulation Recital 19

Text proposed by the Commission

(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.*

Amendment

(19) *The ban on general monitoring provided in Article 15(1) of Directive 2000/31/EC applies horizontally to all hosting, caching or mere conduit service providers and all types of illegal activity. Furthermore, the European Court of Justice has founded the ban on general monitoring in the Charter of fundamental rights, in particular, the freedom of expression and information, the right to privacy and protection of personal data and the freedom to conduct a business.*

Or. en

Amendment 19

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) The obligation to preserve the content for proceedings of ***administrative or*** judicial review is necessary and justified in view of ensuring the effective measures of redress for the content provider whose content was removed or access to it disabled as well as for ensuring the reinstatement of that content as it was prior to its removal depending on the outcome of the review procedure. The obligation to preserve content for investigative and prosecutorial purposes is justified and necessary in view of the value this material could bring for the purpose of disrupting or preventing terrorist activity. ***Where companies remove material or disable access to it, in particular through their own proactive measures, and do not inform the relevant authority because they assess that it does not fall in the scope of Article 13(4) of this Regulation, law enforcement may be unaware of the existence of the content. Therefore, the preservation of content for purposes of prevention, detection, investigation and prosecution of terrorist offences is also justified.*** For these purposes, the required preservation of data is limited to data that is likely to have a link with terrorist offences, and can therefore contribute to prosecuting terrorist offences or to preventing serious risks to public security.

Amendment

(21) The obligation to preserve the content for proceedings of judicial review is necessary and justified in view of ensuring the effective measures of redress for the content provider whose content was removed or access to it disabled as well as for ensuring the reinstatement of that content as it was prior to its removal depending on the outcome of the review procedure. The obligation to preserve content for investigative and prosecutorial purposes is justified and necessary in view of the value this material could bring for the purpose of disrupting or preventing terrorist activity. For these purposes, the required preservation of data is limited to data that is likely to have a link with terrorist offences, and can therefore contribute to prosecuting terrorist offences or to preventing serious risks to public security.

Or. en

Amendment 20

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 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.

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 ***exposed to illegal terrorist content*** should publish annual transparency reports containing meaningful information about action taken in relation to the detection, identification and removal of terrorist content.

Or. en

Amendment 21

Proposal for a regulation Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Content providers whose content has been removed following a removal order, 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 illegal terrorist content from content that is legal, such as content that is disseminated for educational, journalistic or research purposes.

Or. en

Amendment 22

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 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.

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. 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.

Or. en

Amendment 23

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) In order to avoid duplication and

Amendment

(27) In order to avoid duplication and

possible interferences with investigations, the competent authorities should inform, coordinate and cooperate with each other and where appropriate with Europol when issuing removal orders *or sending referrals* to hosting service providers. In implementing the provisions of this Regulation, Europol could provide support in line with its current mandate and existing legal framework.

possible interferences with investigations, the competent authorities should inform, coordinate and cooperate with each other and where appropriate with Europol when issuing removal orders to hosting service providers. In implementing the provisions of this Regulation, Europol could provide support in line with its current mandate and existing legal framework.

Or. en

Amendment 24

Proposal for a regulation Recital 28

Text proposed by the Commission

(28) In order to ensure the effective and sufficiently coherent implementation *of proactive measures*, competent authorities in Member States *should liaise with each other with regard to the discussions they have with hosting service providers as to the identification, implementation and assessment of specific proactive measures. Similarly, such* cooperation is *also* needed in relation to the adoption of rules on penalties, as well as the implementation and the enforcement of penalties.

Amendment

(28) In order to ensure the effective and sufficiently coherent implementation *by* competent authorities in Member States cooperation is needed in relation to the adoption of rules on penalties, as well as the implementation and the enforcement of penalties.

Or. en

Amendment 25

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

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 should ensure appropriate communication channels and mechanisms allowing the sharing of relevant information in a timely manner.

informed about the issuing of removal orders 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.

Or. en

Amendment 26

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) Given the particular serious consequences of certain terrorist **content**, hosting service providers should promptly inform the authorities in the Member State concerned or the competent authorities where they are established or have a legal representative, about the existence of any evidence of terrorist offences that they become aware of. In order to ensure proportionality, this obligation is limited to terrorist offences as defined in Article 3(1) of Directive (EU) 2017/541. The obligation to inform does not imply an obligation on hosting service providers to actively seek any such evidence. The Member State concerned is the Member State which has jurisdiction over the investigation and prosecution of the terrorist offences pursuant to Directive (EU) 2017/541 based on the nationality of the offender or of the potential victim of the offence or the target location of the terrorist act. In case of doubt, hosting service providers may transmit the information to Europol which should follow up according to its mandate, including forwarding to the relevant national authorities.

Amendment

(31) Given the particular serious consequences of certain terrorist **offences**, hosting service providers should promptly inform the authorities in the Member State concerned or the competent authorities where they are established or have a legal representative, about the existence of any evidence of terrorist offences that they become aware of. In order to ensure proportionality, this obligation is limited to terrorist offences as defined in Article 3(1) of Directive (EU) 2017/541. The obligation to inform does not imply an obligation on hosting service providers to actively seek any such evidence. The Member State concerned is the Member State which has jurisdiction over the investigation and prosecution of the terrorist offences pursuant to Directive (EU) 2017/541 based on the nationality of the offender or of the potential victim of the offence or the target location of the terrorist act. In case of doubt, hosting service providers may transmit the information to Europol which should follow up according to its mandate, including forwarding to the relevant national authorities.

Amendment 27**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 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

(33) Both hosting service providers and Member States should establish points of contact to facilitate the swift handling of removal orders. 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 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. 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 28

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 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.*

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 representative.

Or. en

Amendment 29

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.

Or. en

Amendment 30

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

Amendment

(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 *judicial* bodies tasked with the functions set out in this Regulation. This Regulation requires designating authorities competent for issuing removal orders, and for imposing penalties. It is for Member States to decide how many authorities they wish to designate for these tasks. *Administrative authorities may only issue removal orders on the basis of a court decision and may not impose penalties.*

Or. en

Amendment 31

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.

Amendment

(38) Penalties *can contribute to ensuring* 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 *for*

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.

cases where that the hosting service provider systematically fails to remove terrorist content or disable access to it ***expeditiously, taking into account the size of and resources available to the hosting service provider***. Non-compliance in individual cases ***should not*** be sanctioned ***in line with*** the principles of proportionality ***unless they form part*** of systematic failure, ***while respecting the principle of ne bis in idem***. In order to ensure legal certainty, the regulation should set out to what extent the relevant obligations can be subject to penalties. ***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. Member States shall ensure that penalties do not encourage the removal of content which is not ***illegal*** terrorist content.

Or. en

Amendment 32

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

(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.

Amendment 33**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 measures foreseen under the Regulation, the effectiveness of safeguard mechanisms as well as the impacts on potentially affected *fundamental* rights, including *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*.

Or. en

Amendment 34**Proposal for a regulation****Recital 43***Text proposed by the Commission*

(43) Since the objective of this Regulation, namely ensuring the smooth functioning of the digital single market by *preventing* the dissemination of terrorist content online, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects

Amendment

(43) Since the objective of this Regulation, namely ensuring the smooth functioning of the digital single market by *contributing to the investigation of terrorist offences and restricting* the dissemination of terrorist content online, cannot be sufficiently achieved by the

of the limitation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

Member States and can therefore, by reason of the scale and effects of the limitation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

Or. en

Amendment 35

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 **illegal** terrorist content online. It lays down in particular:

Or. en

Amendment 36

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

Amendment

(a) rules on duties of care to be applied by hosting service providers **that are particularly exposed to illegal** terrorist content, **in order to** ensure, where necessary, its swift removal;

Or. en

Amendment 37

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 *illegal* terrorist content, to enable its removal by hosting service providers and to facilitate cooperation with the competent *judicial* authorities in other Member States, hosting service providers and where appropriate relevant Union bodies.

Or. en

Amendment 38

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 *certain* hosting service providers offering services in the Union, irrespective of their place of main establishment.

Or. en

Amendment 39

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Regulation is without prejudice to the liability regime under Directive 2000/31/EC.

Or. en

Amendment 40

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(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;

Amendment

(1) 'hosting service provider' means a provider of information society services **whose main business activity consists** in the storage of information provided by and at the request of the content provider **where the content provider is the direct recipient of the service** and in making the information stored available **publicly** to third parties. **For the purpose of this Regulation micro, small and medium, sized enterprises, as defined in [Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises], services at other layers of the Internet infrastructure than the application layer, or electronic communications services within the meaning of the Electronic Communications Code, shall not be considered as hosting service providers;**

Or. en

Amendment 41

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) '**illegal** terrorist content' **refers to the offences committed intentionally and unlawfully as defined in Articles 5 to 7 in Directive 2017/541 on combating terrorism.**

Or. en

Amendment 42

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point a

Text proposed by the Commission

Amendment

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

Or. en

Amendment 43

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;* *deleted*

Or. en

Amendment 44

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;* *deleted*

Or. en

Amendment 45

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.*

deleted

Or. en

Amendment 46

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) *'referral' means a notice by a competent authority or, where applicable, a relevant Union body to a hosting service provider about information that may be considered terrorist content, for the provider's voluntary consideration of the compatibility with its own terms and conditions aimed to prevent dissemination of terrorism content;*

deleted

Or. en

Amendment 48

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(9a) ‘competent authority’ means a designated national judicial authority in the Member State.

Or. en

Amendment 49

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

1. Hosting service providers ***that have been subject to a substantial number of uncontested removal orders*** shall take appropriate, reasonable and proportionate actions in accordance with this Regulation, against the dissemination of ***illegal*** terrorist content and to protect users from ***illegal*** 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 fundamental importance of the freedom of expression and information in an open and democratic society. ***These duties of care shall not consist in the general monitoring of the information which hosting service providers transmit or store, nor in actively seeking facts or circumstances indicating illegal activity.***

Or. en

Amendment 50

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 51

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

Amendment

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.

1. The competent authority shall have the power to issue a **removal order** requiring the hosting service provider to remove **illegal** terrorist content or disable access to it. **Requests by an independent competent administrative body must be obtained with a court order under an expeditious proceeding.**

Or. en

Amendment 52

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 **illegal** terrorist content or disable access to it **expeditiously, taking into account the hosting provider's size and resources.**

Amendment 53

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 **illegal** 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**;

Or. en

Amendment 54

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 **including redress with the competent authority as well as recourse to a court**;

Or. en

Amendment 55

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

Text proposed by the Commission

(g) where **relevant**, the decision not to

Amendment

(g) where **necessary and**

disclose information about the removal of terrorist content or the disabling of access to it referred to in Article 11.

proportionate, the decision not to disclose information about the removal of *illegal* terrorist content or the disabling of access to it referred to in Article 11.

Or. en

Amendment 56

Proposal for a regulation Article 4 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 57

Proposal for a regulation Article 4 – paragraph 6

Text proposed by the Commission

Amendment

6. Hosting service providers shall acknowledge receipt and, without undue delay, inform the competent authority about the removal of terrorist content or disabling access to it, indicating, in particular, the time of action, using the template set out in Annex II.

6. Hosting service providers shall acknowledge receipt and, without undue delay, inform the competent authority about the removal of *illegal* terrorist content or disabling access to it, indicating, in particular, the time of action, using the template set out in Annex II.

Or. en

Amendment 58

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 **refuses to** comply with the removal order because the removal order contains manifest errors, **does not sufficiently establish the illegality of the content in light of fundamental rights** 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.

Or. en

Amendment 59

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. 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.

Or. en

Amendment 60

Proposal for a regulation

Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Referrals

- 1. The competent authority or the relevant Union body may send a referral to a hosting service provider.*
- 2. Hosting service providers shall put in place operational and technical measures facilitating the expeditious assessment of content that has been sent by competent authorities and, where applicable, relevant Union bodies for their voluntary consideration.*
- 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.*
- 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.*
- 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.*
- 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.*

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.*

Or. en

Amendment 61

Proposal for a regulation Article 6

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 62

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

Text proposed by the Commission

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 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:

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

Or. en

Amendment 63

Proposal for a regulation

Article 7 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) remedying complaints following the mechanism described in article 10.

Or. en

Amendment 64

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The obligation in paragraph 1 shall also apply when hosting service providers remove content as a consequence of a referral by Europol within the meaning of Article 4(1) (m) of Regulation (EU) 2016/794.

Or. en

Amendment 65

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 ***illegal*** 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).

Amendment 66

Proposal for a regulation

Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Hosting service providers shall ensure that the terrorist content and related data preserved pursuant to paragraphs 1 and 2 are subject to appropriate technical and organisational safeguards.

Amendment

Hosting service providers shall ensure that the ***illegal*** terrorist content and related data preserved pursuant to paragraphs 1 and 2 are subject to appropriate technical and organisational safeguards.

Or. en

Amendment 67

Proposal for a regulation

Article –8 (new)

Text proposed by the Commission

Amendment

Article -8

Fundamental rights and freedoms

This Regulation shall not have the effect of modifying the obligations to respect fundamental rights and fundamental legal principles, as enshrined in Article 6 TEU.

Member States may establish conditions required by, and in accordance with, fundamental principles relating to freedom of the press and other media, and the freedom and pluralism of the media.

Or. en

Amendment 68

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

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**.

Amendment

1. Hosting service providers shall **explain in clear manner** in their terms and conditions their policy **with regard to illegal** terrorist content, **as well as a description** of the **mechanism available for content providers in accordance with Article 10**.

Or. en

Amendment 69

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 **exposed to illegal terrorist content** shall **make publicly available** annual transparency reports on action taken against the dissemination of **illegal** terrorist content.

Or. en

Amendment 70

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 **illegal** terrorist content;

Or. en

Amendment 71

Proposal for a regulation

Article 8 – paragraph 3 – point b

Text proposed by the Commission

(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*;

Amendment

(b) *in cooperation with the independent administrative authority* information about the *number of removals that have led to the successful detection, investigation and prosecution of terrorist offences*;

Or. en

Amendment 72

Proposal for a regulation

Article 8 – paragraph 3 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 73

Proposal for a regulation

Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. For the purpose of information obligation laid down in point (b) of paragraph 3, independent administrative authorities shall provide information on the number of removals that led successful detection, investigation and

prosecution of terrorist offences.

Or. en

Amendment 74

Proposal for a regulation

Article 9 – title

Text proposed by the Commission

Safeguards regarding *the use and implementation of proactive measures*

Amendment

Safeguards regarding *content removal*

Or. en

Amendment 75

Proposal for a regulation

Article 9 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Content providers, whose content has been removed or access to it has been disabled following a removal order, 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.

Or. en

Amendment 76

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

Amendment

1. Where hosting service providers use *voluntary measures that go beyond their obligations* pursuant to this

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.

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 *illegal* terrorist content, are accurate and well-founded **and do not lead to the removal of or disabling access to legal content. Hosting service providers shall submit such measures to an independent fundamental rights audit.**

Or. en

Amendment 77

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 in order to determine whether or not the content is to be considered *illegal* terrorist content.

Or. en

Amendment 78

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

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 referral pursuant to Article 4 (1) (m) **of the Europol Regulation, a removal order**

complaint against the action of the hosting service provider requesting reinstatement of the content.

pursuant to Article **4 or of voluntary measures**, to submit a complaint against the action of the hosting service provider requesting reinstatement of the content.

Or. en

Amendment 79

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 removed **illegal** 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 **illegal** terrorist content **including the reasons for the removal or disabling of access , including the legal basis establishing the unlawfulness of the content and possibilities to contest the decision.**

Or. en

Amendment 80

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

Or. en

Amendment 81

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 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

3. The obligation pursuant to paragraphs 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 **illegal** terrorist content.

Or. en

Amendment 82

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

1. Competent authorities in Member States shall inform, coordinate and cooperate with each other and, where appropriate, with relevant Union bodies such as Europol with regard to removal orders **and referrals** to avoid duplication, enhance coordination and avoid interference with investigations in different Member States.

Amendment

1. Competent authorities in Member States shall inform, coordinate and cooperate with each other and, where appropriate, with relevant Union bodies such as Europol with regard to removal orders to avoid duplication, enhance coordination and avoid interference with investigations in different Member States.

Or. en

Amendment 83

Proposal for a regulation Article 13 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the processing and feedback relating to referrals pursuant to Article 5;

deleted

Or. en

Amendment 84

Proposal for a regulation Article 13 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) co-operation with a view to identify and implement proactive measures pursuant to Article 6.

deleted

Or. en

Amendment 85

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Hosting service providers shall establish a point of contact allowing for the receipt of removal orders **and referrals** by electronic means and ensure their **swift** processing pursuant to **Articles 4 and 5**. They shall ensure that this information is made publicly available.

1. Hosting service providers shall establish a point of contact allowing for the receipt of removal orders by electronic means and ensure their **expeditious** processing pursuant to **Article 4**. They shall ensure that this information is made publicly available.

Or. en

Amendment 86

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall specify the official language or languages (s) of the Union, as referred to in Regulation 1/58, in which the contact point can be addressed and in which further exchanges in relation to removal orders and referrals pursuant to Articles 4 **and** 5 shall take place. This shall include at least one of the official languages of the Member State in which the hosting service provider has its main establishment or where its legal representative pursuant to Article 16 resides or is established.

Amendment

2. The information referred to in paragraph 1 shall specify the official language or languages (s) of the Union, as referred to in Regulation 1/58, in which the contact point can be addressed and in which further exchanges in relation to removal orders and referrals pursuant to Articles 4 shall take place. This shall include at least one of the official languages of the Member State in which the hosting service provider has its main establishment or where its legal representative pursuant to Article 16 resides or is established.

Or. en

Amendment 87

**Proposal for a regulation
Article 15 – paragraph 3**

Text proposed by the Commission

3. ***Where an authority of another Member State has issued a removal order according to Article 4(1), that Member State has jurisdiction to take coercive measures according to its national law in order to enforce the removal order.***

Amendment

deleted

Or. en

Amendment 88

**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 the ***judicial*** authority or authorities

competent to

Or. en

Amendment 89

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 90

Proposal for a regulation

Article 17 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

(c) oversee the implementation of proactive measures;

Or. en

Amendment 91

Proposal for a regulation

Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

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

1. Member States shall lay down the rules on penalties applicable to **systematic and ongoing** 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

pursuant to:

limited to infringement of the obligations
pursuant to:

Or. en

Amendment 92

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**

Or. en

Amendment 93

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); **deleted**

Or. en

Amendment 94

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); **deleted**

Or. en

Amendment 95

Proposal for a regulation

Article 21 – paragraph 1 – point a

Text proposed by the Commission

(a) information about the number of removal orders and referrals issued, the number of pieces of terrorist content which has been removed or access to it disabled, including the corresponding timeframes pursuant to Articles 4 *and* 5;

Amendment

(a) information about the number of removal orders and referrals issued, the number of pieces of *illegal* terrorist content which has been removed or access to it disabled, including the corresponding timeframes pursuant to Articles 4 ;

Or. en

Amendment 96

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 Article 4, including the amount of *illegal* 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*;

Or. en

Amendment 97

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 [24 months after its entry into force].

