



2018/0331(COD)

21.1.2019

*****I**

DRAFT REPORT

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))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Daniel Dalton

Rapporteur for the opinion (*):
Julie Ward, Committee on Culture and Education

(*) Associated committee – Rule 54 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0640),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0405/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of ... ¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and also the opinions of the Committee on Culture and Education and also the Committee on the Internal Market and Consumer Protection (A8-0000/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 3

¹ OJ C ... / Not yet published in the Official Journal.

Text proposed by the Commission

(3) The presence of terrorist content online has serious negative consequences for users, for citizens and society at large as well as for the online service providers hosting such content, since it undermines the trust of their users and damages their business models. In light of their central role and the technological means and capabilities associated with the services they provide, online service providers have particular societal responsibilities to protect their services from misuse by terrorists and to help tackle terrorist content disseminated through their services.

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 protect their services from misuse by terrorists and to help tackle terrorist content disseminated through their services, ***whilst taking into account the fundamental importance of the freedom of expression and information in an open and democratic society.***

Or. en

Amendment 2

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) This Regulation contributes to the protection of public security while establishing appropriate and robust safeguards to ensure protection of the fundamental rights at stake. This includes the rights to respect for private life and to the protection of personal data, the right to effective judicial protection, the right to freedom of expression, including the freedom to receive and impart information, the freedom to conduct a business, and the principle of non-discrimination. Competent authorities and hosting service providers should only adopt measures which are necessary, appropriate and proportionate within a democratic society, taking into

Amendment

(7) This Regulation contributes to the protection of public security while establishing appropriate and robust safeguards to ensure protection of the fundamental rights at stake. This includes the rights to respect for private life and to the protection of personal data, the right to effective judicial protection, the right to freedom of expression, including the freedom to receive and impart information, the freedom to conduct a business, and the principle of non-discrimination. Competent authorities and hosting service providers should only adopt measures which are necessary, appropriate and proportionate within a democratic society, taking into

account the particular importance accorded to the freedom of expression and information, which constitutes one of the essential foundations of a pluralist, democratic society, and is one of the values on which the Union is founded. Measures **constituting** interference in the freedom of expression and information should **be strictly targeted, in the sense that they must** serve to prevent the dissemination of terrorist content, but without thereby affecting the right to lawfully receive and impart information, taking into account the central role of hosting service providers in facilitating public debate and the distribution and receipt of facts, opinions and ideas in accordance with the law.

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. **Any** measures **should avoid** interference in the freedom of expression and information **and insofar as possible** should serve to prevent the dissemination of terrorist content **through a strictly targeted approach**, 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 3

Proposal for a regulation

Recital 8

Text proposed by the Commission

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

Amendment

(8) The right to an effective remedy is enshrined in Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union. Each natural or legal person has the right to an effective judicial remedy before the competent national court against any of the measures taken pursuant to this Regulation, which can adversely affect the rights of that person. The right includes, in particular **in the context of this Regulation**, the possibility **for users to contest the removal of content resulting from measures taken by the hosting service provider as foreseen in this Regulation and to be informed of effective means of remedies. It also includes the right** for hosting service providers and content providers to effectively contest the removal orders, **imposed proactive**

measures or penalties before the court of the Member State whose authorities issued the removal order, *imposed proactive measures or penalties, or the court where the hosting service provider is established or represented.*

Or. en

Amendment 4

Proposal for a regulation

Recital 9

Text proposed by the Commission

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

Amendment

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

is attributable to or disseminated on behalf of an EU-listed terrorist organisation or person constitutes an important factor in the assessment. Content disseminated for educational, journalistic or research purposes should be adequately protected. Furthermore, the expression of radical, polemic or controversial views in the public debate on sensitive political questions should not be considered terrorist content.

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. ***The right to such expression can be invoked before the court of the Member State where the hosting service provider has its main establishment or where the legal representative designated by the hosting service provider pursuant to this Regulation resides or is established.***

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

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

Or. en

Amendment 5

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

Amendment

(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 ***directly*** available to ***the public.*** By way of example such providers of information society services include social media platforms, video

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

streaming services, video, image and audio sharing services, file sharing and other cloud services, *excluding cloud IT infrastructure service providers*, to the extent they make the information *directly* available to *the public*. 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.

Or. en

Amendment 6

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

Amendment

(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.

States should *freely designate a single* competent *authority* with that task, *unless their constitutional arrangements prevent a single authority from being responsible*. 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.

Or. en

Amendment 7

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The competent authority should transmit the removal order directly to the addressee and point of contact by any electronic means capable of producing a written record under conditions that *allow* the service provider *to establish authenticity*, including the accuracy of the date and the time of sending and receipt of the order, such as by secured email and platforms or other secured channels, including those made available by the service provider, in line with the rules protecting personal data. This requirement may notably be met by the use of qualified electronic registered delivery services as provided for by Regulation (EU) 910/2014 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 910/2014 of the

Amendment

(14) The competent authority should transmit the removal order directly to the addressee and point of contact by any electronic means capable of producing a written record under conditions that *establish the authenticity of the order without unreasonable financial or other burden on* the service provider, including the accuracy of the date and the time of sending and receipt of the order, such as by secured email and platforms or other secured channels, including those made available by the service provider, in line with the rules protecting personal data. This requirement may notably be met by the use of qualified electronic registered delivery services as provided for by Regulation (EU) 910/2014 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 910/2014 of the

European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. en

Amendment 8

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

Amendment

(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 **necessary**, 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, **necessity** and proportionality of the measures, competent authorities should take into account relevant parameters including the number

issued to the provider, their economic capacity and the impact of its service in disseminating terrorist content (for example, taking into account the number of users in the Union).

of removal orders and referrals issued to the provider, their economic capacity and the impact of its service in disseminating terrorist content (for example, taking into account the number of users in the Union), ***as well as the safeguards put in place to protect freedom of expression and information and the number of incidents of restrictions on legal content.***

Or. en

Amendment 9

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

Amendment

(19) Following the request, the competent authority should enter into a dialogue with the hosting service provider about the necessary proactive measures to be put in place. If necessary, the competent authority should impose the adoption of appropriate, effective and proportionate proactive measures where it considers that the measures taken are insufficient to meet the risks. ***The competent authority should only impose proactive measures that the hosting service provider can reasonably be expected to implement, taking into account, among other factors, the hosting service providers' financial and other resources.*** A decision to impose such specific proactive measures should not 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, ***in exceptional circumstances***, derogate from the approach established in Article 15(1) of Directive 2000/31/EC, as regards certain specific, targeted measures,

of expression and information and the freedom to conduct a business, and provide appropriate justification.

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.

Or. en

Amendment 10

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 should publish annual transparency reports containing meaningful information about action taken in relation to the detection, identification and removal of terrorist content, ***as well as the number of restrictions on legal content. The authorities competent to issue removal orders should also publish annual transparency reports containing meaningful information on the number of legal orders issued, the number of removals, the number of identified and detected terrorist content removed and the number of restrictions on legal content.***

Or. en

Amendment 11

Proposal for a regulation

Recital 25

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 12

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***

Amendment

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

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.

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.

Or. en

Amendment 13

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) Penalties are necessary to ensure the effective implementation by hosting service providers of the obligations pursuant to this Regulation. Member States should adopt rules on penalties, including, where appropriate, fining guidelines. Particularly severe penalties shall be ascertained in the event that the hosting service provider systematically fails to remove terrorist content or disable access to it within one hour from receipt of a removal order. Non-compliance in individual cases could be sanctioned while respecting the principles of ne bis in idem and of proportionality and ensuring that such sanctions take account of systematic failure. In order to ensure legal certainty, the regulation should set out to what extent the relevant obligations can be subject to penalties. Penalties for non-compliance

Amendment

(38) Penalties are necessary to ensure the effective implementation by hosting service providers of the obligations pursuant to this Regulation. Member States should adopt rules on penalties, including, where appropriate, fining guidelines. Particularly severe penalties shall be ascertained in the event that the hosting service provider systematically fails to remove terrorist content or disable access to it within one hour from receipt of a removal order, ***depending on the size and means of the hosting service provider.*** 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

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.

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.

Or. en

Amendment 14

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 prevent **and address** the misuse of hosting services for the dissemination of terrorist content online. It lays down in particular:

Or. en

Amendment 15

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

Amendment

(b) a set of measures to be put in place by Member States to identify terrorist content, to enable its swift removal by hosting service providers **in accordance with Union law providing suitable safeguards for freedom of expression and information** and to facilitate cooperation

Union bodies.

with the competent authorities in other Member States, hosting service providers and where appropriate relevant Union bodies.

Or. en

Amendment 16

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. This Regulation shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on the European Union.

Or. en

Amendment 17

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

Providers of services that are not made available to the public, and where the content itself is not accessible to the providers, should not be within the scope of this regulation, as this may

lead to a conflict with principles of privacy and undermine the provision on cloud infrastructure services. It is where service providers are facilitating the dissemination of the content to multiple end users and the public that they should fall within the scope.

Amendment 18

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Providers of services that are not made available to the public, and where the content itself is not accessible to the providers, should not be within the scope of this regulation, as this may lead to a conflict with principles of privacy and undermine the provision on cloud infrastructure services. It is where service providers are facilitating the dissemination of the content to multiple end users and the public that they should fall within the scope.

Amendment 19

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

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.

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 **in all circumstances** 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. **In particular those actions shall not amount**

to general monitoring.

Or. en

Amendment 20

Proposal for a regulation

Article 4 – paragraph 3 – point g

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 21

Proposal for a regulation

Article 4 – paragraph 3 – point g a (new)

Text proposed by the Commission

Amendment

(g a) deadlines for appeal for the hosting service provider and for the content provider.

Or. en

Amendment 22

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Hosting service providers ***shall***, where appropriate, take proactive measures to protect their services against the dissemination of terrorist content. The

1. Hosting service providers ***may***, where appropriate, ***in particular where there is a non-incident level of exposure to terrorist content and receipt of removal***

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

orders, take proactive measures to protect their services against the dissemination of terrorist content. The measures shall be effective, **targeted** and proportionate **to** the risk and level of exposure to terrorist content, **paying particular regard to** the fundamental rights of the users, and the fundamental importance of the freedom of expression and information in an open and democratic society.

Or. en

Amendment 23

Proposal for a regulation Article 6 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Where the competent authority referred to in Article 17(1)(c) considers that the proactive measures taken and reported under paragraph 2 **do not respect the principles of necessity and proportionality or** are insufficient in mitigating and managing the risk and level of exposure, it may request the hosting service provider to **re-evaluate the measures needed or to** take specific additional proactive measures. For that purpose, the hosting service provider shall cooperate with the competent authority referred to in Article 17(1)(c) with a view to identifying the **changes or** specific measures that the hosting service provider shall put in place, establishing key objectives and benchmarks as well as timelines for their implementation.

Or. en

Amendment 24

Proposal for a regulation

Article 6 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Where no agreement can be reached within the three months from the request pursuant to paragraph 3, the competent authority referred to in Article 17(1)(c) may issue a decision imposing specific additional necessary and proportionate proactive measures. ***The competent authority shall not impose a general monitoring obligation*** The decision shall take into account, in particular, the economic capacity of the hosting service provider and the effect of such measures on the fundamental rights of the users and the fundamental importance of the freedom of expression and information. Such a decision shall be sent to the main establishment of the hosting service provider or to the legal representative designated by the service provider. The hosting service provider shall regularly report on the implementation of such measures as specified by the competent authority referred to in Article 17(1)(c).

Or. en

Amendment 25

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

Amendment

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

including the use of automated tools.

automated tools.

Or. en

Amendment 26

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 **and the authorities competent to issue removal orders** shall publish annual transparency reports on action taken against the dissemination of terrorist content.

Or. en

Amendment 27

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

Text proposed by the Commission

(d) overview and outcome of complaint procedures.

Amendment

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

Or. en

Amendment 28

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. Safeguards shall consist, in particular, of human oversight and

Amendment

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.

verifications *of the appropriateness of the decision to remove or deny access to content, in particular with regard to the right to freedom of expression and information. Human oversight shall be required* 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.

Or. en

Amendment 29

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 30

Proposal for a regulation Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Notwithstanding the provisions of paragraphs 1 and 2, the complaint mechanism of hosting service providers shall be complementary to the applicable laws and procedures of the Member States.

Or. en

Amendment 31

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

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, ***including the legal basis for this action***, and possibilities to contest the decision.

Or. en

Amendment 32

Proposal for a regulation Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. An appeal as referred to in Article 4 (9) will be lodged with the court of the Member State where the hosting provider has its main establishment or where the legal representative designated by the hosting service provider pursuant to Article 16 resides or is established.

Or. en

Amendment 33

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 authority competent to:

Amendment 34

Proposal for a regulation Article 18 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Competent authorities shall consider unintentional delays, in particular by small and medium sized businesses and start ups, to be mitigating factors when determining the types and level of penalties.

Or. en

Amendment 35

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Or. en