

Parlement européen

2014-2019

Commission des affaires juridiques

2018/0331(COD)

21.1.2019

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PROJET DE RAPPORT

sur la proposition de règlement du Parlement européen et du Conseil relatif à la prévention de la diffusion de contenus à caractère terroriste en ligne

(COM(2018)0640 – C8-0405/2018 – 2018/0331(COD))

Commission des affaires juridiques

Rapporteure: Mady Delvaux

Rapporteure pour avis (*)

Cecilia Wikström, commission des libertés civiles, de la justice et des affaires intérieures

(*) Commission associée – article 54 du règlement intérieur

PROJET DE RÉSOLUTION LÉGISLATIVE DU PARLEMENT EUROPÉEN

sur la proposition de règlement du Parlement européen et du Conseil relatif à la prévention de la diffusion de contenus à caractère terroriste en ligne

(COM(2018)0640 – C8-0405/2018 – 2018/0331(COD))

(Procédure législative ordinaire: première lecture)

Le Parlement européen,

- vu la proposition de la Commission au Parlement européen et au Conseil (COM(2018)0640),
 - vu l'article 294, paragraphe 2, et l'article 114 du traité sur le fonctionnement de l'Union européenne, conformément auxquels la proposition lui a été présentée par la Commission (C8-0405/2018),
 - vu l'article 294, paragraphe 3, du traité sur le fonctionnement de l'Union européenne,
 - vu l'article 59 de son règlement intérieur,
 - vu le rapport de la commission des affaires juridiques ainsi que l'avis et la position sous forme d'amendements de la sous-commission «Sécurité et défense» et de la commission des libertés civiles, de la justice et des affaires intérieures (A8-0000/2019),
1. arrête la position en première lecture figurant ci-après;
 2. demande à la Commission de le saisir à nouveau si elle remplace, modifie de manière substantielle ou entend modifier de manière substantielle sa proposition;
 3. charge son Président de transmettre la position du Parlement au Conseil et à la Commission ainsi qu'aux parlements nationaux.

Amendment 1

Proposal for a regulation

Citation 2 a (new)

Text proposed by the Commission

Amendment

Having regard to the Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace, which calls for the same norms, principles and values that the EU upholds offline to apply in the sometimes opaque realm of cyberspace.

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

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

(1) This Regulation aims at ensuring the smooth functioning of the digital single market in an open and democratic society, by preventing the misuse of hosting services for terrorist purposes. The functioning of the digital single market should be improved by reinforcing legal certainty for hosting service providers, reinforcing users' trust in the online environment, and by strengthening safeguards to the freedom of expression and information. ***It shall be technology and media neutral and shall be applicable to all digital single market operators, including digital advertising and social media, throughout the entire marketing eco-system. This shall include, inter alia, communications practitioners, advertising agencies, publishers, media owners, contractors and other participants including market influencers, bloggers, vloggers, affiliate networks, data analytics and ad tech companies as well as entities responsible for preparing algorithms and using artificial intelligence for marketing communications purposes;***

Amendment 3

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Mit der Regulierung der Anbieter von Hostingdiensten sollten die Strategien und Maßnahmen der Mitgliedstaaten zur Eindämmung illegaler terroristischer Inhalte lediglich ergänzt werden. Der Schwerpunkt sollte auf Offline-Maßnahmen gelegt werden, etwa auf strafrechtliche Ermittlungsverfahren und länderübergreifende Zusammenarbeit, aber auch auf Präventivmaßnahmen, zu denen Investitionen in Bildung, sozialen Zusammenhalt und Gewaltprävention zählen.

Amendment 4

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

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

(2) Hosting service providers **and social networks** active on the internet play an essential role in the digital economy by connecting business and citizens **with one another, thereby** facilitating public debate. **They also foster** the distribution and receipt of information, **as well as the exchange of** opinions and ideas. **They make a significant contribution to civic inclusion,** innovation, economic growth and job creation in the Union. However, their services are in certain cases abused by third parties **perpetrating unlawful** activities online. Of particular concern is the misuse of **these social networks and** hosting service providers by terrorist groups and their supporters to disseminate terrorist content online in order to spread their message, **attract and radicalise new recruits** and to facilitate **terrorist activity** and direct **it from afar**.

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

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 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).

(4) **The European Union has been striving to combat terrorist content online since 2015. These efforts have, however, been based solely on voluntary cooperation between Member States and hosting service providers, and the results have fallen woefully short of the desired objectives. The solution entails establishing a clear legislative framework to limit in as much as possible the accessibility of online terrorist content. This legislative framework must build on the results of the aforementioned efforts, drawing on the essence of what they achieved. In particular, it should provide for proactive measures entailing ‘the use of automated means for the detection of illegal content’, backed up by ‘effective and appropriate safeguards’, so as to guarantee that ‘hosting service providers use automated means ... to ensure that decisions taken concerning that content ... are accurate and well-founded’⁷. ‘Trusted flaggers’ must be called upon to provide invaluable assistance in devising these measures.**

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).

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) La labor a escala de la Unión destinado a combatir los contenidos terroristas en línea comenzó en 2015, con un marco de cooperación voluntaria entre Estados miembros y prestadores de servicios de alojamiento de datos, y es necesario complementarlo con un marco legislativo claro para seguir reduciendo la accesibilidad de los contenidos terroristas en línea y abordar adecuadamente un problema que evoluciona con rapidez. Ese marco legislativo **pretende basarse en esfuerzos voluntarios, reforzados** por la Recomendación (UE) 2018/334 de la Comisión⁷ y responde a los llamamientos realizados por el Parlamento Europeo para reforzar las medidas de lucha contra los contenidos ilícitos y nocivos y por el Consejo Europeo para mejorar la detección automática y la retirada de los contenidos que incitan actos terroristas.

Amendment

(4) La labor a escala de la Unión destinado a combatir los contenidos terroristas en línea comenzó en 2015, con un marco de cooperación voluntaria entre Estados miembros y prestadores de servicios de alojamiento de datos, y es necesario complementarlo con un marco legislativo claro para seguir reduciendo la accesibilidad de los contenidos terroristas en línea y abordar adecuadamente un problema que evoluciona con rapidez. Ese marco legislativo **fue reforzado** por la Recomendación (UE) 2018/334 de la Comisión⁷, y responde a los llamamientos realizados por el Parlamento Europeo para reforzar las medidas de lucha contra los contenidos ilícitos y nocivos y por el Consejo Europeo para mejorar la detección automática y la retirada de los contenidos que incitan actos terroristas. **La propaganda terrorista en línea se contrarresta, por ejemplo, mediante la UNCI (Unidad de Notificación de Contenidos de Internet), que desarrolla sus actividades advirtiendo de contenidos terroristas y alertando a los proveedores de servicios que los alojan, como YouTube, Google, Microsoft, Facebook y Twitter. De acuerdo con los Estados miembros, se centra en**

***la propaganda terrorista islamista,
que tiene carácter transfronterizo.***

⁷ Recomendación (UE) 2018/334 de la Comisión, de 1 de marzo de 2018, sobre medidas para combatir eficazmente los contenidos ilícitos en línea (DO L 63 de 6.3.2018, p. 50).

⁷ Recomendación (UE) 2018/334 de la Comisión, de 1 de marzo de 2018, sobre medidas para combatir eficazmente los contenidos ilícitos en línea (DO L 63 de 6.3.2018, p. 50).

Amendment 7

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 bis) Come rilevato dalla Corte dei conti^{1 bis}, una delle problematiche cui è confrontata l'unità addetta alle segnalazioni su Internet di Europol (EU IRU) è che "la propaganda rimossa viene semplicemente ricaricata o spostata su altre piattaforme". Risulta pertanto essenziale adottare efficaci misure volte a contrastare tale fenomeno, così come dotare le autorità di contrasto e giudiziarie di strumenti più sofisticati per decifrare i contenuti crittografati.

^{1 bis} **Relazione speciale n. 13/2018: Lotta alla radicalizzazione che sfocia in atti terroristici: la Commissione ha risposto alle esigenze degli Stati membri, ma si osservano alcune carenze di coordinamento e valutazione.**

Amendment 8

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) When drawing up the aforementioned legislative framework, due account should be paid to the concerns regarding the ‘intermediary limited liability regime’, referred to in the Resolution of the European Parliament of 15 June 2017, as well as the obligations incumbent upon companies in the digital sector set out by the European Council in its conclusions of 22 and 23 June 2017, with a view to ensuring that they shoulder their responsibilities in the fight against ‘terrorism and crime online’.

Amendment 9

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) L'application du présent règlement ne devrait pas avoir d'incidence sur l'application de l'article 14 de la directive 2000/31/CE⁸. En particulier, aucune des mesures prises par le fournisseur de service d'hébergement en application du présent règlement, y compris des mesures proactives, ne devrait par elle-même entraîner la perte par ce fournisseur de services du bénéfice de l'exemption de responsabilité à cet article. Le présent règlement ne modifie en rien les pouvoirs dont disposent les autorités et les juridictions nationales pour établir la responsabilité des fournisseurs de services d'hébergement dans des cas spécifiques lorsque les conditions prévues à l'article 14 de la directive 2000/31/CE pour bénéficier de **l'exemption** de responsabilité ne sont pas réunies.

⁸ Directive 2000/31/CE du Parlement européen et du Conseil du 8 juin 2000 relative à certains aspects juridiques des services de la société de l'information, et notamment du commerce électronique, dans le marché intérieur («directive sur le commerce électronique») (JO L 178 du 17.7.2000, p. 1).

Amendment

(5) L'application du présent règlement ne devrait pas avoir d'incidence sur l'application de l'article 14 de la directive 2000/31/CE⁸. En particulier, aucune des mesures prises par le fournisseur de service d'hébergement en application du présent règlement, y compris des mesures proactives, ne devrait par elle-même entraîner la perte par ce fournisseur de services du bénéfice de l'exemption de responsabilité **prévues** à cet article. Le présent règlement ne modifie en rien les pouvoirs dont disposent les autorités et les juridictions nationales pour établir la responsabilité des fournisseurs de services d'hébergement dans des cas spécifiques lorsque les conditions prévues à l'article 14 de la directive 2000/31/CE pour bénéficier de **l'exonération** de responsabilité ne sont pas réunies.

⁸ Directive 2000/31/CE du Parlement européen et du Conseil du 8 juin 2000 relative à certains aspects juridiques des services de la société de l'information, et notamment du commerce électronique, dans le marché intérieur («directive sur le commerce électronique») (JO L 178 du 17.7.2000, p. 1).

Amendment 10

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Bei der Festlegung der in dieser Verordnung enthaltenen Vorschriften zur Verhinderung des Missbrauchs von Hostingdiensten zur Verbreitung terroristischer Online-Inhalte, die das **reibungslose** Funktionieren des Binnenmarkts gewährleisten sollen, wurden die durch die Rechtsordnung der Union geschützten und in der Charta der Grundrechte der Europäischen Union **garantierten** Grundrechte **vollständig** gewahrt.

Amendment

(6) Bei der Festlegung der in dieser Verordnung enthaltenen Vorschriften zur Verhinderung des Missbrauchs von Hostingdiensten zur Verbreitung terroristischer Online-Inhalte, die das **wirksame** Funktionieren des Binnenmarkts gewährleisten sollen, wurden die durch die Rechtsordnung der Union geschützten und in der Charta der Grundrechte der Europäischen Union **verankerten** Grundrechte **voll und ganz** gewahrt.

Amendment 11

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) Hostingdiensteanbieter sollten bestimmten Sorgfaltspflichten **nachkommen**, um die Verbreitung terroristischer Inhalte über **ihre** Dienste zu **verhindern**. Diese Sorgfaltspflichten sollten nicht auf eine allgemeine Überwachungspflicht hinauslaufen. Zu den Sorgfaltspflichten sollte gehören, dass die Hostingdiensteanbieter bei der Anwendung dieser Verordnung im Hinblick auf die von ihnen gespeicherten Inhalte insbesondere bei der Umsetzung ihrer eigenen Nutzungsbedingungen mit der gebotenen Sorgfalt, verhältnismäßig und ohne Diskriminierung handeln, um zu vermeiden, dass Inhalte nicht terroristischer Art entfernt werden. Die Entfernung oder Sperrung des Zugangs muss unter Beachtung der Meinungs- und Informationsfreiheit erfolgen.

(12) Hostingdiensteanbieter sollten **sich dazu verpflichten**, bestimmten Sorgfaltspflichten **nachzukommen**, um die Verbreitung terroristischer Inhalte über **die von ihnen angebotenen** Dienste zu **vereiteln und einzudämmen**. Diese Sorgfaltspflichten sollten nicht auf eine allgemeine Überwachungspflicht hinauslaufen. Zu den Sorgfaltspflichten sollte gehören, dass die Hostingdiensteanbieter bei der Anwendung dieser Verordnung im Hinblick auf die von ihnen gespeicherten Inhalte insbesondere bei der Umsetzung ihrer eigenen Nutzungsbedingungen mit der gebotenen Sorgfalt, verhältnismäßig und ohne Diskriminierung handeln, um zu vermeiden, dass Inhalte nicht terroristischer Art entfernt werden. Die Entfernung **von Inhalten** oder Sperrung des Zugangs **zu ihnen** muss unter **strengster** Beachtung der Meinungs- und Informationsfreiheit **sowie allgemein unter Wahrung des öffentlichen Interesses** erfolgen.

Amendment 12

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) Hostingdiensteanbieter sollten bestimmten Sorgfaltspflichten nachkommen, um die Verbreitung terroristischer Inhalte über ihre Dienste zu verhindern. Diese Sorgfaltspflichten sollten nicht auf eine allgemeine Überwachungspflicht hinauslaufen. Zu den Sorgfaltspflichten sollte gehören, dass die Hostingdiensteanbieter bei der Anwendung dieser Verordnung im Hinblick auf die von ihnen gespeicherten Inhalte insbesondere bei der Umsetzung ihrer eigenen Nutzungsbedingungen mit der gebotenen Sorgfalt, verhältnismäßig und ohne Diskriminierung handeln, um zu vermeiden, dass Inhalte nicht terroristischer Art entfernt werden. Die Entfernung oder Sperrung des Zugangs muss unter Beachtung der Meinungs- und Informationsfreiheit erfolgen.

(12) Hostingdiensteanbieter sollten bestimmten Sorgfaltspflichten nachkommen, um die Verbreitung terroristischer Inhalte über ihre Dienste zu verhindern. Diese Sorgfaltspflichten sollten **zwar** nicht auf eine allgemeine Überwachungspflicht hinauslaufen, **aber ihnen sollte auf höchst professionelle und moralisch einwandfreie Weise nachgekommen werden**. Zu den Sorgfaltspflichten sollte gehören, dass die Hostingdiensteanbieter bei der Anwendung dieser Verordnung im Hinblick auf die von ihnen gespeicherten Inhalte insbesondere bei der Umsetzung ihrer eigenen Nutzungsbedingungen – **die den Nutzern in einer angemessenen Form zur Verfügung gestellt werden müssen, sodass sie keineswegs mit übermäßigen und allzu legalistischen Einzelheiten überfrachtet werden** – mit der gebotenen Sorgfalt, verhältnismäßig und ohne Diskriminierung handeln, um zu vermeiden, dass Inhalte nicht terroristischer Art entfernt werden. Die Entfernung oder Sperrung des Zugangs muss unter Beachtung der Meinungs- und Informationsfreiheit erfolgen.

Amendment 13

Proposal for a regulation

Recital 15

Text proposed by the Commission

Amendment

(15) Le segnalazioni emesse dalle autorità competenti o da Europol costituiscono un modo efficace e rapido di sensibilizzare i prestatori di servizi di hosting alla presenza di contenuti specifici nei loro servizi. Questo meccanismo inteso ad allertare i prestatori di servizi di hosting nei confronti delle informazioni che possono essere considerate contenuti terroristici, che permette loro su base volontaria di esaminare la compatibilità delle proprie clausole contrattuali, dovrebbe rimanere disponibile in aggiunta agli ordini di rimozione. È importante che i prestatori di servizi di hosting valutino tali segnalazioni in via prioritaria e forniscano **rapidamente** un feedback in merito alle azioni intraprese. La decisione **finale** in merito all'opportunità di rimuovere il contenuto, in quanto non compatibile con le proprie condizioni contrattuali spetta al prestatore di servizi di hosting. Nell'attuazione del presente regolamento con riferimento alle segnalazioni, il mandato di Europol, definito nel regolamento (UE) 2016/794¹³, resta invariato.

(15) Le segnalazioni emesse dalle autorità competenti o da Europol costituiscono un modo efficace e rapido di sensibilizzare i prestatori di servizi di hosting alla presenza di contenuti specifici nei loro servizi: **lo dimostrano gli apprezzabili risultati conseguiti dall'EU IRU, la quale ottiene mediamente un tasso di rimozione dei contenuti terroristici pari all'80-90%^{12bis}**. Questo meccanismo inteso ad allertare i prestatori di servizi di hosting nei confronti delle informazioni che possono essere considerate contenuti terroristici, che permette loro su base volontaria di esaminare la compatibilità delle proprie clausole contrattuali, dovrebbe rimanere disponibile in aggiunta agli ordini di rimozione. È importante che i prestatori di servizi di hosting valutino tali segnalazioni in via prioritaria e forniscano **alle autorità competenti dello Stato membro in cui hanno lo stabilimento principale** un feedback in merito alle azioni intraprese, **tassativamente entro due settimane dalla segnalazione**. La decisione in merito all'opportunità di rimuovere il contenuto, in quanto non compatibile con le proprie condizioni contrattuali spetta al prestatore di servizi di hosting. Nell'attuazione del presente regolamento con riferimento alle segnalazioni, il mandato di Europol, definito nel regolamento (UE) 2016/794¹³, resta invariato.

^{12bis} COM(2017) 354 final del 29.6.2017.

¹³ Regolamento (UE) 2016/794 del Parlamento europeo e del Consiglio, dell'11 maggio 2016, che istituisce l'Agenzia dell'Unione europea per la cooperazione nell'attività di contrasto (Europol) e sostituisce e abroga le decisioni del Consiglio 2009/371/GAI, 2009/934/GAI, 2009/935/GAI, 2009/936/GAI e 2009/968/GAI (GU L 135 del 24.5.2016, pag. 53).

¹³ Regolamento (UE) 2016/794 del Parlamento europeo e del Consiglio, dell'11 maggio 2016, che istituisce l'Agenzia dell'Unione europea per la cooperazione nell'attività di contrasto (Europol) e sostituisce e abroga le decisioni del Consiglio 2009/371/GAI, 2009/934/GAI, 2009/935/GAI, 2009/936/GAI e 2009/968/GAI (GU L 135 del 24.5.2016, pag. 53).

Amendment 14

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) **Dadas** la escala y la velocidad necesarias para detectar y retirar **eficazmente** los contenidos terroristas, la adopción de medidas proactivas proporcionadas, que incluso se sirvan de medios automatizados en ciertos casos, constituye **un elemento esencial** para luchar contra los contenidos terroristas en línea. Con el fin de reducir la accesibilidad de los contenidos terroristas en sus servicios, los prestadores de servicios de alojamiento de datos deben evaluar si **resulta adecuado** tomar medidas proactivas, atendiendo a los riesgos y el nivel de exposición a los contenidos terroristas, así como a los efectos sobre los derechos de terceros y el interés público de la información. En consecuencia, los prestadores de servicios de alojamiento de datos deben determinar **qué medida proactiva adecuada, eficaz y proporcionada debe emplearse**. Esta exigencia no conlleva una obligación general de supervisión. En el **contexto** de esta evaluación, la ausencia de órdenes de retirada y de requerimientos dirigidos a un prestador de servicios de alojamiento de datos es una indicación de un bajo nivel de exposición a los contenidos terroristas.

(16) **Habida cuenta de** la escala y **de** la velocidad necesarias para detectar y retirar **de modo duradero** los contenidos terroristas, la adopción de medidas proactivas proporcionadas, que incluso se sirvan de medios automatizados en ciertos casos, constituye **la clave de bóveda** para luchar contra los contenidos terroristas en línea. Con el fin de reducir la accesibilidad de los contenidos terroristas en sus servicios, los prestadores de servicios de alojamiento de datos deben evaluar si **procede** tomar medidas proactivas, atendiendo a los riesgos y el nivel de exposición a los contenidos terroristas, así como a los efectos sobre los derechos de terceros y el interés público de la información. En consecuencia, los prestadores de servicios de alojamiento de datos deben determinar **las medidas proactivas adecuadas, eficaces y proporcionadas que deben tomarse para emprender una lucha coordinada y decidida**. Esta exigencia no conlleva una obligación general de supervisión. En el **marco** de esta evaluación, **si bien** la ausencia de órdenes de retirada y de requerimientos dirigidos a un prestador de servicios de alojamiento de datos es una indicación de un bajo nivel de exposición a los contenidos terroristas, **la diligencia no es por ello menos necesaria**.

Amendment 15

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 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. ***Hosting service providers shall be responsible for ensuring that users have a well-functioning complaint procedure and effective means of legal redress, without prejudice to users' statutory rights and fundamental freedoms. The competent authorities shall report to the Commission at appropriate intervals on efforts undertaken by service providers to deal with complaints and ensure***

redress, whether via the justice system or on an out-of-court basis.

Amendment 16

Proposal for a regulation

Recital 27

Text proposed by the Commission

(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.

Amendment

(27) In order to avoid duplication and interferences with investigations, the competent authorities should ***exchange relevant information in a timely manner***, coordinate and cooperate with each other and, ***at all events***, with Europol when issuing removal orders or sending referrals to hosting service providers. In implementing the provisions of this Regulation, Europol ***shall*** provide support in line with its current mandate and existing legal framework ***after first consulting the EU Counter-Terrorism Coordinator***.

Amendment 17

Proposal for a regulation

Recital 27

Text proposed by the Commission

(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.

Amendment

(27) **Combating terrorism falls within the sphere of justice and home affairs and is hence a shared EU and Member State competence under the Treaty of Lisbon. Since it is cross-border by nature, it requires a coordinated EU response, of which the exchange of information on terrorist content is one of the most salient facets:** 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, **the European Union Agency for Law Enforcement Cooperation** could provide **informed** support in line with its current mandate and existing legal framework.

Amendment 18

Proposal for a regulation

Recital 27 a (new)

Text proposed by the Commission

Amendment

(27 bis) Le signalement par Europol est sans nul doute un des moyens les plus effectifs pour sensibiliser les fournisseurs de services d'hébergement à la présence de contenus spécifiques sur leurs services. Il s'agit d'un mécanisme d'alerte efficace desdits fournisseurs pour ce qui est des informations susceptibles d'être perçues comme des contenus à caractère terroriste. Partant, il est impératif que les fournisseurs de services d'hébergement collaborent avec Europol, analysent en priorité les signalements transmis par l'Agence et communiquent sans tarder les mesures adoptées pour remédier à la situation. Si les fournisseurs de services d'hébergement restent maîtres de la décision finale de retirer ou non les contenus au motif qu'ils ne sont pas conformes à leurs conditions commerciales, cette coopération avec Europol revêt une importance capitale. Lors de la mise en œuvre du présent règlement, le mandat d'Europol tel qu'il est prévu dans le règlement (UE) 2016/794^{1bis} reste inchangé.

^{1bis} **Règlement (UE) 2016/794 du
Parlement européen et du Conseil du
11 mai 2016 relatif à l'Agence de
l'Union européenne pour la
coopération des services répressifs
(Europol) et remplaçant et abrogeant
les décisions du Conseil
2009/371/JAI, 2009/934/JAI,
2009/935/JAI, 2009/936/JAI et
2009/968/JAI (JO L 135 du 24.5.2016,
p. 53).**

Amendment 19

Proposal for a regulation

Recital 28

Text proposed by the Commission

Amendment

(28) Con vistas a garantizar una aplicación eficaz y suficientemente coherente de las medidas **proactivas**, las autoridades competentes de los Estados miembros deben constituir enlaces mutuos relativos **a los debates** que **mantengan** con los prestadores de servicios de alojamiento de datos en lo que se refiere a la determinación, la aplicación y el examen de **las** medidas **proactivas** específicas. **Del mismo modo, es necesario ese tipo de cooperación en relación con la adopción de normas relativas a sanciones, incluidas las que regulen su aplicación y su cumplimiento.**

(28) Con vistas a garantizar una aplicación eficaz y suficientemente coherente de las medidas, las autoridades competentes de los Estados miembros deben constituir enlaces mutuos relativos **al intercambio de las mejores prácticas** que **tengan** con los prestadores de servicios de alojamiento de datos en lo que se refiere a la determinación, la aplicación y el examen de medidas específicas. **No obstante, los Estados miembros siguen siendo responsables de su seguridad nacional, que incluye la lucha contra el terrorismo. Por su parte, la Unión tiene la función de garantizar un alto nivel de seguridad, razón por la que en 2005 se estableció la estrategia antiterrorista, que se encuentra estructurada en torno a cuatro pilares e implica la cooperación a escala de la Unión. El primer pilar tiene por objeto evitar que las personas se conviertan en terroristas, abordando las causas de la radicalización y la captación. Puesto que la radicalización está provocada por varios factores, la Comisión ha puesto en marcha varias medidas específicas y financiadas por la Unión a fin de afrontar el problema.**

Amendment 20

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) Die zuständigen Behörden in den Mitgliedstaaten sollten die Möglichkeit haben, solche Informationen zu nutzen, um Ermittlungsmaßnahmen zu ergreifen, die nach den nationalen Rechtsvorschriften oder Unionsrecht zur Verfügung stehen, einschließlich des Erlasses einer Europäischen Herausgabeanordnung gemäß der Verordnung über Europäische Herausgabeanordnungen und Sicherungsanordnungen für elektronische Beweismittel in Strafsachen¹⁴.

¹⁴ COM(2018) 225 final.

Amendment

(32) Die zuständigen Behörden in den Mitgliedstaaten sollten die Möglichkeit haben, solche Informationen zu nutzen, um Ermittlungsmaßnahmen zu ergreifen, die nach den nationalen Rechtsvorschriften oder Unionsrecht zur Verfügung stehen, einschließlich des Erlasses einer Europäischen Herausgabeanordnung gemäß der Verordnung über Europäische Herausgabeanordnungen und Sicherungsanordnungen für elektronische Beweismittel in Strafsachen¹⁴. ***Diesbezüglich ist erneut darauf hinzuweisen, dass eine Herausgabeanordnung zur Herausgabe von Inhaltsdaten außer von einem Richter, einem Gericht, einem Ermittlungsrichter oder einem Staatsanwalt mit Zuständigkeit in dem betreffenden Fall auch von „jeder anderen vom Anordnungsstaat bezeichneten zuständigen Behörde, die [...] nach nationalem Recht für die Anordnung der Erhebung von Beweismitteln zuständig ist, erlassen werden kann.***

¹⁴ COM(2018) 225 final.

Amendment 21

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Für die Zwecke dieser Verordnung sollten die Mitgliedstaaten zuständige Behörden benennen. Aus der Anforderung, zuständige Behörden zu benennen, folgt nicht notwendigerweise die Einrichtung neuer Behörden, sondern es kann sich um bereits bestehende Stellen handeln, die mit den in dieser Verordnung festgelegten Aufgaben betraut werden. Diese Verordnung schreibt die Benennung der Behörden vor, die für die Erteilung von Entfernungsanordnungen und Meldungen sowie die Aufsicht über proaktive Maßnahmen und die Verhängung von Sanktionen zuständig sind. Es ist Sache der Mitgliedstaaten zu entscheiden, wie viele Behörden sie für diese Aufgaben benennen wollen.

Amendment

(37) Für die Zwecke dieser Verordnung sollten die Mitgliedstaaten zuständige Behörden benennen **und sicherstellen, dass sie über hinreichende personelle und finanzielle Ressourcen sowie über eine Rechtsabteilung verfügen, die es in direkter Konfrontation mit sehr großen, finanziell überaus gut ausgestatteten und bisweilen staatlich unterstützen Akteuren aufnehmen kann**. Aus der Anforderung, zuständige Behörden zu benennen, folgt nicht notwendigerweise die Einrichtung neuer Behörden, sondern es kann sich um bereits bestehende Stellen handeln, die mit den in dieser Verordnung festgelegten Aufgaben betraut werden. Diese Verordnung schreibt die Benennung der Behörden vor, die für die Erteilung von Entfernungsanordnungen und Meldungen sowie die Aufsicht über proaktive Maßnahmen und die Verhängung von Sanktionen zuständig sind. Es ist Sache der Mitgliedstaaten zu entscheiden, wie viele Behörden sie für diese Aufgaben benennen wollen.

Amendment 22

Proposal for a regulation

Article 2 – subparagraph 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 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. ***Such services include cloud computing, and in particular file-sharing, as well as caching and interpersonal communication services such as instant messaging;***

Amendment 23

Proposal for a regulation

Article 2 – subparagraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘monopoly platform’ means an online content provider owning or controlling at least 15% of the digital advertising market and/or with the ability to exert influence over users’ lives by prioritising advertising and/or search results;

Amendment 24

Proposal for a regulation

Article 2 – subparagraph 1 –point 4

Text proposed by the Commission

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

Amendment

(4) 'terrorist offences' means offences as defined in Article 3(1) of Directive (EU) 2017/541 **and also includes new forms of offences, such as aggressive malware attacks (i.e. GandCrab), through which wannabee criminals with little to no technical expertise are able to launch attacks and ask, in exchange, for the payment of a ransom;**

Amendment 25

Proposal for a regulation

Article 2 – subparagraph 1 – point 5 – point a

Text proposed by the Commission

Amendment

(a) istigazione, anche mediante l'apologia del terrorismo, alla commissione di reati di terrorismo, generando *in tal modo* il pericolo che tali reati siano effettivamente commessi;

(a) istigazione, anche mediante l'apologia del terrorismo, ***il proselitismo, l'indottrinamento, la demonizzazione degli infedeli, l'addestramento e l'eroizzazione degli attentatori***, alla commissione di reati di terrorismo, ***segnatamente di matrice jihadista***, generando il pericolo che tali reati siano effettivamente commessi e ***fomentando tentativi di emulazione***;

Amendment 26

Proposal for a regulation

Article 2 – subparagraph 1 – point 5 – point b a (new)

Text proposed by the Commission

Amendment

(b bis) incitamento a finanziare la filiera terroristica mediante sistemi informali di trasferimento di fondi, tra cui l'hawala, che eludono i controlli delle autorità finanziarie internazionali e non soddisfano i requisiti della direttiva sui servizi di pagamento^{1 bis};

^{1 bis} ***Direttiva (UE) 2015/2366 del Parlamento europeo e del Consiglio, del 25 novembre 2015, relativa ai servizi di pagamento nel mercato interno, che modifica le direttive 2002/65/CE, 2009/110/CE e 2013/36/UE***

**e il regolamento (UE) n. 1093/2010, e
abroga la direttiva 2007/64/CE.**

Amendment 27

Proposal for a regulation

Article 2 – subparagraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘monitoring obligation’ means a general obligation to provide monitoring, which for hosting service providers consists in monitoring the information they transmit or store and in promptly informing the competent public authorities of alleged illegal activities undertaken by recipients of their services;

Justification

Since this directive provides the definition of a referral, it should also give a definition of the obligation incumbent on hosting service providers to ensure that the content they host, store and distribute is not used for illegal – not to mention terrorist – purposes, in line with the provisions of the Directive on certain legal aspects of information society services.

Amendment 28

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. These actions, and the manner in which they are performed shall, reflect a general duty of care on the part of the hosting service vis-à-vis consumers and society at large. It follows that hosting services shall have a general obligation of responsibility for the information they impart and store, and that they must monitor all such information carefully and comprehensively, without this impinging on the right of private individuals to personal expression. While that responsibility shall not extend to a general duty pro-actively to research and establish facts potentially indicative of illegal activity, hosting service providers should nonetheless apply the standard rules on cyber-surveillance in all the services they provide.

Amendment 29

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.

2. Hosting service providers shall include in their terms and conditions, and apply, provisions to prevent the dissemination of terrorist content, ***with specific reference to the Joint Communication on the Cybersecurity Strategy of the European Union referred to in Citation 2 herein above. Service providers must also make due reference therein to the Data Protection Regulation^{1a}.***

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

Amendment 30

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Die Hostingdiensteanbieter nehmen in ihre Nutzungsbedingungen Bestimmungen zur Verhinderung der Verbreitung terroristischer Inhalte auf **und** wenden diese an.

2. Die Hostingdiensteanbieter nehmen in ihre Nutzungsbedingungen Bestimmungen zur Verhinderung der Verbreitung terroristischer Inhalte **und zur Entwicklung von alternativen Narrativen und Gegennarrativen auf der Grundlage des am 28. April 2017 vom VN-Ausschuss zur Bekämpfung des Terrorismus vorgelegten Vorschlags für einen umfassenden internationalen Rahmen zur Bekämpfung terroristischer Narrative (S/2017/375)** auf, wenden diese an **und überprüfen sie regelmäßig**.

Amendment 31

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

2. I prestatori di servizi di hosting includono nelle loro condizioni contrattuali disposizioni volte a prevenire la diffusione di contenuti terroristici e ne assicurano l'applicazione.

Amendment

2. I prestatori di servizi di hosting, **tenendo conto della fondamentale importanza che riveste la libertà di espressione e di informazione in una società aperta e democratica,** includono nelle loro condizioni contrattuali disposizioni volte a prevenire la diffusione di contenuti terroristici e ne assicurano l'applicazione. **È altresì imposto loro l'obbligo di eseguire controlli e ricerche costanti relativamente alla presenza di attività illecite.**

Motivazione

Occorre introdurre l'obbligo di monitoraggio delle attività illecite in quanto le disposizioni contenute nel presente articolo sono eccessivamente ambigue e ben lungi dal ridurre la diffusione di contenuti terroristici nella rete.

Amendment 32

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

2. I prestatori di servizi di hosting rimuovono i contenuti terroristici o ne disabilitano l'accesso ***entro un'ora dal ricevimento dell'***ordine di rimozione.

Amendment

2. I prestatori di servizi di hosting rimuovono i contenuti terroristici o ne disabilitano l'accesso ***prontamente. L'autorità competente stabilisce un termine entro il quale l'ordine di rimozione deve essere attuato. Tale termine non può essere inferiore a otto ore e tiene debitamente conto delle dimensioni e delle risorse del prestatore di servizi di hosting, in particolare del fatto che le PMI possono richiedere un termine più lungo per conformarsi all'ordine di rimozione. Ad ogni modo, il termine non può essere anteriore alla fine del giorno lavorativo successivo per quei prestatori di servizi di hosting che non sono stati precedentemente oggetto di un ordine di rimozione e che sono microimprese quali definite nella raccomandazione 2003/361/CE della Commissione^{1 bis}.***

^{1 bis} **Comunicazione della
Commissione, del 6 maggio 2003,
relativa alla definizione delle
microimprese, piccole e medie
imprese, GU L 124 del 20.5.2003, pagg.
36–41.**

Amendment 33

Proposal for a regulation

Article 4 – paragraph 3 – point c

Text proposed by the Commission

c) un localizador uniforme de recursos (URL) y, **cuando sea necesario**, información adicional que permita la identificación de los contenidos de que se trate;

Amendment

c) un localizador uniforme de recursos (URL) y **toda** información adicional que permita la identificación de los contenidos de que se trate;

Amendment 34

Proposal for a regulation

Article 5 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 bis. Lorsque le fournisseur de services d'hébergement estime que le signalement revêt un caractère abusif, au sens où, d'après son propre jugement, le contenu en cause ne relèverait pas de la propagande ni de l'apologie du terrorisme, il en informe sans tarder les autorités compétentes de l'État membre ou l'organe compétent de l'Union, en exposant l'argumentation qui le conduit à cette conclusion;

Justification

Il s'agit d'éviter que le présent règlement n'entrave la libre expression populaire et démocratique (comme celle du mouvement des gilets jaunes en France).

Amendment 35

Proposal for a regulation

Article 6 – paragraphe 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) prevenire che siano nuovamente caricati online i contenuti che erano stati rimossi o il cui accesso era stato disattivato perché considerati contenuti terroristici;

soppresso

Amendment 36

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. Los contenidos terroristas y los datos conexos a que se refiere el apartado 1 se conservarán durante **seis** meses. Los contenidos terroristas se conservarán, a solicitud de la autoridad o del órgano jurisdiccional competente, durante un plazo más largo cuando sea necesario para procedimientos de revisión administrativa o judicial, en el sentido del apartado 1, letra a), que se encuentren en curso.

Amendment

2. Los contenidos terroristas y los datos conexos a que se refiere el apartado 1 se conservarán durante **dieciocho** meses. **Si los datos conexos mencionados también están relacionados con delitos que perjudiquen a los intereses financieros de la Unión, la Fiscalía Europea conocerá del asunto.** Los contenidos terroristas se conservarán, a solicitud de la autoridad o del órgano jurisdiccional competente, durante un plazo más largo cuando sea necesario para procedimientos de revisión administrativa o judicial, en el sentido del apartado 1, letra a), que se encuentren en curso.

Justificación

Si los datos relativos a contenidos terroristas son constitutivos o susceptibles de ser constitutivos de delitos que perjudiquen a los intereses financieros de la Unión, el asunto deberá someterse a la Fiscalía Europea. A este respecto, es menester ampliar las competencias de este órgano para abarcar los delitos relacionados con la financiación del terrorismo y, por tanto, modificar el artículo 4 del Reglamento (UE) 2019/1939.

Amendment 37

Proposal for a regulation

Article 7 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Durch diese technischen und organisatorischen Schutzvorkehrungen wird sichergestellt, dass die aufbewahrten terroristischen Inhalte und zugehörigen Daten nur für die in Absatz 1 genannten Zwecke eingesehen und verarbeitet werden und **ein hohes Maß an** Sicherheit der betreffenden personenbezogenen Daten gewährleistet ist. Die Hostingdiensteanbieter überprüfen und aktualisieren diese Schutzvorkehrungen bei Bedarf.

Amendment

Durch diese technischen und organisatorischen Schutzvorkehrungen wird sichergestellt, dass die aufbewahrten terroristischen Inhalte und zugehörigen Daten nur für die in Absatz 1 genannten Zwecke eingesehen und verarbeitet werden und **die angemessene** Sicherheit der betreffenden personenbezogenen Daten **gemäß Artikel 5 Absatz 1 Buchstabe f der Datenschutz-Grundverordnung** gewährleistet ist. Die Hostingdiensteanbieter überprüfen und aktualisieren diese Schutzvorkehrungen bei Bedarf.

Amendment 38

Proposal for a regulation

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When updating their terms and conditions, which apply to and form part of any contract concluded with their users, hosting service providers shall notify the users in a timely manner and shall clearly and conspicuously set out where amendments have been introduced.

Amendment 39

Proposal for a regulation

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

Text proposed by the Commission

Amendment

d bis) una descripción detallada de las garantías técnicas y organizativas a que hace referencia el artículo 7, apartado 3.

Amendment 40

Proposal for a regulation

Article 9 – title

Text proposed by the Commission

Amendment

Safeguards regarding the use and implementation of proactive measures

deleted

Amendment 41

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

3 bis. Si, à la suite d'une analyse réfléchie et approfondie des tenants et aboutissants d'une réclamation lui adressée, un fournisseur de services d'hébergement devait aboutir au constat qu'il se trouve dans l'incapacité de statuer sur le bien-fondé ou non de ladite réclamation, notamment lorsque celle-ci fait grief d'une censure d'État préjudiciable aux droits d'expression, il en réfère à l'autorité compétente qui a émis l'injonction de suppression.

Amendment 42

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

1. Quando rimuove contenuti terroristici o ne disabilita l'accesso, il prestatore di servizi di hosting mette a disposizione del fornitore di contenuti informazioni concernenti la rimozione o la disabilitazione dell'accesso a tali contenuti.

Amendment

1. Quando rimuove contenuti terroristici o ne disabilita l'accesso, il prestatore di servizi di hosting mette a disposizione del fornitore di contenuti informazioni **esaurienti** concernenti la rimozione o la disabilitazione dell'accesso a tali contenuti, **tra cui la base giuridica che stabilisce la natura terroristica dei contenuti e le possibilità di impugnare la decisione, compresi i meccanismi a disposizione del fornitore, la descrizione delle fasi successive della procedura e le scadenze correlate.**

Amendment 43

Proposal for a regulation

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. Le autorità competenti degli Stati membri scambiano informazioni, si coordinano e cooperano tra loro **e, se del caso**, con i pertinenti organismi dell'Unione quali Europol, per quanto riguarda gli ordini di rimozione e le segnalazioni, in modo da evitare duplicazioni, potenziare il coordinamento ed evitare qualsiasi interferenza con indagini in corso nei diversi Stati membri.

1. Le autorità competenti degli Stati membri scambiano informazioni, si coordinano e cooperano tra loro **nonché** con i pertinenti organismi dell'Unione quali Europol, per quanto riguarda gli ordini di rimozione e le segnalazioni, in modo da evitare duplicazioni, potenziare il coordinamento ed evitare qualsiasi interferenza con indagini in corso nei diversi Stati membri. ***Nel quadro di detta cooperazione, la Commissione mette a disposizione degli Stati membri diversi strumenti per contrastare la radicalizzazione, come il programma Orizzonte 2020 che sostiene la ricerca volta a sviluppare le conoscenze in materia. Per lo scambio delle buone pratiche gli Stati membri possono avvalersi di iniziative quali la rete di sensibilizzazione al problema della radicalizzazione (RAN).***

Amendment 44

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Competent authorities in Member States shall inform, coordinate and cooperate with the competent authority referred to in Article 17(1)(c) and (d) with regard to measures taken pursuant to Article 6 and enforcement actions pursuant to Article 18. Member States **shall make sure** that the competent authority referred to in Article 17(1)(c) and (d) is in possession of all the relevant information. For that purpose, Member States shall **provide** for the appropriate communication channels or mechanisms **to** ensure that the relevant information is shared in a timely manner.

2. **The** competent authorities in **the** Member States shall inform, **advise**, coordinate and cooperate with the competent authority referred to in Article 17(1)(c) and (d) with regard to measures taken pursuant to Article 6 and enforcement actions pursuant to Article 18. Member States **must ensure** that the competent authority referred to in Article 17(1)(c) and (d) is in possession of all the relevant information. For that purpose, Member States shall **ensure that provision is made** for the appropriate communication channels or mechanisms **and that these** ensure that the relevant information is shared in a timely manner.

Amendment 45

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 pursuant to:

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, ***doing their utmost to keep a check of that implementation at a European level and reporting back to the Commission any anomalies***. Such penalties shall be limited to infringement of the obligations pursuant to:

Amendment 46

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. Le sanzioni previste sono efficaci, proporzionate e dissuasive. Gli Stati membri notificano alla Commissione, entro [*sei mesi dall'entrata in vigore del presente regolamento*], le norme e misure adottate al riguardo ***nonché*** ogni modifica ad esse apportata successivamente.

2. Le sanzioni previste sono efficaci, proporzionate e dissuasive. Gli Stati membri notificano alla Commissione, entro [*sei mesi dall'entrata in vigore del presente regolamento*], le norme e misure adottate al riguardo ***e notificano senza indugio*** ogni modifica ad esse apportata successivamente.

Amendment 47

Proposal for a regulation

Article 18 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Member States shall ensure that a ***deliberate and*** systematic failure to comply with obligations pursuant to Article 4(2) ***and (6)*** is subject to financial penalties of up to **3%** of the hosting service provider's global turnover of the last ***two*** business ***years, increased by up to 1% where the hosting service fails to take the appropriate measures within 30 calendar days from the date of the penalty notification.***

Amendment 48

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. Los poderes para adoptar **los** actos delegados **a que se refiere** el artículo 19 se **otorgarán** a la Comisión por un período de **tiempo indefinido** a partir del *[fecha de aplicación del presente Reglamento]*.

2. Los poderes para adoptar actos delegados **mencionados en** el artículo 19 se **otorgan** a la Comisión por un período de **tres años** a partir del *[fecha de aplicación del presente Reglamento]*. **La Comisión elaborará un informe sobre la delegación de poderes a más tardar nueve meses antes de que finalice el período de tres años.**

Amendment 49

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 issued, the number of pieces of terrorist content which **have** been removed or access to **them** disabled, including the corresponding timeframes pursuant to Articles 4 and 5;

Amendment 50

Proposal for a regulation

Article 23

Text proposed by the Commission

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

Amendment

No sooner than [*three years from the date of application of this Regulation*], the Commission shall carry out an evaluation of this Regulation **according to the Commission's Better Regulation Guidelines and Toolbox** and **present the main findings in** a report to the European Parliament and to the Council on the application of this Regulation including the functioning **and** 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. ***A Member State that considers that the implementation of this Regulation has had a significant negative impact on the right to freedom to conduct a business may bring the matter to the attention of the Commission providing all relevant evidence.***

Amendment 51

Proposal for a regulation

Article 23

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 [**two** 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, **and to the European Data Protection Supervisor, ENISA and an eventual fully-fledged European Cybersecurity Agency**, on the application of this Regulation including the functioning of the effectiveness of the safeguard mechanisms. Where appropriate, the report shall be accompanied by legislative proposals. Member States shall provide the Commission with the information necessary for the preparation of the report.

Amendment 52

Proposal for a regulation

Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23 bis

Position spéciale du Royaume-Uni

Conformément à l'article 3 du protocole n° 21 sur la position du Royaume-Uni et de l'Irlande à l'égard de l'espace de liberté, de sécurité et de justice, annexé au traité sur l'Union européenne et au traité sur le fonctionnement de l'Union européenne, le Royaume-Uni a notifié, par lettre du 20 décembre 2018, son souhait de participer à l'adoption et à l'application de la présente directive.

Amendment 53

Proposal for a regulation

Article 24 – paragraph 2

Text proposed by the Commission

Amendment

Sie ***gilt ab dem [sechs Monate nach ihrem Inkrafttreten].***

Sie ***tritt am zwanzigsten Tag nach ihrer Veröffentlichung im Amtsblatt der Europäischen Union in Kraft.***

Amendment 54

Proposal for a regulation

Annex I – section B – paragraph 3 – subparagraph 1

Text proposed by the Commission

incites, ***advocates or glorifies*** the ***commission*** of terrorist offences (Article 2 (5) a)

Amendment

incites the ***committing*** of terrorist offences ***and/or of any collusion or contribution thereto*** (Article 2 (5) a);

Amendment 55

Proposal for a regulation

Annex I – section B – paragraph 3 – subparagraph 2

Text proposed by the Commission

encourages the contribution to terrorist offences (Article 2 (5) b)

Amendment

foments hatred contributing to terrorist offences (Article 2 (5) b);

Amendment 56

Proposal for a regulation

Annex I – section B – paragraph 3 – subparagraph 4

Text proposed by the Commission

provides ***instructions*** or techniques for committing terrorist offences (Article 2 (5) d)

Amendment

provides ***instruction*** or techniques for committing terrorist offences (Article 2 (5) d);

Amendment 57

Proposal for a regulation

Annex I – section G – paragraph 1

Text proposed by the Commission

Información sobre el organismo u órgano jurisdiccional competente, los plazos y los procedimientos para impugnar la orden de retirada:

Amendment

Información sobre el organismo u órgano jurisdiccional competente, los plazos y los procedimientos para impugnar la orden de retirada, ***así como cualquier otra información pertinente:***

Amendment 58

Proposal for a regulation

Annex III – section B – point i – paragraph 1

Text proposed by the Commission

fuerza mayor o imposibilidad de hecho no atribuible al destinatario o al prestador de servicios

Amendment

fuerza mayor o imposibilidad de hecho no atribuible al destinatario o al prestador de servicios, ***ya sea por motivos técnicos u operativos***

EXPOSÉ DES MOTIFS

À une époque où un contenu peut se répandre sur l'internet comme une traînée de poudre, comme en témoigne le triste exemple de la vidéo en direct de l'attentat de Christchurch, la question se pose de trouver les moyens, tant sur le plan de la prévention que sur ceux de la réaction et des sanctions, de couper l'herbe sous le pied des idéologues, des recruteurs des mouvements terroristes et des terroristes eux-mêmes, et de faire en sorte que les contenus à caractère terroriste ne puissent plus se propager.

Dans le cas de l'attentat de Christchurch, la vidéo de la tuerie n'avait été visionnée en direct que par deux cents personnes, le premier signalement intervenant seulement au bout d'une demi-heure et de quatre mille vues. Mais dans les 24 heures, c'est plus de 1,5 million de copies que Facebook avait supprimées, sans même parler des autres géants du web, qui ont dû eux aussi supprimer des dizaines de milliers de copies de la vidéo et des centaines de faux comptes et autres publications faisant l'éloge de l'assaillant dans les jours suivant l'attaque.

Si des sanctions sont déjà prévues dans les différents pays de l'Union à l'encontre de quiconque se rend coupable de diffusion de contenus terroristes sur internet, il n'en reste pas moins que cette coopération est purement facultative et qu'il est à présent nécessaire de légiférer au niveau de l'Union afin que toutes les parties concernées luttent de concert contre le téléchargement et le partage de contenus à caractère terroriste dans le respect d'un cadre harmonisé. En ce sens, dans le sillage de la directive sur le commerce électronique, l'adoption d'un règlement, directement et rapidement applicable dans tous les États membres, est apparue comme la solution la plus efficace.

Le présent règlement propose donc un cadre plus contraignant que les textes précités, notamment en imposant des sanctions en cas de non-respect de l'obligation de retrait des contenus incriminés dans l'heure suivant leur publication.

En juin 2016, d'après un sondage Eurobaromètre, 82 % des citoyens européens déclaraient souhaiter que l'Union intervienne davantage dans la lutte contre le terrorisme.

In this Eurobarometer survey, respondents were asked to answer the following question:

“And for each of the following, would you like the EU to intervene less than at present or more than at present? (%)”

	More than at present	No change necessary/ As it is now (SPONTANEOUS)	Less than at present	Don't know
The fight against terrorism	82	10	4	4
The fight against unemployment	77	13	5	5
The fight against tax fraud	75	14	5	6
The issue of migration	74	11	9	6
The protection of external borders	71	16	7	6

The promotion of democracy and peace in the world	68	20	6	6
Environmental protection	67	21	7	5
Security and defence policy	66	19	7	8
Health and social security	63	23	7	7
Equal treatment of men and women	55	33	6	6
Energy supply and energy security	53	29	7	11
Economic policy	52	24	11	13
Foreign policy	50	26	11	13
Agriculture	50	25	14	11
Industrial policy	47	26	10	17

Source: Special Eurobarometer of the European Parliament, *Europeans in 2016: Perceptions and expectations, fight against terrorism and radicalisation*, June 2016

Toutefois, le recours à des outils automatiques de détection, de blocage et de suppression des contenus avant même leur publication ainsi que l'obligation de suppression d'un contenu dans l'heure qui suit sa publication suscitent une levée de boucliers parmi les acteurs de l'internet,

qu'il s'agisse des entreprises, des fournisseurs de services d'hébergement ou des particuliers inquiets d'un détournement éventuel des mesures proposées à des fins, par exemple, de censure politique, et des difficultés de mise en œuvre des mesures préconisées.

Votre rapporteur se propose donc de peaufiner la proposition de la Commission, qu'il précise et enrichit, avec pour mots d'ordre la prévention, la transparence, l'efficacité des mesures et le respect des libertés fondamentales. Il propose de responsabiliser davantage les intermédiaires et introduit la définition de l'«obligation de surveillance» en amont de l'obligation faite aux prestataires de services d'hébergement de signaler tout contenu terroriste aux autorités compétentes. Parmi les autres modifications importantes suggérées par votre rapporteur figure celle d'étendre, à terme, les compétences du Parquet européen qui, en toute logique, a vocation à poursuivre les infractions pénales susceptibles de porter atteinte aux intérêts financiers de l'Union. Enfin, dans le cadre des futures relations entre l'Union européenne et le Royaume-Uni, une disposition a été ajoutée, qui prévoit sa participation à l'adoption et à la mise en œuvre du règlement.